



Association of California Water Agencies

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Sent via ELECTRONIC MAIL to commentletters@waterboards.ca.gov

March 25, 2016

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

RE: Association of California Water Agencies' Comments Regarding the Aquatic Weed Control Permit Draft Amendments

Dear Ms. Townsend:

The Association of California Water Agencies ("ACWA") appreciates the opportunity to comment on the State Water Resources Control Board's ("State Water Board's") proposed amendments to the Statewide General NPDES Permit for Residual Aquatic Pesticide Discharges to Waters of the United States from Algae and Aquatic Weed Control Applications (Order No. 2013-0002-DWQ as amended by Orders 2014-0078-DWQ and 2015-0029-DWQ) ("Aquatic Weed Control Permit"). Many ACWA members are enrollees under this permit for copper sulfate and other pesticide applications for algae and weed control.

I. INTRODUCTION

ACWA represents nearly 430 public water agencies that collectively supply approximately 90% of the water delivered for domestic, agricultural and industrial uses in California. ACWA's public agency members are entrusted with the responsibility of supplying the public with safe and reliable drinking water. Many ACWA member agencies have enrolled for coverage under the Aquatic Weed Control Permit in order to comply with the Clean Water Act while continuing to maintain their drinking and agricultural water facilities through pesticide applications for algae and weed control, as necessary.

In general, the amended General Permit contains the following proposed additional provisions and a new corresponding definition:

1. Adds the following pesticides for aquatic use: flumioxazin, hydrogen peroxide, and peroxyacetic acid.
2. Adds additional restrictions for use of products containing hydrogen peroxide, peroxyacetic acid, and sodium carbonate peroxyhydrate in addition to the FIFRA label requirements:
 - a. Apply products containing the above active ingredients only to contained, non-flowing waters;
 - b. Do not apply products containing these active ingredients during prime fish feeding times;
 - c. Do not apply products containing these active ingredients when juvenile fish and amphibians are present;
 - d. Apply products containing these active ingredients from the shallow margins of the water body out to deeper waters;
 - e. Only treat one-half of the contained water body at a time.
3. Defines “contained, non-flowing waters” as a water body that has no inflow or outflow immediately preceding, and for a period of at least 48 hours following application of the above pesticide active ingredients.

II. COMMENTS

ACWA members are responsible for providing safe, reliable drinking and agricultural water to their customers. Cyanotoxins that are created by harmful algal blooms are a potential health risk for drinking water quality, necessitating the need for treatment and management of these aquatic plants. ACWA supports the State Water Board’s inclusion of additional registered pesticides to the permit. However, ACWA members are concerned over the use restrictions for hydrogen peroxide, peroxyacetic acid, or sodium carbonate peroxyhydrate (“peroxy compounds”) that go beyond the FIFRA label requirements. ACWA members are concerned that some of the restrictions on peroxy compounds as outlined in the current draft permit amendment would prevent their use, and question the need for these restrictions.

(a) Meeting all of the restrictions for peroxy compounds that are outlined in the draft permit amendment is infeasible in many potential applications.

Many ACWA member agencies lack the operational flexibility to meet the requirement of “confined, non-flowing water.” Flows in many potential locations for application, such as irrigation canals and large reservoirs, cannot be restricted. In addition, limiting application

“when flying insects are visible over water surface” or “when juvenile fish and amphibians are present” is extremely limiting, and could essentially prevent the use of peroxy compounds entirely.

(b) Existing label requirements do not support many of the restrictions on use that are included in the current draft permit amendment.

ACWA members are not aware of any FIFRA label requirements nor USEPA guidance that would support the need for a static system before and after applying these products. A brief survey of label requirements for several peroxide-based pesticides do not place any such restrictions on their use. Based on USEPA’s own assessment, peroxide-based algaecides are fast acting and leave no active residual.

(c) Including peroxy compounds under this general permit satisfies existing label requirements.

Several peroxy product labels provide the following guidance: “Do not discharge effluent containing this product into lakes, streams, ponds, estuaries, oceans or other waters unless in accordance with the requirements of the National Pollution Discharge System (NPDES) permit and the permitting authority has been notified in writing prior to discharge.” The Aquatic Weed Control Permit is an NPDES permit and does provide the regulatory authority to discharge pesticide residuals to the environment within the confines of the agencies’ Approved Pesticide Application Plans.

(d) The proposed restrictions on the use of peroxy compounds will potentially cause dischargers to increase use of higher-toxicity alternative compounds.

The current proposed restrictions on peroxy compound use will make application of products containing these compounds infeasible in many situations. This will force water managers to increase use of products that contain ingredients such as copper sulfate or other algaecides that are longer lasting in the environment than peroxy compounds. Due to its low toxicity relative to many other pesticides, hydrogen peroxide should be encouraged for use as an effective, short-lived alternative.

III. CONCLUSION

For the reasons outlined above, ACWA believes that additional use restrictions placed on peroxide-based pesticides are unnecessary and may unfairly limit the application of these products to fairly small and isolated water bodies, precluding their use in potential applications where they are the best alternative for avoiding impacts to receiving waters. ACWA suggests that the State Water Board remove these additional use restrictions for hydrogen peroxide, peroxyacetic acid, or sodium carbonate peroxyhydrate. ACWA also generally supports the more in-depth comments that will be submitted by Blankinship & Associates, Inc. next week, and encourages the State Water Board to carefully consider all of these comments prior to considering this amendment final.

ACWA would be happy to meet with State Water Board staff at a time that is mutually convenient to discuss these comments further. Please contact me at rebeccaf@acwa.com or (916) 441-4545 should you have any questions or require further clarification on these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Rebecca Franklin', with a stylized flourish at the end.

Rebecca Franklin
Regulatory Advocate