

Response to Comments – November 23, 2011

Basin Plan Amendment - Pesticide Prohibition & Exemption Criteria

(Comment deadline 12 p.m., November 14, 2011)

**Greg Reed –
Round Hill General Improvement District
and Tahoe Water Suppliers Association – Letter 1**

http://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/comments111411/greg_reed_cmnt_ltr_10272011.pdf

Comments

From: Greg Reed <agreed@rhgid.org>
To: 'Daniel Sussman' <DSussman@waterboards.ca.gov>, 'Madonna Dunbar' <madonn...>
Date: 10/27/2011 12:49 PM
Subject: RE: Request for Public Comment: Pesticide Amendment, Lahontan Water Board

Hi All:

I pulled this off the AWWA website this morning. I believe this should be included in the language for the basin plan amendment, if it hasn't been already. I would also hope that the requirements would be for individual NPDES permits and not a general permit. Please let me know if you have any questions.

Thanks,
Greg

NPDES permits needed for pesticide applications to US waters

10/21/2011

The U.S. Environmental Protection Agency and state Clean Water Act primacy agencies will require National Pollutant Discharge Elimination System permits as of October 31 for applications of pesticides to, over or near waters within their jurisdiction. Individual permits will be required if a general permit is not available.

This [permit requirement](#) stems from a 2009 decision by the Sixth Circuit Court of Appeals (*National Cotton Council, et al. v. EPA*) that vacated EPA's 2006 Final Rule on Aquatic Pesticides. Under that rule, NPDES permits were not required for applications of pesticides to U.S. waters.

This action is relevant to permit requirements for water system activities such as the application of algaecides to reservoirs, the application of herbicides to control aquatic plant growth, and the application of pesticides adjacent to water bodies where pesticides residuals enter the water.

EPA plans to finalize a general permit for pesticides on October 31 and post it on the agency website (it will later be published in the *Federal Register*). The general permit will be effective only where EPA is the NPDES permitting authority. Forty-four states have primacy for NPDES permitting and are responsible for issuing NPDES permits for pesticide discharges in their respective jurisdictions.

At this time, AWWA understands 36 states expect to have a NPDES pesticide permit structure in place by October 31. Individual states are responding to this court decision differently. Water systems should contact their state agencies responsible for NPDES permitting to understand state-specific requirements.

ROUND HILL GENERAL IMPROVEMENT DISTRICT

A. Gregory Reed
District Manager
P.O. Box 976
Zephyr Cove, NV 89448
E-mail: agreed@rhgid.org
Office: 775-588-2571
Cell: 775-901-0920

Response

GR R1:

From: Mary Fiore-Wagner
To: Dunbar', 'Madonna; Pomroy, Joe; Rebecca_sawyer@ivgid.org; Reed, Greg;...
Date: 10/27/2011 4:37 PM
Subject: RE: Request for Public Comment: Pesticide Amendment, Lahontan Water Board
CC: Booth, Richard; Sussman, Daniel

Greg,
Thank you for staying involved with the amendment and the current requirements for aquatic pesticide discharges.

Can you please provide more clarification about what you are referring to when you state "this should be included in the language for the basin plan amendment, if it hasn't been already." I am uncertain what you want included, but it is a requirement that water system activities that use aquatic pesticides be required to obtain an exemption. As currently written, the proposed amendment language would require a prohibition exemption **and** the appropriate permit to regulate discharges of aquatic pesticides. This requirement includes discharges associated with water system activities such as the application of algaecides to reservoirs, the application of herbicides to control aquatic plant growth, and the application of pesticides adjacent to water bodies where pesticides residuals enter the water.

As you are aware, in California, the EPA has designated the state as the NPDES permitting authority. The State Water Resources Control Board (State Water Board) has recently revised and/or developed NPDES permits to regulate applications of pesticides to, over or near waters within California for purposes of vector control, aquatic invasive animal control, and spray applications. The State Water Board also has a permit that regulates the discharge of aquatic pesticides for aquatic weed control; I believe the State Water Board intends to update this NPDES permit for weed control within the next year. Please view the State Water Board's NPDES permits that apply to aquatic pesticide discharges which are available at http://www.waterboards.ca.gov/water_issues/programs/npdes/aquatic.shtml.

Water system activities within the Lahontan Region that propose to use aquatic pesticides for control of algae and weeds that impact source, storage, and/or conveyance systems would need to obtain both a prohibition exemption from the Lahontan Water Board and an appropriate permit. (For water system activities mentioned above, the Lahontan Water Board would likely rely on the State Water Board's existing NPDES permit for weed control to regulate these discharges.)

Obtaining an exemption to the prohibition alone does not give a project proponent the authorization to discharge; a permit is also required. The Water Board would likely rely on the NPDES permits that the State Water Board has developed to regulate aquatic pesticide discharges, but there may be cases where an individual permit would be issued by the Lahontan Water Board. If needed, the resolution granting the exemption could specify additional conditions that the project proponent would have to include in its project such as mitigation measures and monitoring.

Please contact me if you need more clarification with this response. Thank you.

Please note: I work a reduced time base with every Friday off.

Mary Fiore-Wagner
Environmental Scientist
CRWQCB-Lahontan Region