

CWSS
Monterey, CA
January 23, 2014

California
Weed Science
Society
Annual Conference


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**The New
2014
California
Aquatic
Pesticide
NPDES
Permit**

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Today's Talk




- The Problem
- A Solution: NPDES
- Do I Need an NPDES Permit?
- The New 2014 California NPDES Permit
- Follows SWRCB Seminar Series in Fall 2013

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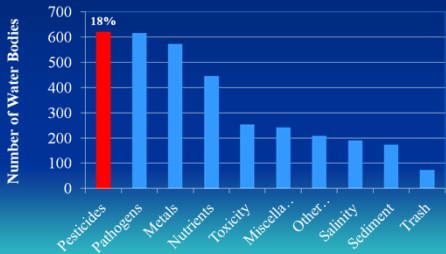
What's the Problem?

- Pesticides and Water Quality
- 1996 Talent Irrigation District
 - leaking gate releases acrolein-treated water; 92K steelhead die
- On-going Clean Water Act 303(d) List



Why Regulate Pesticides

- Pesticides are the #1 cause of impairment in many water bodies in CA.



Category	Number of Water Bodies
Pesticides	18%
Pathogens	~600
Metals	~550
Nutrients	~450
Toxicity	~250
Miscella...	~200
Other..	~180
Salinity	~150
Sediment	~120
Trash	~80

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Why Regulate Pesticides

- The courts require it:
 - 9th Circuit: Talent
 - 6th Circuit: National Cotton Council
- Regulated community wants it.
 - Association of California Water Agencies (ACWA) concerned with citizen suits
 - Mosquito Vector Control Association of CA requested Adulticides Permit.



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Why Do I Need a Permit?

- 6th Circuit Court says you need a permit when applying pesticides at, near, or over water.
- Pesticide applications into US waters without a permit is a violation of the Clean Water Act and the California Water Code.
- You are taking a risk if you apply pesticides at, near, or over water without a permit.

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What's a Solution? NPDES

- National Pollutant Discharge Elimination System
- Part of the Federal Clean Water Act
- Typical Uses: stormwater, construction, industrial discharges
- Benefits:
 - Protect water quality
 - Allows discharge
 - Manages risk



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NPDES Program Framework

- “Discharge of pollutants”
- From a “point source”
- Into “waters of the US”



- **Must obtain an NPDES permit from EPA or an approved* state**

*Delegated State program
(CA is authorized to issue NPDES permits)

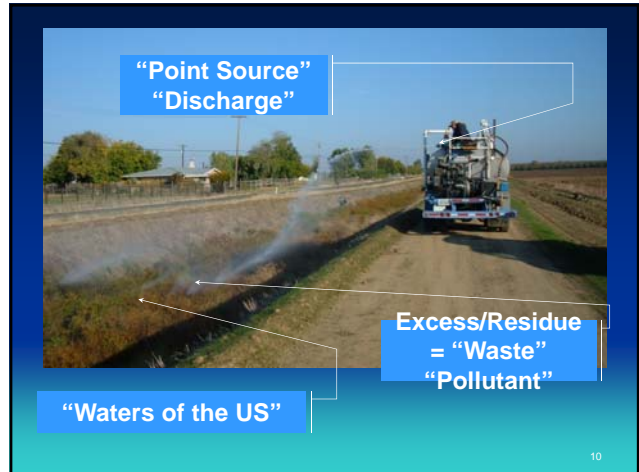
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Pollutant – Title 40 Code of Federal Regulations (CFR) 122.2

- Broadly defined to include any type of industrial, municipal, and agricultural waste discharged into waters of the US.
- Biological pesticides and chemical pesticide residues are considered pollutants.



Waters of the US
"WOUS"

- All interstate waters & wetlands used yesterday, today or tomorrow for interstate commerce;
- All other waters, including intrastate waters the use, degradation or destruction of which could affect interstate or foreign commerce
- Waters which are or could be used:
 - by interstate or foreign travelers for recreational or other purposes;
 - for industrial purposes by industries in interstate commerce
 - to take fish or shellfish and sold in interstate or foreign commerce; or

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"Waters of the US"

- Adjacent Wetlands and Ponds
- Tributaries (think "connectivity")
- Dry or seasonally intermittent streams ultimately emptying into a WOUS

Excludes:

- Artificial lakes/ponds created by excavating/diking dry land to collect/retain water used exclusively for stock watering, irrigation, settling basins, or rice growing
- Above the "ordinary high water mark"

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Who Enforces this ?

