

STATE WATER RESOURCES CONTROL BOARD

FACT SHEET FOR WATER QUALITY ORDER NO 2001-12-DWQ STATEWIDE GENERAL NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT FOR DISCHARGES OF AQUATIC PESTICIDES TO WATERS OF THE UNITED STATES (GENERAL PERMIT) GENERAL PERMIT NO. CAG990003

BACKGROUND

On March 12, 2001, the Ninth Circuit Court of Appeals decided that discharges of pollutants from the use of aquatic pesticides to waters of the United States require coverage under an NPDES permit, (*Headwaters, Inc. v. Talent Irrigation District*). The *Talent* decision was issued just prior to the major season for applying aquatic pesticides. Because of the serious public health, safety, and economic implications of delay in such applications, this General Permit has been developed on an emergency basis in order to provide coverage for broad categories of aquatic pesticide use in California. The State Water Resources Control Board (SWRCB) will rescind or revise this General Permit if the law as stated in the *Talent* decision changes.

Coverage under this General Permit is available to public entities for discharges of pollutants to waters of the United States (“water bodies”) associated with the application of aquatic pesticides for resource or pest management. This limitation to “public entities” is based on the provisions of the SWRCB’s *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (the State Implementation Policy, or SIP) allowing categorical exceptions from meeting priority pollutant criteria/objectives for resource or pest management control measures conducted by “public entities.” “Public Entity” is defined in the SIP to include “the federal government or state, county, city and county, city, district, public authority, or public agency.” The categorical exception provision also gives examples of management programs that such public entities may conduct: vector or weed control, pest eradication, or fishery management. The entities that conduct such programs vary in legal structure, but all have in common a public role of protecting waterways and/or the public health from harmful organisms. This General Permit is available to all such entities regardless of legal structure, including mutual water companies, public water purveyors, investor-owned utilities, and homeowners’ associations.

The SIP further provides that the categorical exception is for resource or pest management conducted by public entities “to fulfill statutory requirements, including, but not limited to, those in the California Fish and Game, Food and Agriculture, Health and Safety, and Harbors and Navigation codes.” Some of these statutory provisions do not mandate the management programs but make their implementation discretionary. The exception is properly read to include such discretionary programs.

This General Permit **does not** cover indirect or non-point source discharges from agricultural or other applications of pesticides to land that may be conveyed in storm water or irrigation runoff. This General Permit **does not** cover applications of pesticides that are **not registered for use on aquatic sites**. This General Permit **does** cover the uses of properly registered and applied aquatic pesticides that constitute discharges of “pollutants” to waters of the United States.

The aquatic pesticides covered by this General Permit will be applied directly into the water body, and/or directly to organisms in the water or on the water surface with the purpose and intent of killing the target aquatic organisms. The impacts of these chemicals may not be limited to the target organisms – other plants and aquatic life in the treatment area may be impacted. Due to water movement at the treatment locations, the residual pesticides can be carried to adjacent areas while concentrations in the water are still high enough to cause adverse impacts not only to aquatic organisms but also to other beneficial uses, such as irrigation, municipal water supplies and recreation (such as swimming). As part of the pesticide registration process conducted by the U.S. Environmental Protection Agency (USEPA) and Department of Pesticide Regulation (DPR), adverse impacts relevant to these beneficial uses have been evaluated and determined not to be unreasonable. A purpose of this Order is to minimize the areal extent and duration of adverse impacts to beneficial uses of water bodies treated with aquatic pesticides.

To qualify for coverage under this General Permit, dischargers must meet the following criteria:

1. The discharger must submit a fully completed Notice of Intent (NOI), a project map, and first annual fee.
2. The discharger must be a public entity.
3. Dischargers must be licensed by DPR or Department of Health Services (DHS) if such licensing is required for such public entities, to apply aquatic pesticides.

The basic requirements of this General Permit include:

1. The discharger must follow all pesticide label instructions and any Use Permits issued by a County Agricultural Commissioner.
2. The discharger must implement best management practices (BMPs).
3. The discharger must comply with monitoring requirements.

WATERS OF THE UNITED STATES

This General Permit regulates the addition of pollutants associated with the application of aquatic pesticides to navigable waters. “Navigable waters,” means waters of the United States. “Waters of the United States” include all waters currently used, used in the past, or susceptible to use in interstate commerce; all interstate waters; all other waters the use, degradation, or destruction of which would or could affect interstate or foreign commerce. Waters of the United States include waters used by interstate or foreign travelers for recreation, waters from which fish or shellfish are taken and sold in interstate or foreign commerce, impoundments of and tributaries to waters of the United States, and wetlands adjacent to waters of the United States. For instance, irrigation canals that exchange water with natural streams and lakes are waters of the United States.

EMERGENCY CONDITIONS

This General Permit is being issued under emergency conditions. On March 12, 2001, the Ninth Circuit Court of Appeals in Headwaters, Inc. v. Talent Irrigation District determined that discharges of aquatic pesticides to waters of the United States require coverage under an NPDES permit. Discharge of aquatic pesticides by the public entities covered by this General Permit is necessary at this time. These public entities conduct resource or pest management programs in order to fulfill statutory requirements and to protect beneficial uses of water and the public health. Many of the public entities would be unwilling to perform the activities prior to issuance of an NPDES permit because of the substantial liability they could incur for discharging aquatic pesticides in violation of the Clean Water Act (CWA).

Because of the emergency nature of this General Permit, many of the actions that would normally occur prior to issuance of a permit granting a categorical exception to priority pollutant objectives/criteria have not yet occurred. This General Permit is issued as a limited term permit, and it will expire January 31, 2004. During the term of this General Permit, activities will occur that will provide the basis for a full-term permit in the future. The public entities subject to the General Permit will complete necessary California Environmental Quality Act (CEQA) documents to justify the categorical exception. The public entities will develop monitoring plans that will be the basis of monitoring requirements in the next permit. The SWRCB will consider issuing future permits that are more limited in nature as to specific pesticides, types of resource and pest management programs, or areas of the State. The future permits will be based on the submittals received during this General Permit term, will specify whether categorical exceptions are warranted, and will ensure that other applicable water quality standards, including the antidegradation policy, are achieved.

RELATED PESTICIDE REGULATIONS

DPR and the County Agricultural Commissioners (CACs) regulate the sale and use of pesticides in California. Pesticide applications subject to this General Permit must be consistent with the pesticide label instructions and any Use Permits issued by the CACs. According to federal law, pesticide label language is under the sole jurisdiction of USEPA. Label language and any changes thereto must be approved by USEPA before the product can be sold in this country. DPR cannot require manufacturers to make changes in labels; however, DPR can refuse to register products unless manufacturers address unmitigated hazards by amending the pesticide label. As part of the pesticide registration process, USEPA and the California Department of Pesticide Regulation (DPR), evaluate data submitted by registrants to assure that a product used according to label instructions will cause no harm (or "adverse impact") on non-target organisms that cannot be reduced (or "mitigated") with protective measures or use restrictions. Registrants are required to submit data on the effects of pesticides on target pests (efficacy) as well as nontarget effects. Data on nontarget effects include plant effects (phytotoxicity), fish and wildlife hazards (ecotoxicity), impacts on endangered species, effects on the environment, environmental fate, breakdown products, leachability and persistence.

Requirements that are specific to use in California are included in many pesticide labels that are approved by USEPA. Applicators of a pesticide designated as a restricted material must either be licensed by DPR or must work under the supervision of someone who is licensed. For aquatic herbicides, this must be a holder of a Qualified Applicator Certificate with the category “aquatic.” Use must be reported to the CAC where required by law or by agreement with DPR.

State regulations require that the CAC determine if a substantial adverse environmental impact will result from the proposed use of a restricted material. If the CAC determines that this is likely, the commissioner may deny the Use Permit or may issue it under the condition that site-specific use practices be followed (beyond the label and applicable regulations) to mitigate potentially adverse effects. DPR conducts scientific evaluations of potential health and environmental impacts and provides commissioners with information in the form of suggested permit conditions. DPR’s suggested permit conditions reflect minimum measures necessary to protect people and the environment. CACs use this information and their evaluation of local conditions to set site-specific limits in permits.

