

## Regulation of Aquatic Pesticides

Applicators in the San Diego Region must submit Form A to the State Water Resources Control Board to receive protection under the cleanup and abatement order

(May 4, 2001) The California Regional Water Quality Control Board, San Diego Region issued a cleanup and abatement order to allow application of aquatic pesticides in the San Diego Region. The order will allow operators to continue to apply pesticides while the state processes a general Clean Water Act permit to protect receiving waters within the San Diego Basin. The San Diego Basin includes the drainage to the Pacific Ocean within these boundaries: to Aliso Creek (north of Laguna Beach) to the north; from the ridge of the mountains to the east; and to the border with Mexico to the south.

A March 12, 2001 decision by the Ninth Circuit Court in Headwaters, Inc. v. Talent Irrigation District found that an applicator should have obtained coverage under a National Pollutant Discharge Elimination System (NPDES) permit prior to application of aquatic pesticides to an irrigation canal in Oregon. The canal exchanged water with a creek where a fish kill occurred. The decision addressed residues and other products of aquatic pesticides. Such discharges in California are not regulated by the Department of Pesticide Regulation or by county agricultural commissioners.

The State Water Resources Control Board believes the decision applies to California waters and is now planning to issue a statewide general permit for these discharges. In the interim, the state board has requested that all regional boards immediately issue cleanup and abatement orders to bring dischargers under regulation. The state board drafted a model cleanup and abatement order for regional board use. The order, signed by the San Diego Regional Board executive officer on May 4, 2001, will be used as an interim document in place of a general NPDES permit while the general permit is undergoing preparation and review.

The cleanup and abatement order requires pesticide applicators to comply with state and federal anti-degradation policies but allows pesticide application to proceed prior to receiving coverage under the general permit. The order warns applicators to avoid creating a pollution or nuisance and requires applicators to avoid exceeding applicable water quality standards or objectives in receiving waters. The order requires preliminary and secondary site evaluations, pre-discharge and post-discharge monitoring, proper pesticide application, and notification of other water users.

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