

Response to Comments – September 30, 2011

Basin Plan Amendment - Pesticide Prohibition & Exemption Criteria

*(Comment deadline 5 p.m., May 13, 2011)*

**Mojave Desert Resource Conservation District**

[http://www.waterboards.ca.gov/laontan/water\\_issues/programs/basin\\_plan/comments051311/mojavercd.pdf](http://www.waterboards.ca.gov/laontan/water_issues/programs/basin_plan/comments051311/mojavercd.pdf)

Comments	Response
<p><b>Daniel Sussman - Pesticide Basin Plan Amendment</b></p> <hr/> <p><b>From:</b> Chuck Bell &lt;chuckb@sisp.net&gt;  <b>To:</b> Mary Fiore-Wagner &lt;MFWagner@waterboards.ca.gov&gt;, &lt;dsussman@waterboards.ca.gov&gt;  <b>Date:</b> 5/9/2011 2:43 PM  <b>Subject:</b> Pesticide Basin Plan Amendment  <b>CC:</b> Jackie Lindgren &lt;Jackie.Lindgren@ca.nacdn.net&gt;</p> <hr/> <p>To: Mary and Dan</p> <p>From: Chuck Bell, Pres. Mojave Desert Resource Conservation District - 760 964 3118</p> <p>Date: 5/9/11</p> <p>Re: <b>Lahontan's Pesticide Basin Plan Amendment.</b></p> <p>We appreciate both the scoping session and your excellent presentation at our recent Mohave Weed Mt. Area meeting in Barstow. The Amendment is obviously more practical and fair than the current policy.</p> <p><u>It will be difficult for us to attend the Bd. hearing this Wed. evening in Victorville - but if you think critical - one of us will make it.</u></p> <p>Feel free to pass this on to your Bd. at the hearing:</p> <p><u>Per discussions at the Barstow meeting?;</u></p> <p>"Water conservation" will be added as a criterion in support of weed management.</p> <p>Jackie sent you a copy of the Corp's "Regional General Permit (RGP) 41 - (removal of exotics within Waters of the U. S. in s. Calif.). We assume the Amendment does not conflict with its provisions.</p> <p>Compliance with a pesticide's label is a major element of the Amendment.</p> <p>If there is "no discharge to surface water" - there is no need for the exemption or filing - and depending on circumstances - Lahontan will respond accordingly in writing to any filing or other contact in relation to the Amendment?</p> <p>Removal of exotics within or on the banks of wastewater ponds - water from which does not directly flow out as - or to - surface water - might warrant special provisions under the Amendment?</p> <p>Grant cut-off dates might be considered under "Time Sensitive" provisions - or at least prioritized accordingly?</p> <p>Again, thanks for your outreach.</p> <p>Chuck</p>	<div data-bbox="1113 462 1921 771" style="border: 1px solid black; padding: 5px;"> <p><b>MRCD R1:</b> By criterion, we assume the MRCD means eligible circumstance. Water conservation actions, as described by the Mojave Desert RCD, do not involve application of pesticides to water. There is no need to create a water conservation circumstance. Additionally, in correspondence, MRCD indicated that pesticide use for water conservation means often took place in the absence of surface water. For these instances, when terrestrial pesticides are being used in the absence of a threat of discharge no exemption is required. See <b>MRCD C4.</b></p> </div> <div data-bbox="1113 836 1921 1047" style="border: 1px solid black; padding: 5px;"> <p><b>MRCD R2:</b> RGP 41 does not conflict with the amendment provisions, but adherence to the general conditions of RGP 41 does not remove pesticide users from compliance with the proposed waste discharge prohibition or exemption. According to RGP 41 general condition 21a, project proponents need to provide the RGP 41 Notification package to the Water Board.</p> </div> <div data-bbox="1113 1063 1921 1331" style="border: 1px solid black; padding: 5px;"> <p><b>MRCD R3:</b> Compliance with a pesticide's label is an important element of the Amendment, and is a control measure. Label requirements are developed by CA Department of Pesticide Regulation, whose primary role is not to protect water quality. We hesitate to characterize compliance with FIFRA labels as a "major" element, for fear of minimizing the importance of other control criteria set forth in Chapter 4 of the Basin Plan under the section titled "Exemption Criteria for Aquatic Pesticide Use."</p> </div>

Comments

Response

Daniel Sussman - Pesticide Basin Plan Amendment

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To: Mary Fiore-Wagner <MFWagner@waterboards.ca.gov>, <dsussman@waterboards.ca.gov>  
Date: 5/9/2011 2:43 PM  
Subject: Pesticide Basin Plan Amendment  
CC: Jackie Lindgren <Jackie.Lindgren@ca.nacdn.net>

To: Mary and Dan

From: Chuck Bell, Pres. Mojave Desert Resource Conservation District - 760 964 3118

Date: 5/9/11

Re: Lahontan's Pesticide Basin Plan Amendment.

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Again, thanks for your outreach.

Chuck

**MRCR R4:** This amendment is a prohibition on the discharge of all pesticides, terrestrial, sprayed, and aquatic, to waters of the State. An exemption may be sought for aquatic pesticide use and, in the case of mosquito abatement, spray or adulticide use. Non aquatic use of pesticides should not result in discharge to surface water because proper application procedures and control measures will prevent discharge to surface waters. Exemptions need not be sought for such pesticide uses. If an entity seeks an exemption for pesticide use that does not require an exemption (it does not fit a circumstance, and will not result in a discharge to surface water), Lahontan will confirm this information. The method of response may be through phone, email, or letter. It is the responsibility of the project proponent to determine if the pesticide use requires and warrants an exemption and filing for a permit. Current filings for statewide general NPDES pesticide permits is made to the State Board. Lahontan staff can not anticipate State Board staff's response. Also, **see LADWP-R2, R3,** and footnote no. 1 that accompanies the proposed Regionwide Prohibition on Pesticides located in Chapters 4 and 5 of the Basin Plan.

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MRCD R5: On May 3, 2011 Water Board staff met with interested stakeholders including the MRCD. MRCD indicated that wastewater treatment ponds are typically drained before exotics within the pond are removed. In these situations where the pesticide is applied to a surface water under dry conditions an exemption to the prohibition is not required, as is the case when exotics are treated on the banks of the waterwater pond. If exotics are treated when the pond contains liquid water and application methods and implementation of BMPs prevent discharge to the surface water, then an exemption to the prohibition is not necessary. If there is any evidence that pesticides are present in water, the Water Board has the authority under Porter-Cologne to require further investigation and follow-up with enforcement if necessary. See also LADWP R2 and R3 and footnote no. 1 that accompanies the proposed Regionwide Prohibition on Pesticides located in Chapters 4 and 5 of the Basin Plan.

MRCD R6: Grant cut-off dates are foreseeable dates to be factored into project planning. The Time Sensitive category of exemption circumstances is intended to apply towards an accelerated exemption process due to unforeseeable circumstances, such as the new discovery of an invasive species that must be addressed for successful treatment, but which does not fit into the defined Emergency category. The Amendment language does not consider grant cut-off dates to qualify a project as Time Sensitive.