The State’s pesticide regulation laws provide special procedures for vector control agencies operating under cooperative agreements. (See, e.g., Food and Agricultural Code § 11408(e). The application of pesticides by mosquito abatement districts and other vector control agencies is regulated by a special arrangement among the DHS, DPR, CACs, and vector control agencies. Vector control districts are not directly regulated by DPR. Instead, supervisors or applicators are licensed by DHS. Pesticide use by vector control agencies is reported to the CAC in accordance with a 1995 Memorandum of Understanding (MOU) among DPR, DHS, and the CACs for the Protection of Human Health from the Adverse Effects of Pesticides and with cooperative agreements entered into between DHS and vector control agencies, pursuant to Health and Safety Code section 116180.

WATER QUALITY STANDARDS

USEPA established water quality criteria for priority pollutants in the National Toxics Rule and the California Toxics Rule, and Regional Water Quality Control Boards (RWQCBs) establish water quality objectives for priority pollutants in basin plans. The SWRCB has adopted the SIP that contains implementation provisions for these water quality criteria and objectives. The SIP provides that categorical exceptions may be granted to allow short-term or seasonal exceptions from meeting the priority pollutant criteria/objectives if “necessary to implement control measures ... for resource or pest management conducted by public entities to fulfill statutory requirements.” The SIP specifically refers to vector or weed control, pest eradication, and fishery management as bases for categorical exceptions. This General Permit grants a categorical exception from water quality criteria and objectives for priority pollutants for the application of aquatic pesticides by public entities in the exercise of resource or pest management powers authorized by State statute. The SWRCB recognizes that the discharges of pollutants may also cause or contribute to exceedance of water quality standards for parameters or constituents that are not priority pollutants. This General Permit does not require immediate compliance with such water quality standards, but requires that the dischargers implement additional BMPs to eliminate or reduce the pollutants that are causing or contributing to exceedance.

As a condition to retaining the categorical exception, dischargers must comply with conditions that are included in the General Permit. Further, consistent with the SIP exception, dischargers are allocated a temporal zone of impact on beneficial uses of water within which there may be a temporary exceedance of criteria, but the resulting impact must be transient, and must allow for full restoration of water quality and protection of beneficial uses upon project completion. The SIP exception applies only to water quality criteria/objectives for priority pollutants and not to other water quality standards, such as the antidegradation policy.

For parameters or constituents that are not priority pollutants, dischargers must implement appropriate BMPs to achieve compliance with other applicable water quality standards contained in a Statewide Water Quality Control Plan or in an RWQCB Basin Plan. If the discharges of any non-priority pollutants cause or contribute to exceedance of water quality standards, the dischargers are required to develop and implement improved BMPs to prevent or reduce such pollutants.

EFFLUENT LIMITATIONS

NPDES permits for discharges to surface waters must meet all applicable provisions of Sections 301 and 402 of the CWA. These provisions require controls of pollutant discharges that utilize best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT) to reduce pollutants and any more stringent controls necessary to meet water quality standards.

It is not feasible at this time for the SWRCB to establish numeric effluent limitations for pollutants in discharges associated with aquatic pesticide applications. Establishment of numeric effluent limitations for pollutants is not feasible because: (1) aquatic pesticide applications are made directly to the water body and/or to organisms in the water or on the water surface, (2) there may be numerous short duration intermittent pesticide releases to surface waters from many different locations, and (3) there are numerous pesticides used, including many inert ingredients, and the SWRCB does not have the ability to establish numeric effluent limitations for each of these constituents. Therefore, pursuant to Title 40, Code of Federal Regulations (CFR) Section 122.44(k), the effluent limitations contained in this General Permit are narrative and include requirements to implement appropriate BMPs, including compliance with all pesticide label instructions. The BMPs required herein constitute BAT and BCT, and they will be implemented to minimize the areal extent and duration of impacts caused by the discharge of pollutants and to allow for full restoration of water quality and protection of beneficial uses of the receiving waters following completion of resource or pest management projects.

BEST MANAGEMENT PRACTICES (BMPs)

The development of BMPs provides the flexibility necessary to establish controls to minimize the areal extent and duration of impacts caused by the discharge of pollutants and to allow for full restoration of water quality and protection of beneficial uses of the receiving waters following completion of resource or pest management projects. This flexibility allows dischargers to implement different BMPs for different types of applications and different types of waters.

Much of the BMP development has been incorporated in the pesticide regulation process by the USEPA, DPR, DHS, and CACs. As discussed above, the dischargers must be licensed by DPR or DHS if such licensing is required for the aquatic pesticide application project. The pesticide use must be consistent with the pesticide label instructions and any Use Permits issued by CACs.

A pesticide label has been reviewed by both USEPA and DPR scientists to ensure that a product used according to label instructions will cause no harm (or “adverse impact”) on non-target organisms that cannot be reduced (or “mitigated”) with protective measures or use restrictions. Many of the label directions constitute BMPs to protect water quality and beneficial uses. Label directions may include: precautionary statements regarding toxicity and environmental hazards; directions for proper handling, dosage, application, and disposal practices; prohibited activities; spill prevention and response measures; and restrictions on type of water body and flow conditions.

A Use Permit issued by the CAC incorporates applicable suggested permit conditions from DPR and local site-specific conditions necessary to protect the environment. State regulations require that specific types of information be provided in an application to the CACs for a pesticide use permit. The CACs review the application to assure that appropriate alternatives were considered and that any potential adverse effects are mitigated. The CACs also conduct pre-project inspections on at least 5 percent of projects.

The General Permit requires that the dischargers must comply with all pesticide label instructions, DPR and DHS regulations, and any Use Permits issued by the CACs. The General Permit also specifies the steps that will be followed to identify and implement appropriate BMPs that are designed to maximize efficacy of control efforts and minimize adverse impacts to the environment. These steps are:

1. *Preliminary site evaluations.* The discharger will conduct a site inspection to verify the need for treatment, options to treatment (including non-toxic and less toxic alternatives), and suitability of the site for treatment.
2. *Alternative Control Measures.* The discharger will evaluate other available BMPs and alternative control measures to determine if there are feasible alternatives to the selected aquatic pesticide application project that could reduce potential water quality impacts.
3. *Secondary site evaluations and pre-treatment monitoring.* The discharger will determine the type and intensity of treatment needed. This evaluation will include measurement and analysis of indicators to provide information on potential efficacy and water quality impacts.
4. *Treatment.* Immediately prior to treatment, the discharger will examine a series of indicators and modify treatment plans accordingly. These indicators may include day length, precipitation, recreational activity, sunlight, tidal water exchange, water depth, water flows, water turbidity, and wind. If this examination indicates a potential for reduced control efficacy and/or heightened water quality impacts, the treatment will be rescheduled.

5. *Post-treatment.* The discharger will assess control efficacy and water quality impacts. The results of this assessment will be evaluated by the discharger to refine project operations through an adaptive management process.

The selection of control measures that use non-toxic and less toxic alternatives is an example of an effective BMP. Mosquito Control Districts and other vector control agencies can select larvicides for mosquito control in some situations that have very low toxicity and pose very little or no threat to the environment. Specifically, (a) for microbial larvicides (e.g., *Bacillus thuringiensis israelensis*, *Bacillus sphaericus*), USEPA has concluded that they do not pose risks to wildlife, non-target species, or the environment; and (b) for methoprene, USEPA has concluded that, as used in mosquito control programs, it does not pose unreasonable risks to wildlife or the environment. Thin film larvicides (e.g., Agnique) also have low inherent toxicity.

The General Permit includes requirements for the dischargers to identify and implement additional BMPs and alternative control measures where such additional BMPs and measures will prevent or reduce impacts to water quality.

MONITORING REQUIREMENTS

The General Permit requires that the dischargers comply with the Monitoring and Reporting Program (MRP) that is incorporated as Attachment B of the General Permit. Dischargers are also required to submit technical and monitoring reports as directed by the appropriate RWQCB's Executive Officer. The MRP requires that the dischargers develop and implement Monitoring Plan (Plans) to:

1. Document compliance with the requirements of the General Permit;
2. Support the development, implementation, and effectiveness of BMPs; and
3. Demonstrate the full restoration of water quality and protection of beneficial uses of the receiving waters following completion of resource or pest management projects.
4. Identify and characterize aquatic pesticide application projects conducted by the discharger.
5. Assure that projects are monitored that are representative of all pesticides and application methods used by the discharger.

