

The proposed amendment would modify the pesticide prohibition language in Section 4.1 of Chapter 4 of the Basin Plan, and delete reference to the prohibition in Section 5.2 of Chapter 5.

The following changes, shown below in underline and ~~strikeout~~, should be made below the section heading titled **Regionwide Prohibition no. 6 listed in Section 4.1. The existing pesticide prohibition language in Section 5.2 would be deleted, as other Basin Plan amendments in Section 5.2 delete all explicit regionwide prohibitions and refer to Section 4.1 for regionwide prohibitions. Three paragraphs below contain no changes and are included for location reference only. These paragraphs are titled Controlling Aquatic Invasive Species (AIS) or Other Harmful Species, Emergency Projects, and Time Sensitive Projects.**

Controlling Aquatic Invasive Species (AIS) or Other Harmful Species

Prohibition exemptions will be considered for “Controlling AIS or Other Harmful Species” if the use of aquatic pesticides is to protect public health and safety, the environment, or for other situations described below. Projects proposed for these circumstances will have different criteria depending on whether the projects are considered as emergency, time sensitive, or projects that are neither emergencies nor time sensitive.

Emergency Projects. Emergency Projects are those undertaken in response to an emergency as set forth in Public Resource Code section 21060.3; or projects that meet the CEQA definition of Emergency Projects set forth in CEQA Guidelines 15269(a)(b)(c) and require immediate action to control the pest of concern.

Time Sensitive Projects. For Time Sensitive Projects proposed for purposes of AIS control, the project proponent must demonstrate that the decision to apply aquatic pesticides is in compliance with an adopted Aquatic Invasive Species Management Plan. The AIS of concern must be affecting a water body where that species is not already established. The AIS must be recognized as a species of concern by the Aquatic Nuisance Species Task Force, listed as a Restricted Animal in California Administrative Code Title 14, section 671, listed as an Injurious Wildlife Species in the Lacey Act (50 CFR 16.11-16.15), addressed in the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, listed as a Noxious Weed Species in either Title 3, Section 4500 of the California Department of Food and Agriculture, Federal Noxious Weed Act. P.L. 93-629, or is a dreissenid mussel as addressed in section 2301 of the Fish and Game code. The project proponent must be a state or federal agency with the legal authority to control aquatic invasive species as identified in the January 2008 (as amended) California Aquatic Invasive Species Management Plan, Appendices B and C.

~~For Time Sensitive Projects not involving AIS that are proposed to protect drinking water supplies, water distribution system, and flood control channels, the project proponent must be (1) the public agency mandated to protect such facilities, or (2) a private entity (e.g., a homeowners association, private water utility) that has control over the financing for, or the decision to perform, aquatic pesticide applications.~~

For Time Sensitive Projects proposed to protect drinking water supplies, water distribution systems, and flood control channels, or otherwise proposed to serve the public interest, the project proponent must be (1) the public agency mandated to protect such facilities, or (2) a private entity (e.g., a homeowners association, private water utility) that has control over the financing for, or the decision to perform, aquatic pesticide applications.

Projects That Are Neither Emergencies Nor Time Sensitive

~~For non-Emergency and non-Time Sensitive projects proposed for purposes of AIS control, the project proponent must demonstrate that the decision to apply aquatic pesticides is in compliance with an adopted Aquatic Invasive Species Management Plan. The project proponent must be a state or federal agency, with the legal authority to implement AIS control projects as identified in the California Aquatic Invasive Species Management Plan, Appendices B and C.~~

~~For non-Emergency and non-Time Sensitive projects proposed for purposes **not** involving AIS that are proposed to protect drinking water supplies, water distribution system, navigation, agricultural irrigation, and flood control channels, the project proponent must be (1) the public agency mandated to protect such facilities, or (2) a private entity (e.g., a homeowners association, private water utility) that has control over the financing for, or the decision to perform, aquatic pesticide applications.~~

For non-Emergency and non-Time Sensitive projects proposed for purposes of protecting drinking water supplies, water distribution systems, navigation, agricultural irrigation, flood control channels, control of AIS, or for purposes that otherwise serve the public interest, the project proponent must be (1) a state, federal, or public agency (local or regional) with legal authority to manage the affected resources or protect such facilities, or (2) a private entity (e.g., a homeowners association, private water utility) that has control over the financing for, or the decision to perform, aquatic pesticide applications. For projects proposed for purposes of AIS control, the project proponent must demonstrate that the decision to apply aquatic pesticides is consistent with an adopted Aquatic Invasive Species Management Plan.