- **Unlikely:**
 - SWRCB
 - Ag Commissioner
 - CDFG
- **Possible:**
 - RWQCB
- **Likely:**
 - Environmental Advocacy Groups



NORTH COAST REGION (1)
 SAN FRANCISCO BAY REGION (2)
 CENTRAL COAST REGION (3)
 LOS ANGELES REGION (4)
 CENTRAL VALLEY REGION (5)
 LAHONTAN REGION (6)
 COLORADO RIVER BASIN REGION (7)
 SANTA ANA REGION (8)
 SAN DIEGO REGION (9)

Regional Water Quality Control Boards

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Approved Pesticides

- Currently only 12 registered for Use in CA



- Acrolein *
- Copper *
- 2,4-D
- Diquat
- Endothall
- Fluridone
- Glyphosate
- Imazamox
- Imazapyr
- Penoxsulam
- Sodium Carbonate Peroxyhydrate
- Triclopyr

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Old v. New Key Differences

- 3 samples, not 4
- Glyphosate “1 and Out” per setting
- All Others: “6 and Out” per setting
- Group Formation
- 30 day APAP public posting
- Plan on 90 day review

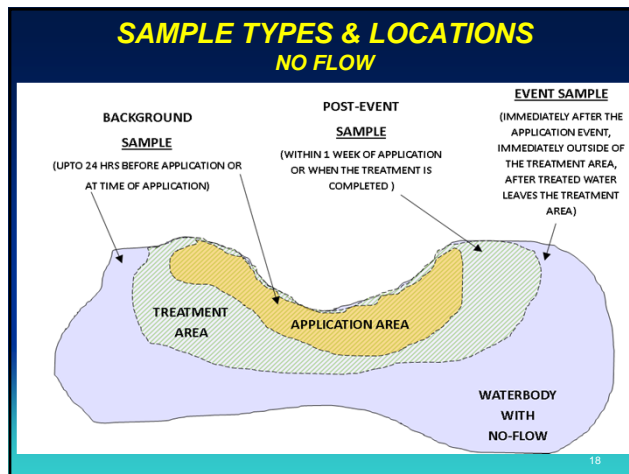
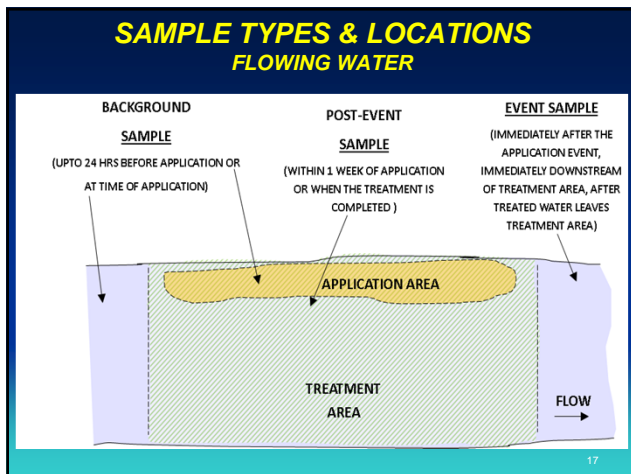


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To Comply, You Must:

- Be below the WQO in the Event and Post Event Samples
- Therefore:
 - Correct Timing and Location of Sample Collection is CRITICAL
 - Understanding the concentration that defines a residue is CRITICAL

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Old v. New Key Differences (con't)

- Email APAP as a .pdf
- Regular mail wet signature on NOI
- Describe :
 - How to Prevent Sample Contamination
 - Breakdown Products
 - BMPs and Alternative Methods
- Corrective Action for Exceedance

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Old v. New
Key Differences (con't)

- Prohibits:
 - Discharge to water bodies impaired by the active ingredient in the pesticide
 - Discharge to waters of outstanding national resource
 - Take of endangered species
 - Use of non-aquatic adjuvants



Old v. New
Key Differences (con't)

- Limit for Dissolved Oxygen
- References to Basin Plan Narratives for:
 - Floating Material
 - Settleable Substances
 - Suspend Material
 - Taste and Odors
 - Color
 - Aquatic Community Degradation



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Old v. New
Key Differences (con't)

- Notify potentially affected public agencies each year 15 days prior to first application.
- Post the notification on the Web, if available
- Notify the National Marine Fisheries Service if an adverse incident to a threatened or endangered anadromous or marine species or their critical habitat
- Notify the U.S. Fish and Wildlife Service if an adverse incident to a threatened or endangered terrestrial or freshwater species or their critical habitat

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Old v. New
Key Differences (con't)

- Notify the SWRCB and RWQCB:
 - Via phone within 24 hours of becoming aware of non-compliance;
 - Via written report within 5 days of becoming aware of non-compliance.

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Summary & Wrap-up

- California Aquatic Pesticide Permit (“Weed Permit”)
 - http://www.waterboards.ca.gov/water_issues/programs/npdes/aquatic.shtml
- Join both Lyris Distribution lists
- Look for a recorded Webinar in February on the ACWA and SWRCB webpages



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Summary & Wrap-up

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Past Success with our
New Product
Introduction:



The Aqua-Cow®



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Our Most Recent
New Product
Introduction:



The Spud®



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