Dischargers must comply with these requirements either individually or by joining with other dischargers to participate in one or more Regional Pesticide Monitoring Program(s) (RPMPs). Any discharger planning to comply through an RPMP must so indicate at Section VI. of the NOI (Attachment A).

The establishment of the RPMPs by groups of dischargers that use similar pesticides and application methods provides an opportunity for dischargers to cost-effectively comply with the MRP. By combining resources and selecting a limited number of representative projects, the RPMPs will be able to conduct monitoring efforts that are comprehensive and technically sound.

Each Discharger shall submit a Plan to the appropriate RWQCB(s) **by March 1, 2002** for approval. Copies of Plans developed by RPMPs shall be provided to the SWRCB and each RWQCB. The Plan submitted by a discharger should describe any individual monitoring

activities and incorporate by reference the RPMP Plans that have been prepared by RPMPs in which the discharger is participating. The Plan must include monitoring of a representative project for each pesticide identified by the discharger at Section IV. B. of the NOI. The dischargers and RPMPs shall implement the Plans **by July 1, 2002** in accordance with any modifications required by the RWQCB.

The MRP lists six monitoring elements that must be incorporated in all monitoring plans except for some plans for vector control projects. Monitoring exemptions may be appropriate for vector control projects that use microbial larvicides, thin film larvicides, and methoprene. These aquatic pesticides may represent the non-toxic or less toxic pest control alternative with reduced or no threat to the environment. Furthermore, feasible specific quantitative test methods may not be available for these pesticides at label application concentrations. Dischargers of these pesticides should document the rationale for not including plan elements where appropriate.

The MRP requires the dischargers to submit a monthly report to the RWQCB documenting specific information for each aquatic pesticide treatment site. The discharger is also required to submit a calendar-year annual report to the RWQCB by January 31 of the following year (beginning January 2003). The report shall include a summary for the previous year including but not limited to (1) objectives of the monitoring program(s); (2) results; and (3) interpretation of data in relation to frequency, duration, and magnitude of impacts to beneficial uses.

NOTIFICATION REQUIREMENTS

To obtain coverage under this General Permit, an NOI and the first annual fee (\$400.00) must be submitted. A separate enrollment is required for discharges located within more than one RWQCB's boundary, as defined in Section 13200 of the California Water Code. Each enrollment will cover all discharges occurring within the boundaries of that RWQCB. Only one annual fee must be submitted to the SWRCB for all covered discharges from one entity.

Signing the certification on the NOI signifies that the discharger intends to comply with the provisions of this General Permit. Dischargers are authorized to discharge upon submission of a complete and accurate NOI application for coverage. The NOI Form A is included as Attachment A within this General Permit package. The fully completed NOI, a project map, and first annual fee constitute a complete application for coverage under this General Permit. An NOI must be signed to be valid. Dischargers who submit a valid NOI application are not required to submit an individual permit application.

The authorization to discharge under this General Permit is terminated upon receipt of a Notice of Exclusion (NOE)¹ or upon the adoption of either an individual or other general NPDES permit covering the discharge. The discharger must submit additional information if requested by the SWRCB or RWQCB. The RWQCB may determine that a discharger submitting an NOI is not eligible for coverage under this General Permit and may require submittal of an application for an individual permit. Individual application forms will be provided by the appropriate RWQCB.

¹ An NOE is a one-page notice that indicates that the proposed discharger is NOT eligible for coverage under this General Permit and states the reason why.

The completed NOI application must be submitted to the following address:

**Larry Nash
Regulation Unit
Division of Water Quality
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812**

This General Permit will expire on January 31, 2004. Enrollees who are covered under this General Permit must obtain coverage under another general permit for aquatic pesticide applications or an individual NPDES permit.

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

WATER QUALITY ORDER NO. 2001-12-DWQ STATEWIDE GENERAL NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT FOR DISCHARGES OF AQUATIC PESTICIDES TO SURFACE WATERS OF THE UNITED STATES (GENERAL PERMIT)

GENERAL PERMIT NO. CAG990003 WASTE DISCHARGE REQUIREMENTS

The State Water Resources Control Board (hereinafter SWRCB) finds that:

1. On March 12, 2001, the Ninth Circuit Court of Appeals decided that discharges of pollutants from the use of aquatic pesticides in waters of the United States require coverage under an NPDES permit, (Headwaters, Inc. v. Talent Irrigation District). Because of the serious public health, safety and economic implications of delay, the SWRCB developed this General Permit on an emergency basis in order to provide immediate NPDES permit coverage for broad categories of aquatic pesticide use in California. The SWRCB will rescind or revise this General Permit if the law as stated in the Talent decision changes.
2. States may request authority to issue general NPDES permits pursuant to Title 40, Code of Federal Regulations (CFR) section 122.28. On June 8, 1989, the SWRCB submitted an application to the U.S. Environmental Protection Agency (USEPA) requesting revisions to its NPDES Program in accordance with 40 CFR §§122.28, 123.62, and 403.10. The application included a request to add general permit authority to its approved NPDES program. On September 22, 1989, the USEPA, Region 9, approved the SWRCB's request and granted authorization for the State to issue general NPDES permits.
3. Federal regulation at 40 CFR §122.28(a)(1) allows NPDES permits to be written to cover a category of discharges within State political boundaries. This General Permit is intended to authorize the short-term and seasonal discharges of pollutants to waters of the United States (water bodies) resulting from the application of aquatic pesticides by public entities for resource or pest management. These public entities are authorized by statute to conduct resource or pest management projects.
4. This General Permit is intended to cover short-term or seasonal discharges by public entities of pollutants to waters of the United States ("water bodies") associated with the application of aquatic pesticides for resource or pest management. Dischargers eligible for coverage under this General Permit are public entities that conduct resource or pest management control measures. "Public entities" include entities that conduct resource or pest management control measures for public purposes of protecting waterways and/or the public health from harmful organisms, regardless of the legal structure of the entity. Examples of public entities that may obtain coverage under this General Permit include, but are not limited to, Mosquito Abatement Districts and other local agencies responsible for control of vectors, and local, State, federal agencies, mutual water companies, public

water purveyors, investor-owned utilities, and homeowner's associations responsible for control of algae, aquatic weeds, and other organisms that adversely impact operation and use of drinking water reservoirs, water conveyance facilities, irrigation canals, and natural water bodies. The organisms controlled by these public entities may be destructive to the beneficial uses of waters, including municipal and irrigation supply, navigation, and aquatic life. Mosquitoes and other similar vectors constitute a serious threat to public health. To avoid the adverse consequences from these harmful or nuisance organisms, the waters are treated with aquatic pesticides. These treatments make it impossible for the waters to maintain their functional characteristics or simultaneously meet all beneficial uses.

5. The aquatic pesticides covered by this General Permit are applied directly into the water body, and/or directly to organisms in the water or on the water surface with the purpose and intent of killing the target aquatic organisms. The impacts of these chemicals may not be limited to the target organisms—other plants and aquatic life in the treatment area may be impacted. Due to water movement at the treatment locations, the residual pesticides can be carried to adjacent areas while concentrations in the water are still high enough to cause adverse impacts not only to aquatic organisms but also to other beneficial uses such as irrigation, municipal water supplies and recreation (such as swimming). As part of the pesticide registration process, USEPA and the Department of Pesticide Regulation (DPR), evaluate data submitted by registrants to assure that a product used according to label instructions will cause no harm (or "adverse impact") on non-target organisms that cannot be reduced (or "mitigated") with protective measures or use restrictions. A purpose of this Order is to minimize the areal extent and duration of adverse impacts to beneficial uses of water bodies treated with aquatic pesticides.
6. DPR and the County Agricultural Commissioners (CACs) regulate the sale and use of pesticides in California. The use of pesticides must be consistent with the pesticide label instructions and any Use Permits issued by the CACs. If applying a pesticide designated as a restricted material, then applicators must either be licensed by DPR or work under the supervision of someone who is licensed. For the use of aquatic herbicides, this must be a Qualified Applicator Certificate with the category "aquatic" and must be reported to the CACs where required by law or by agreement with DPR. The USEPA and DPR have reviewed pesticide label instructions prior to registration of the pesticides for use in California, and this review includes an evaluation of potential impacts to the environment.
7. The State's pesticide regulation laws provide special procedures for vector control agencies operating under a cooperative agreement. The application of pesticides by mosquito abatement districts and other vector control agencies is regulated by a special and unique arrangement among the State Department of Health Services (DHS), DPR, CACs, and vector control agencies. Vector control districts are not directly regulated by DPR. Supervisors or applicators of restricted pesticides to control public health pests must be licensed by DHS. Pesticide use by vector control agencies is reported to the CACs in accordance with a 1995 Memorandum of Understanding (MOU) among DPR, DHS, and the CACs for the Protection of Human Health from the Adverse Effects of

Pesticides and with cooperative agreements entered into between DHS and vector control agencies pursuant to Health and Safety Code Section 116180.

