

**STATE WATER RESOURCES CONTROL BOARD
BOARD HEARING SESSION – DIVISION OF WATER QUALITY
NOVEMBER 2, 2010**

ITEM 7

SUBJECT

PUBLIC HEARING – DRAFT GENERAL NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT FOR SPRAY APPLICATIONS FOR PEST CONTROL

DISCUSSION

The [Draft Statewide General NPDES Permit for Spray Applications \(Spray Applications Permit\)](#) has been prepared in response to the *National Cotton Council of America v. USEPA* decision by the Sixth Circuit Court of Appeals which requires that discharges associated with pesticide applications at, near, or over water must be covered by an NPDES permit.

Applicability: The proposed Spray Applications Permit covers discharges of pollutants from spray applications to control invasive insects and invasive plants. The proposed permit does not authorize the discharge of pesticides and their degradation byproducts to waters of the United States that are impaired by the active ingredients of the products covered in the proposed permit. Impaired waters are those waters not meeting water quality standards pursuant to Section 303(d) of the CWA. On August 4, 2010, the State Water Board approved [California's 2010 list of impaired waters](#). This proposed permit will be available to the California Department of Food and Agriculture (CDFA) for full coverage and to the United States Department of Forest Service (USFS) for specified biological controls only.

Enrollment Process: To obtain authorization under the proposed Spray Applications Permit, dischargers must submit a complete application package [Notice of Intent (NOI) Form, Pesticide Application Plan (PAP), and an application fee] to the State Water Board. The State Water Board's Deputy Director for the Division of Water Quality will issue a Notice of Applicability (NOA) authorizing coverage under this general permit. The State Water Board's Deputy Director may also either request additional information if the application is incomplete, or require submittal of an application for an individual permit or an alternative general permit.

Permit coverage will be effective when 1) the discharger has submitted a complete permit application; 2) the PAP has been approved by the State Water Board Deputy Director for the Division of Water Quality; and 3) the State Water Board Deputy Director has issued an NOA. The discharger is authorized to discharge starting on the date of the NOA.

Effluent Limitations: It is infeasible for the State Water Board to establish numeric effluent limitations because: 1) In pesticide applications for invasive insects and invasive plants control, the exact effluent is unknown and varies depending on environmental conditions; and 2) It would be impracticable to treat numerous short duration intermittent pesticide and pesticide residue releases to surface waters from many different locations. Therefore, the effluent limitations contained in the proposed Spray Applications Permit are narrative and include requirements to develop and implement a PAP that describes appropriate Best Management Practices, including compliance with all pesticide label instructions and narrative receiving water limitations.

Receiving Water Monitoring Triggers: Information regarding pollutants discharged to the receiving water as a result of pesticide applications for pest control is not adequate to develop receiving water limitations for individual and combinations of pollutants; therefore, the proposed Spray Applications Permit only contains Receiving Water Monitoring Triggers. The monitoring triggers will be used to assess compliance with the narrative toxicity receiving water limitation and initiate additional investigations for the causes of toxicity caused by pesticides used and their additive or synergistic effects. The proposed Spray Applications Permit includes an Instantaneous Maximum Receiving Water Monitoring Trigger for pollutants of concern.

Monitoring and Reporting Program: A monitoring and reporting program is required for each discharger or discharger group for pollutant discharges from spray applications to determine compliance with permit requirements. Each discharger or discharger group is required to conduct background, event, and post-event monitoring with a minimum of six samples per application season for each type of representative site (urban/suburban, agricultural, wetlands, recreational, and wildlife refuges).

Toxicity Testing Requirements: Each discharger or discharger group shall conduct toxicity testing to determine whether the pesticides of concern are contributing toxicity to the receiving water. Each discharger or discharger group is required to perform the toxicity testing in conjunction with the event monitoring for the active ingredients of concern and at testing frequency specified in the proposed Spray Applications Permit.

POLICY ISSUE

N/A – Public Hearing only.

FISCAL IMPACT

N/A – Public Hearing only.

REGIONAL BOARD IMPACT

N/A – Public Hearing only.

STAFF RECOMMENDATION

N/A – Public Hearing only.

State Water Board action on this item will assist the Water Boards in reaching Goal 6 of the Strategic Plan Update: 2008-2012 to enhance consistency across the Water Boards, on an ongoing basis, to ensure our processes are effective, efficient, and predictable, and to promote fair and equitable application of laws, regulations, policies, and procedures. In particular, approval of this item will assist in fulfilling Objective 6.2 to target consistency improvements in program delivery identified through past input, and solicit input to identify consistency issues as they arise.