8. DPR regulates the use of pesticide-treated commodities and sites where needed to assure that pesticide residues or breakdown products do not pose a hazard to human health or the environment. DPR also regulates the use of pesticides to reduce the release of residues from treated sites. This includes regulation of wastes generated by applications not in accordance with all laws and regulations, including drift from applications. Pesticide formulations may include the “active ingredients” and the inert ingredients. Adjuvants may be added to the active ingredients in the application equipment that is used in the delivery of the pesticide. Pesticides may become waste after the application has occurred. Adjuvants are regulated as pesticides in California. Other wastes generated by the use of pesticides are not regulated by DPR. These wastes include pesticide residues and breakdown products. These wastes pose a threat to the beneficial uses of the State’s waters if not properly managed and therefore are subject to regulation under this General Permit.
9. For the purposes of this Order, the term pesticide shall include: (a) any substance, or mixture of substances intended to be used for eradicating or defoliating plants, regulating an organism’s growth, or for preventing, destroying, repelling, or mitigating any pest which may infest or be detrimental to vegetation, man, animals, or households, or that may be present in any agricultural or nonagricultural environment, or (b) any spray adjuvant, or (c) any breakdown products of these materials that adversely affect beneficial uses. This Order regulates the discharge of pollutants, which includes the residues of pesticides that are left in waters of the United States following application.
10. Although a discharge may be eligible for coverage under this General Permit, the appropriate Regional Water Quality Control Board (RWQCB) may determine that the discharge must be regulated under an individual permit or a different general NPDES permit. If an individual or another general NPDES permit is issued for a discharge, then the applicability of this General Permit to the discharge is immediately terminated on the effective date of the other permit.
11. If the area of aquatic pesticide application extends beyond a single RWQCB boundary, then the discharges in each Region shall be covered by a separate Notice of Intent (NOI) under this General Permit. Only one annual fee must be submitted to the SWRCB.
12. The Threat To Water Quality (TTWQ) and Complexity rating for this General Permit is III-c. This category is appropriate because aquatic pesticides applications incorporate Best Management Practices to control potential impacts to beneficial uses and short-term violations of water quality objectives. The annual fee associated with this rating is \$400, which has been determined in accordance with current state regulations. Future fees may be adjusted if the regulations are revised.
13. The SWRCB has considered antidegradation pursuant to 40 CFR §131.12 and SWRCB Resolution 68-16. Discharges must be consistent with both State and federal

antidegradation policies. These policies allow degradation of water quality only under specified circumstances. Decreases in water quality must be in the best interests of the people of the State and must protect beneficial uses of water. The SWRCB finds that water supplies and public health would be seriously jeopardized if the resource and pest management projects were not allowed to continue. The SWRCB further finds that adoption of this General Permit is a benefit to the people of the State and that the provisions of this Order will minimize adverse impacts, protect the State's waterways, and ensure full restoration of beneficial uses following completion of pesticide application projects. Therefore, this Order is consistent with the antidegradation policies.

14. This General Permit does not authorize any take of endangered species. The discharge is prohibited from adversely impacting biologically sensitive or critical habitats, including, but not limited to, habitat of species listed under federal or State endangered species laws. To ensure that endangered species issues are raised to the responsible agencies, the SWRCB has notified the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and California Department of Fish and Game of this General Permit.
15. There may be other non-toxic or less toxic control measures available to minimize the discharge of wastes to waters of the State. This Order requires dischargers to evaluate BMPs that may include alternative control options, procedures to determine that water quality impacts have been minimized, and a determination that there are no feasible alternatives to the selected resource or pest management measures.
16. The SWRCB, in establishing the requirements contained herein, considered factors including, but not limited to, the following:
 - a. Beneficial uses to be protected and the water quality objectives reasonably required for that purpose;
 - b. Other waste discharges;
 - c. Past, present, and probable future beneficial uses of the waters under consideration;
 - d. Environmental characteristics of the waters under consideration;
 - e. Economic considerations;
 - f. The need to control vectors to protect public health;
 - g. The need to maintain conveyance facilities to provide water supplies for municipal, irrigation, and industrial purposes; and
 - h. Seasonal and weather conditions that require timely implementation of control measures.
17. The designated beneficial uses of surface waters throughout the State may include municipal, domestic, industrial, and agricultural supply; water contact and non-contact recreation; navigation; ground water recharge; fresh water replenishment; hydropower generation; wildlife habitat; cold freshwater and warm freshwater habitat; fish migration and fish spawning; marine habitat; estuarine habitat; shellfish harvesting; ocean commercial and sport fishing; preservation of areas of special biological significance; and preservation of rare and endangered species. To the extent that the applicable RWQCB Water Quality Control Plan (WQCP) designates additional or different beneficial uses, the WQCP shall control.

18. USEPA establishes water quality criteria for priority pollutants in the National Toxics Rule and the California Toxics Rule, and RWQCBs establish water quality objectives for priority pollutants in basin plans. The SWRCB *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California* (the Policy) went into effect on May 22, 2000 and generally requires limitations for all constituents that will cause, have the reasonable potential to cause, or contribute to chronic toxicity in receiving waters.
19. Because of the nature of the discharge of aquatic pesticides, it is not feasible at this time for the SWRCB to establish numeric effluent limitations for the pollutant(s) in discharges associated with aquatic pesticide applications. Establishment of numeric effluent limitations for pollutants is not feasible because: (a) aquatic pesticide applications are made directly to the water body or to organisms on the water surface; (b) there may be numerous short duration intermittent pesticide releases to surface waters from many different locations; and (c) there are numerous pesticides used, and the SWRCB does not have the ability to establish numeric effluent limitations for each of these constituents. Therefore, pursuant to 40 CFR. §122.44(k), the effluent limitations contained in this General Permit are narrative and include requirements to implement appropriate BMPs to minimize the areal extent and duration of impacts caused by the discharge of pollutants and to allow for full restoration of water quality and protection of beneficial uses of the receiving waters following completion of resource or pest management projects.
20. Section 5.3 of the Policy provides that the SWRCB may allow short-term or seasonal categorical exceptions from meeting the priority pollutant criteria/objectives if it is determined to be necessary to implement control measures for resource or pest management conducted by public entities to fulfill statutory requirements, including, but not limited to, those in the California Fish and Game, Food and Agriculture, Health and Safety, and Harbors and Navigation codes.
21. Because of the emergency nature of this General Permit, many of the actions that would normally occur prior to issuance of a permit granting a categorical exception to priority pollutant objectives/criteria have not yet occurred. This General Permit is issued as a limited-term permit, and it will expire January 31, 2004. During the term of this General Permit, the public entities subject to the General Permit will complete necessary CEQA documents and prepare other submittals to satisfy the criteria for the categorical exception. These activities will provide the basis for future full-term permits. The public entities will also develop monitoring plans that will be the basis of monitoring requirements in future permits.
22. As authorized under the Policy, this General Permit grants a categorical exception to dischargers from requirements to meet applicable water quality criteria and objectives for priority pollutants. The SWRCB recognizes that the dischargers may also cause or contribute to exceedance of other applicable water quality standards for parameters or constituents that are not priority pollutants that are contained in a Statewide Water Quality Control Plan or in an RWQCB Basin Plan. This General Permit does not require immediate compliance with such water quality standards. Dischargers must comply with appropriate conditions, which

are included in the General Permit, including following label instructions and employing BMPs. Dischargers are allocated a temporal zone of impact on beneficial uses of water within which there may be a temporary exceedance of criteria, but the resulting impact must be transient, and allow for full restoration of water quality and protection of beneficial uses upon project completion. The exception only applies to water quality criteria/objectives for priority pollutants and not to other water quality standards, such as the antidegradation policy. For parameters or constituents that are not priority pollutants, the dischargers are required to develop and implement improved BMPs to prevent or reduce such pollutants that cause or contribute to exceedance of water quality standards.

23. The information submitted with the NOI, combined with the findings and requirements of this General Permit, satisfy the requirements to receive a categorical exception described in Finding 20.
24. The action to adopt an NPDES permit is exempt from the provisions of Chapter 3 of CEQA (Public Resources Code Section 21100, et seq.), in accordance with Section 13389 of the California Water Code. Nevertheless, this General Permit includes requirements to explore alternatives and to implement BMPs as mitigation measures to address the policy provisions of Chapter 1 of CEQA pursuant to 23 C.C.R. §3733.
25. The adoption of this General Permit, including granting a categorical exception from meeting applicable priority pollutant criteria and objectives is necessary to avert an emergency. If dischargers are prevented from applying aquatic pesticides immediately, there is a likelihood of a public health emergency, and the adoption of this General Permit is therefore exempt from CEQA pursuant to Title 14, CRC section 15269.
26. The SWRCB has notified interested agencies and persons of its intent to prescribe waste discharge requirements (WDRs) in this General Permit and has provided them with an opportunity for a public hearing and an opportunity to submit their written views and recommendations.
27. The SWRCB, in a public hearing, heard and considered all comments pertaining to the discharges to be regulated by this General Permit.
28. This order shall serve as an NPDES permit pursuant to Section 402 of the Clean Water Act (CWA) and amendments thereto and shall take effect upon the date of adoption.

IT IS HEREBY ORDERED that all dischargers who have submitted an NOI and annual fee shall comply with the following:

A. Application:

1. Dischargers eligible for coverage under this General Permit are entities that conduct resource or pest management control measures for public purposes of protecting waterways and/or the public health from harmful organisms, regardless of the legal structure of the entity, provided that:

- a. The discharger submits to the following address a complete and accurate NOI Form A to comply (Attachment A), project map, and first annual fee to cover all discharges by that discharger within the boundaries of each RWQCB, as defined in Section 13200 of the California Water Code. The NOI must be signed in accordance with the signatory requirements of Standard Provision B.2. The NOI shall be submitted to:

**Larry Nash
Regulation Unit
Division of Water Quality
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812**

- b. The discharger, upon request, submits any additional information which the SWRCB and/or RWQCB determines is necessary in order to ascertain whether the discharge meets the criteria for coverage under this General Permit.
- c. The discharger does not receive a written Notification of Exclusion (NOE) from the RWQCB. The discharger's authority to discharge under this General Permit terminates upon receipt of an NOE.
- d. If the discharger receives a request to submit an application for an individual or other general permit from the SWRCB or from an RWQCB, the discharger will continue to be covered by this General Permit until covered by an individual or other general NPDES permit.

B. Discharge Prohibitions:

1. The discharge of wastes other than as described in this General Permit is prohibited.
2. The discharge of wastes shall not create or cause conditions of nuisance or pollution.
3. The discharge shall not cause or contribute to long-term adverse impacts on beneficial uses of waters of the United States.
4. The discharge shall not adversely impact biologically sensitive or critical habitats, including, but not limited to, habitat of species listed under federal or State endangered species laws.

C. Effluent Limitations:

1. The discharge of aquatic pesticides must comply with all pesticide label instructions, DPR and DHS regulations, and any Use Permits issued by CACs.

2. The discharge of aquatic pesticides shall be managed using BMPs (discussed in Section D) to minimize the areal extent and duration of impacts caused by the discharge of pollutants and to allow for full restoration of water quality and protection of beneficial uses of the receiving waters following completion of resource or pest management projects.

D. Best Management Practices (BMPs)

1. Dischargers must be licensed by DPR or DHS if such licensing is required for the aquatic pesticide application project. The pesticide use must be consistent with the pesticide label instructions and any Use Permits issued by CACs.
2. Prior to initial discharge under this General Permit the Discharger shall take steps to notify potentially affected public and governmental agencies.
3. The dischargers will follow BMPs that are designed to maximize efficacy of control efforts and minimize adverse impacts to the environment. The steps that will be followed to identify appropriate BMPs include:
 - a. *Preliminary site evaluations.* The discharger will conduct a site inspection to verify the need for treatment, options to treatment (including non-toxic and less toxic alternatives), and suitability of the site for treatment.
 - b. *Secondary site evaluations and pre-treatment monitoring.* The discharger will determine the type and intensity of treatment needed. This evaluation will include measurement and analysis of indicators to provide information on potential efficacy and water quality impacts.
 - c. *Alternative Control Measures.* The discharger will evaluate other available BMPs and alternative control measures to determine if there are feasible alternatives to the selected aquatic pesticide application project that could reduce potential water quality impacts.
 - d. *Treatment.* Immediately prior to treatment, the discharger will examine a series of indicators and modify treatment plans accordingly. These indicators may include day length, precipitation, recreational activity, sunlight, tidal water exchange, water depth, water flows, water turbidity, and wind. If this examination indicates a potential for reduced control efficacy and/or heightened water quality impacts, the treatment will be rescheduled.
 - e. *Post-treatment.* The discharger will assess control efficacy and water quality impacts. The results of this assessment will be evaluated by the Discharger to refine project operations through an adaptive management process.

E. Solids Disposal:

Solids removed from liquid wastes shall be disposed of in a manner that is consistent with Chapter 15, Division 3, Title 23, of the California Code of Regulations (CCR) and approved by the appropriate RWQCB's Executive officer.

F. Receiving Water Limitations:

1. Discharges shall not adversely impact human health or the environment.
2. Discharges shall not cause or contribute to an exceedance of water quality standards contained in a Statewide Water Quality Control Plan or in the applicable RWQCB Basin Plan for parameters or constituents that are not priority pollutants.
3. A discharger will not be in violation of Receiving Water Limitation F.2 as long as the discharger has implemented the BMPs required by this General Permit and the following procedure is followed:
 - a. Should it be determined by the discharger, the RWQCB, or the SWRCB that discharges of pollutants are causing or contributing to the exceedance of water quality standards, the discharger, within 60 days of the determination, shall submit a report to the appropriate RWQCB that describes the BMPs that are currently being implemented and the additional BMPs that will be implemented to prevent or reduce such pollutants. The report shall include an implementation schedule. The RWQCB may require modifications to the report.
 - b. Following approval of the report described in F.3.a, the discharger shall implement the additional BMPs in accordance with the schedule.
4. The discharger is granted a categorical exception from meeting the priority pollutant criteria/objectives as specified Section 5.3 of the SWRCB's Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries. This exception is short-term (including seasonal) and applies only during and following the use of aquatic pesticides that have been identified by the discharger in the NOI, Form A (Attachment A). Any impacts on beneficial uses of water must be temporary in nature and must allow for full restoration of the pre-project water quality and thus protection of the beneficial uses upon project completion.

G. Provisions:

1. The discharger must comply with all conditions of this General Permit including timely submittal of technical and monitoring reports as directed by the appropriate RWQCB's Executive Officer.
2. If, in accordance with Best Management Practices D.3.c., the discharger identifies alternative control measures to the selected aquatic pesticide application project that

could reduce potential water quality impacts and that are also feasible, practicable and cost-effective, the discharger shall implement the identified alternative measures.

3. The discharger shall comply with the attached Monitoring and Reporting Program (MRP), General Permit No. 2001-12-DWQ, contained in Attachment B of this General Permit and any revision thereto.
4. In accordance with the MRP, the discharger shall submit a Monitoring Plan (Plan) to the appropriate RWQCB(s) by March 1, 2002 for approval. If the discharger chooses, compliance with the requirements to develop and implement a Monitoring Plan may be accomplished by participating in a Regional Pesticide Monitoring Program(s) (RPMPs).
5. Any discharger planning to comply with the MRP through an RPMP must so indicate at Section VI. of the NOI. Individual discharger Plans should incorporate by reference the RPMP Plans that have been prepared by RPMPs in which the discharger is participating. The individual discharger Plan and any incorporated RPMP Plans must include monitoring of a representative project for each pesticide identified by the discharger(s) at Section IV. B. of the NOI. The dischargers and RPMPs shall implement the Plans by July 1, 2002 in accordance with any modifications required by the RWQCB.
6. The discharger shall comply with all the applicable items of the Standard Provisions and Reporting for Waste Discharge Requirements (Standard Provisions), which are part of this General Permit (Attachment C).
7. If the area of aquatic pesticide application extends beyond a single RWQCB boundary, then the discharges in each Region shall be covered by an NOI. One annual fee must be submitted to the SWRCB for all covered discharges from one entity.
8. For the RWQCB to receive immediate and accurate information regarding all points of discharge, the discharger shall establish and maintain a liaison contact with the appropriate RWQCB. A list of designated liaison personnel, telephone number(s), and specific area(s) of responsibility shall be submitted to the appropriate RWQCB within **30 days** from the date of submittal of the NOI and after any update to the designated personnel list.
9. A copy of this General Permit shall be kept where key operating personnel can refer to the documents. Key operating and site management personnel shall be familiar with its contents.
10. When requested by USEPA, the discharger shall also complete and submit Discharge Monitoring Reports to USEPA. The submittal date shall be specified in the USEPA request.
11. The discharger is required to retain records, including all monitoring information and copies of all reports required by this General Permit, for five years unless directed otherwise by an RWQCB.

12. This General Permit expires on January 31, 2004.
13. In the event of any change in control or ownership of land or waste discharge facilities presently owned or controlled by the discharger, the discharger shall notify the succeeding owner or operator of the existence of this General Permit by letter, a copy of which shall be immediately forwarded to the appropriate RWQCB office. The new discharger shall complete and submit to the SWRCB a revised NOI Form A (Attachment A) in accordance with Application A.1.

H. RWQCB Authorities:

1. Following the SWRCB's adoption of this General Permit, RWQCBs as necessary, shall:
 - a. Review and approve Monitoring Plans submitted by dischargers and RPMPs.
 - b. Review monitoring reports and other reports submitted by the dischargers, conduct compliance inspections, and take appropriate enforcement actions.
 - c. Issue permits, as they deem appropriate, to individual dischargers, categories of dischargers, or dischargers in a geographic area. Upon issuance of such permits by an RWQCB, this General Permit shall no longer regulate the affected dischargers.
2. RWQCBs may require additional monitoring and reporting program requirements, where deemed necessary.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on July 19, 2001.

AYE: Arthur Baggett, Jr.
Richard Katz
Peter Silva

NO: None

ABSENT: None

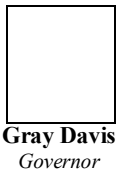
ABSTAIN: None

/s/
Maureen Marché
Clerk to the Board



State Water Resources Control Board

Attachment A
to Water Quality Order
No. 2001-12-DWQ



California
Environmental
Protection Agency
Error! Switch

NOTICE OF INTENT

TO COMPLY WITH THE TERMS OF THE STATEWIDE GENERAL NATIONAL
POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT
TO DISCHARGE AQUATIC PESTICIDES FOR DISCHARGES OF
AQUATIC PESTICIDES TO SURFACE WATERS OF THE UNITED STATES
GENERAL PERMIT NO. CAG990003

FORM A

I. NOTICE OF INTENT STATUS (see instructions)

MARK ONLY ONE ITEM 1. [] New Applicator 2. [] Change of Information for WDID# []

II. PESTICIDE APPLICATOR INFORMATION

Name/Agency Contact Person
Mailing Address Title
City County State Zip Phone

III. RECEIVING WATER INFORMATION

A. Do wastes and pesticide residues discharge to (check all that apply):
1. [] Canals, Ditches, or other constructed conveyance facilities owned and controlled by Applicator?
2. [] Other conveyance systems? - Enter owner's name:
3. [] Directly to waters of U.S. (e.g., river, lake, creek, stream, bay, ocean, etc.)?
B. Regional Water Quality Control Board(s) where application sites are located (REGION 1,2,3,4,5,6,7,8, or 9): REGION
C. Name of receiving water: (river, lake, creek, stream, bay, ocean):

IV. PESTICIDE APPLICATION INFORMATION

A. Target Organism: ___Algae ___Aquatic Weeds (surface) ___Aquatic Weeds (submerged) ___Mosquitoes and other Vectors
___OTHER (identify):
B. Pesticides Used: List Name and Active ingredients -
C. Period of Application: Start Date End Date

V. VICINITY MAP AND FEE

Have you included vicinity map(s) with this submittal?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Separate vicinity maps must be submitted for each Region where a proposed discharge will occur.		
Have you included payment of the annual fee with this submittal?	<input type="checkbox"/> YES	<input type="checkbox"/> NO

VI. MONITORING AND REPORTING REQUIREMENTS

This permit includes a requirement to develop and implement an individual Pesticide Monitoring Plan or participate in a Regional Pesticide Monitoring Program. Check the applicable Box or Boxes	<input type="checkbox"/>
I will develop an individual Pesticide Monitoring Plan in accordance with the permit requirements.....	<input type="checkbox"/>
I will participate in a Regional Pesticide Monitoring Program developed in accordance with the permit requirements.	<input type="checkbox"/>

VII. CERTIFICATION

"I certify under penalty of law that this document and all attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment. Additionally, I certify that the provisions of the permit, including developing and implementing a monitoring program, will be complied with."	
Printed Name:	_____
Signature:	_____ Date: _____
Title:	_____

VIII. FORM A SUBMITTAL INFORMATION

A. Send the completed and signed Form A along with the annual fee and vicinity map(s) to: State Water Resources Control Board Division of Water Quality Regulations Unit P.O. Box 100 Sacramento, CA 95812-0100
--

**INSTRUCTIONS
FOR COMPLETING THE NOTICE OF INTENT TO DISCHARGE
AQUATIC PESTICIDES TO SURFACE WATERS OF THE STATE
GENERAL PERMIT**

These instructions are intended to help you, the discharger, complete the Notice of Intent (NOI) form for the general NPDES permit, "General Permit to Discharge Aquatic Pesticides to Surface Waters" (General Permit). **Please type or print clearly when completing the NOI form and vicinity map(s).**

One NOI should be submitted by each owner/agency to cover all proposed discharges within the boundaries of each Regional Water Quality Control Board (RWQCB). If proposed discharges will occur in more than one Region, submit extra copies of the NOI and maps for each Region where a discharge will occur. Only one annual fee is required for each owner/agency.

Section I – Status

Please mark whether this is the first time coverage under this General Permit has been requested or if this is a change of information for a discharge already covered under this General Permit. If this is a change of information, please supply the eleven-digit WDID number for the discharge.

Section II – Pesticide Applicator Information

1. **Name** - The name (first and last) of the owner/operator. If the owner/operator is a company or agency, put the name of the company or agency in this space.
2. **Mailing Address** - The street number and street name where mail and correspondence should be sent (P.O. Box is acceptable).
3. **City, County, State, and Zip Code** - The city, county, state, and zip code that apply to the mailing address given.
4. **Telephone** - Daytime telephone number of the owner/operator.
5. **Contact Person** - The name (first and last) of the contact person for the owner/operator (agency, company, etc.) listed above.
6. **Title** – The contact person's title.

Section III – Receiving Water Information

- A. Check all boxes that apply. At least one box must be checked.
 1. Check this box if the application site is a canal, ditch or other constructed conveyance system owned and controlled by the Applicator/Permittee.
 2. Check this box if the application site is a canal, ditch or other constructed conveyance system owned and controlled by a different person or entity than the Applicator/Permittee. Clearly print the name of the owner of the conveyance system.
 3. Check this box if the pesticide will be applied directly to waters of the United States. Clearly print the name of the river, lake, etc. where the pesticide will be applied.
- B. List all region numbers where pesticide application is proposed. Regional Water Board boundaries are defined in Section 13200 of the California Water Code. The numbers for each Region are given below.

- | | |
|--|--|
| 1- North Coast | 2- San Francisco |
| 3- Central Coast | 4- Los Angeles |
| 5- Central valley
(Sacramento, Fresno, Redding) | 6- Lahontan
(South Lake Tahoe, Victorville) |
| 7- Colorado River | 8- Santa Ana |
| 9- San Diego | |

- C. Enter the name of the receiving water that the constructed conveyance empties into, or if applicable, the name of the water body to which the pesticide is directly applied (the same as in A. 3.).

Section IV – Pesticide Application Information

- A. Check the appropriate target organism. If the target organism is not listed, check OTHER and list the name or type of target organism in the space provided.
- B. List the name and active ingredients of each pesticide to be used.
- C. List the start and end date of proposed pesticide application.

Section V – Vicinity Map and Fee

1. If you have included vicinity map(s) with your Form A submittal, check the YES box, if you have not included the vicinity map(s), check the NO box. **NOTE:** Vicinity map(s) of the proposed pesticide application site must be received before your permit can be issued. You must submit separate vicinity map(s) for each Regional Board service area where a discharge is proposed. If applying for coverage under Region 5, please send in two additional copies of the required map, if applying for coverage under Region 6, please send in one additional copy of the required map.
2. Check the YES box if you have included payment of the \$400 annual fee with your Form A submittal. Check the NO box if you have not included this payment. **NOTE:** Payment of this fee must be received before you can obtain coverage under this General Permit. You will be invoiced annually and payment is required to continue coverage.

Section VI – Monitoring and Reporting Requirements

Monitoring and Reporting Program, Section A. *Monitoring Plans* describes in detail the requirements for monitoring activities to be conducted by the permittee. Check the appropriate box to indicate if you will develop an individual Pesticide Monitoring Program, or if you will jointly establish and support a Regional Pesticide Monitoring Program. You must check at least one of the boxes.

Section VII - Certification

1. **Printed Name** - Please print your name legibly. This section should be filled out by the person responsible according to Section B.2.a. of the Standard Provisions (Attachment C).
2. **Signature and Date** - Signature of person whose name is printed above, and the date signed.
3. **Title** – The professional title of the person signing the NOI.

STATE WATER RESOURCES CONTROL BOARD

**MONITORING AND REPORTING PROGRAM FOR
STATEWIDE GENERAL NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM (NPDES) PERMIT FOR DISCHARGES
OF AQUATIC PESTICIDES TO SURFACE WATERS
OF THE UNITED STATES (GENERAL PERMIT)
GENERAL PERMIT NO. CAG990003**

A. MONITORING PLANS: Individual and Regional

Each discharger seeking coverage under this general permit shall submit a Monitoring Plan (Plan) for approval by the appropriate Regional Water Quality Control Board (RWQCB) and shall implement the Plan as approved. Plans shall achieve the following goals:

1. Document compliance with the requirements of the General Permit;
2. Support the development, implementation and effectiveness evaluation of Best Management Procedures (BMPs);
3. Demonstrate the full restoration of water quality and protection of beneficial uses of the receiving waters following completion of resource or pest management projects;
4. Identify and characterize aquatic pesticide application projects (projects) conducted by the discharger; and
5. Assure that the Plan provides for monitoring of projects that are representative of all pesticides and application methods used by the discharger.

BMPs include activities that eliminate or reduce the discharge of pollutants that minimize the areal extent and duration of impacts caused by the discharge of pollutants and that identify and implement non-toxic or less toxic alternatives.

Dischargers must comply with the requirements of this Section either individually or by participating in a Regional Pesticide Monitoring Program(s) (RPMPs). Any discharger planning to comply through an RPMP must so indicate at Section VI of the Notice of Intent (Attachment A).

Each Discharger is responsible for submitting a Plan to the appropriate RWQCB(s) by March 1, 2002 for approval. All Plans, whether individual or RPMP, must include monitoring of at least one representative project for each pesticide identified by the discharger(s) at Section IV. B. of the Notice of Intent. All Plans shall be implemented by July 1, 2002, in accordance with any modifications required by the RWQCB.

All Plans shall incorporate the following elements, except that monitoring exemptions may be appropriate for vector control projects that use microbial larvicides, thin film larvicides, and methoprene. These aquatic pesticides may represent the non-toxic or less toxic pest control alternative with reduced or no threat to the environment. Furthermore, feasible specific quantitative test methods may not be available for these pesticides at label application concentrations. Dischargers of these pesticides should document the rationale for not including plan elements where appropriate.

The following elements shall be included in each **Plan**, unless exempted as described above:

1. Characterization of representative aquatic pesticide application projects, including: diversity of actual pesticide use, diversity in season, receiving water types (e.g., canals, creeks, sloughs, etc.), climate, differing rates of pesticide applications or concentrations, project size (area, water volume, and flow).
2. Visual assessment of existing or potential adverse impacts on beneficial uses caused by application of pesticides.
3. Water quality analyses (using test procedures specified in 40 CFR Part 136) for selected constituents and parameters to demonstrate full restoration of water quality and protection of beneficial uses of the receiving waters following project completion. Analyses shall include the active ingredients in the pesticides applied and may include:
 - a. Other constituents that have been identified that may adversely impact beneficial uses of the receiving waters as a result of the project;
 - b. Dissolved Oxygen;
 - c. Temperature;
 - d. pH;
 - e. Turbidity;
 - f. Hardness and other water quality parameters that may influence pesticide persistence or toxicity; and
 - g. Electrical Conductivity.
4. A Quality Assurance Plan (QAP) to provide references, standardized procedures and quality specifications for the sampling, analysis, and data review procedures for the monitoring program.
5. An evaluation of any non-toxic or less-toxic pest control methods that may provide a practicable substitute for pesticide application. This evaluation shall include an estimate of each alternative's costs, a review of any known barriers to implementing the alternative and any solutions to overcoming those barriers.

6. Evaluation of the effectiveness of representative BMPs to eliminate or reduce the discharge of pollutants and minimize the areal extent and duration of impacts caused by the discharge of pollutants.

B. AQUATIC PESTICIDE USE DOCUMENTATION:

The discharger shall maintain records of the following information for each treatment site:

1. The location of the treatment area (address, cross roads, coordinates);
2. The names of the water bodies treated (canal, creek, lake);
3. Project size (the water surface area, volume of water treated, flow rate);
4. Name, formulation, concentration, and amount of pesticide used; and
5. Documentation of activities in compliance with the General Permit Section D. Best Management Practices

Copies of these documentation records shall be submitted to the RWQCB in monthly Pesticide Use Reports due the 15th of the following month. Dischargers may use Pesticide Use Report forms (from DPR) as part of the documentation.

C. REPORTING:

All reports shall be submitted to the appropriate RWQCB Executive Officer. All reports submitted in response to this Order must comply with the provisions stated in "Standard Provisions-and Reporting for Waste Discharge Requirements (NPDES)" (Attachment C), Section 1B, "Monitoring and Reporting Requirements", including the signatory requirements of Standard Provision B.2.

In addition to the monthly submittal of the Pesticide Use Reports, the discharger shall submit a calendar year Annual Report to the SWRCB by January 31 of the following year (beginning January 2003). The discharger may refer to Annual Reports prepared by applicable RPMPs. Copies of all reports prepared by RPMPs must be provided to the SWRCB and each RWQCB. The Annual Report shall contain tabular summaries of the pesticide monitoring data obtained during the previous year in a format that satisfies the requirements for inclusion in the Department of Pesticide Regulation's surface water database. The Annual Report shall include a summary including but not limited to (1) objectives of the monitoring program(s); (2) results; and (3) interpretation of data in relation to frequency, duration and magnitude of impacts to beneficial uses.

Sketches of sample locations, chain of custody forms and other information developed as part of this monitoring program shall be maintained by the discharger and submitted to the RWQCB upon request.

**STATE WATER RESOURCES CONTROL BOARD (SWRCB)
STANDARD PROVISIONS AND REPORTING FOR
WASTE DISCHARGE REQUIREMENTS (WDR) FOR
STATEWIDE GENERAL NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM (NPDES) PERMIT FOR DISCHARGES
OF AQUATIC PESTICIDES TO SURFACE WATERS
OF THE UNITED STATES (GENERAL PERMIT)
GENERAL PERMIT NO. CAG990003**

A. General Provisions

1. Duty to Comply [40 CFR 122.41(a)][CWC 133811

- a. The discharger must comply with all of the conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and the Porter-Cologne Water Quality Control Act and is grounds for enforcement action, for permit termination, revocation and reissuance or modification, or for denial of a permit renewal application.
- b. The discharger shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions, even if this permit has not been modified to incorporate the requirement.

2. Duty to Mitigate [40 CFR 122.41(d)]

- a. The discharger shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment.

3. Proper Operation and Maintenance [40 CFR 122.41(e)],

- a. The discharger shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the discharger to achieve compliance with this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of, backup or auxiliary facilities or similar systems, which are installed by a discharger only when necessary to achieve compliance with the conditions of this permit.

4. Permit Actions [40 CFR 122.41(f)][CWC 13263(e)1[40 CFR 122.44(b)(1)]

- a. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the discharger for a permit modification, revocation and reissuance, or

termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

- b. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge, and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition and the discharger so notified.

5. Property Rights [40 CFR 122.41(g)][CWC 13263(g)]

- a. This permit does not convey any property rights of any sort, or any exclusive privileges.
- b. All discharges of waste into water of the state are privileges, not rights.

6. Duty to Provide Information [40 CFR 122.41(h)]

- a. The discharger shall furnish the Regional Water Quality Control Board (RWQCB), the SWRCB, or the U.S. Environmental Protection Agency (U.S. EPA), within a reasonable time, any information which the RWQCB, SWRCB, or U.S. EPA may request to determine compliance with this general permit. Upon request, the discharger shall also furnish to the RWQCB, SWRCB, or U.S. EPA, copies of records required by this permit to be kept.

7. Inspection and Entry [40 CFR 122.41(h)]

- a. The discharger shall allow the RWQCB, SWRCB, U.S. EPA, and/or their authorized representatives (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents as may be required by law, to:
 - (1) Enter upon the discharger's premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this permit; and
 - (2) Inspect and photograph, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
 - (3) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit; and
 - (4) Sample or monitor, at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act or the Porter-Cologne Water Quality Control Act, any substances or parameters at any location.

8. Bypass and Upset [40 CFR 122.41(m)] [40 CFR 122.41(n)]

a. Definitions.

- (1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
- (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (3) "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond, the reasonable control of the discharger. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. Prohibition of Bypass.

- (1) Bypass is prohibited, and the RWQCB may take enforcement action against a permittee for bypass, unless:
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The permittee submitted notices as required under 40 CFR 122.41 (m) (3)

c. Conditions necessary for a demonstration of upset.

- (1) A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:
 - (a) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (b) The permitted facility was at the time being properly operated; and
 - (c) The permittee submitted notice of the upset as required in 24 Hour Reporting.

- (d) The permittee complied with any remedial measures required under 40 CFR 122.41 (d)

d. Burden of proof

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

9. Transfers [40 CFR 122.41(L)(3)] [CWC 133771] [40 CFR 122.61 (a)(b)]

- a. This permit is not transferable to any person except after notice to the RWQCB. The RWQCB may require modification or reissuance of the permit conditions to change the name of the discharger and incorporate such other requirements as may be necessary under the Clean Water Act and the Porter-Cologne Water Quality Control Act.

10. Severability

- a. The provisions of this Order are severable and, if any provision of this order or the application of any provisions of this Order to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected thereby.

11. Pollution, Contamination, or Nuisance [CWC 13050]

- a. Neither the treatment nor the discharge shall create a condition of pollution, contamination, or nuisance.

B. Monitoring and Reporting Requirements

1. Monitoring and-Records (40 CFR 122.41(j))[Title 23, CCR, Div 3, Ch 14]

- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- b. Records of monitoring information shall include:
 - (1) The date, exact place, and time of sampling or measurements;
 - (2) The individual(s) who performed the sampling or measurements;
 - (3) The dimensions, size and/or volume of vault;
 - (4) The duration of the discharge;
 - (5) The estimated volume of discharge;
 - (6) The date(s) analyses were performed;

- (7) The individual(s) who performed the analysis;
 - (8) The analytical techniques or methods used; and
 - (9) The results of such analyses.
- c. Monitoring results must be conducted according to test procedures under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503 or unless other test procedures have been specified in this permit.

2. Signatory Requirements [40 CFR 122-41(k)] [40 CFR 122.221]

- a. All permit applications or NOIs submitted to the RWQCB, SWRCB, and/or U.S. EPA shall be signed as follows:
 - (1) For a corporation: by a responsible corporate officer. For the purpose of this provision, a responsible corporate officer means: a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having a gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
 - (3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this provision, a principal executive officer of a Federal agency includes: the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of U.S. EPA).
- b. All reports required by this permit and other information requested by the RWQCB, SWRCB, or U.S. EPA. shall be signed by a person described in paragraph (a) of this provision, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - (1) The authorization is made in writing by a person described in paragraph (a) of this provision;
 - (2) The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for

environmental matters for the company (a duly authorized representative may thus be either a named individual or any individual occupying a named position) and,

(3) The written authorization is submitted to the RWQCB, SWRCB, or USEPA.

- c. If an authorization under paragraph (b) of this provision is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this provision must be submitted to the RWQCB, SWRCB or U.S. EPA prior to or-together with any reports, information, applications, or NOIs to be signed by an authorized representative.
- d. Any person signing a document under paragraph (a) or (b) of this provision shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

3. Monitoring Reports [40 CFR 122.41(l) (4)]

- a. Monitoring results shall be reported at the intervals specified in the permit.
- b. Monitoring results must be reported on a Discharge Monitoring Report (DMR) form or forms approved by the RWQCB or SWRCB for reporting results of monitoring of pollutants and sludge use or disposal practices.
- c. Calculations for all limitations, which require averaging of measurements, shall utilize an arithmetic mean unless otherwise specified in this permit.

4. Compliance Schedules [40 CFR 122.41(l) (5)]

- a. Reports of compliance or noncompliance with interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

5. Twenty-four Hour Reporting [40 CFR 122.41(l) (6)]

- a. The discharger shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the discharger becomes aware of the circumstances. A written submission shall also be provided within five days of the time the discharger becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times and, if the noncompliance has not

been corrected, the anticipated time it is expected to continue, and, steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

- b. The following shall be included as-information that must be reported within 24 hours under this paragraph:
 - (1) Any bypass which exceeds any effluent limitation in the permit.
 - (2) Any upset which exceeds any effluent limitation in the permit.
 - (3) Violation of a maximum daily discharge limitation for any of the pollutants listed in this permit is to be reported within 24 hours. The RWQCB may waive the above required written report under this provision on a case-by-case basis if an oral report has been received within 24 hours.

6. Other Noncompliance [40 CFR 122.41 (1) (7)]

- a. The discharger shall report all instances of noncompliance not reported under Provisions (B.3), (B.4), and (2.5) at the time monitoring reports are submitted. The reports shall contain the information listed in Provision (B.5).

7. Other Information [40 CFR 122.41(l) (8)]

- a. When the discharger becomes aware that it failed to submit any relevant facts in a permit application or NOI, or submitted incorrect information in a permit application, NOI or in any report to the RWQCB, SWRCB, or U.S. EPA, the discharger shall promptly submit such facts or information.

8. Planned Changes [40 CFR 122 41(l)(1)]

- a. The discharger shall give notice to the RWQCB as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required under this provision only when:
 - (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40- CFR Part 122.29(b); or
 - (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit nor to notification requirements under 40 CFR Part 122.42 (a) (1); or
 - (3) The alteration or addition results in a significant change in the discharger's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application/NOI process or not reported pursuant to an approved land application plan.

9. Anticipated Noncompliance [40 CFR 122.41(l)(2)]

- a. The discharger shall give advance notice to the RWQCB or SWRCB of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements.

10. Discharge Monitoring Quality Assurance (DMQA) Program [SWRCB/EPA 106 MOA]

- a. The discharger shall conduct appropriate analyses on any sample provided by U.S. EPA as part of the DMQA program. The results of such analyses shall be submitted to U.S. EPA's DMQA manager.

C. Enforcement Provisions

1. The Clean Water Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$25,000 per day of violation. Any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day for each violation, or by imprisonment of not more than one year, or both. Higher penalties may be imposed for knowing violations and for repeat offenders. The Porter-Cologne Water Quality Control Act provides for civil and criminal penalties comparable to and in some cases greater than those provided under the Clean Water Act. [40 CFR 122.41(a)(2)][CWC Sections 13385 and 13387]
2. The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both. [40 CFR 122-41(k) (2)]
3. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than two years, or both. Higher penalties may be imposed for repeat offenders. [40 CFR 122.41(j)(5)]