Required Information for Requesting a Basin Plan Prohibition Exemption to use Aquatic Pesticides for a Project that is Neither Emergency nor Time Sensitive

Project Categories:
Projects proposed for purposes of protecting drinking water supplies, water distribution systems, navigation, agricultural irrigation, flood control channels, control of AIS, or for purposes that otherwise serve the public interest, which are neither Emergency or Time-Sensitive.

Applicant Example: (1) State, federal, or public agency (local or regional) with legal authority to manage the affected resources or protect such facilities, or (2) a private entity (e.g., a homeowners association, private water utility) that has control over the financing for, or the decision to perform, aquatic pesticide applications.

Activity Examples: (1) Treating long-standing, established colony of curlyleaf pondweed. (2) Cleaning or maintenance of nuisance weeds from storm water or flood control conveyances, or (3) Controlling nuisance weeds that are impeding safe harbor and navigation.

Required Information Checklist:

- ❑ If project is for purposes of AIS control, then the project proponent must demonstrate that the decision to apply aquatic pesticides is consistent with an adopted Aquatic Invasive Species Management Plan like the California AIS Management Plan or other region-specific AIS Management Plan (e.g., Lake Tahoe AIS Management Plan).

- ❑ Notice of Intent (NOI) for coverage under the appropriate State Board or Regional Water Board permit or a report of waste discharge for pesticide use not covered under an existing NPDES General Permit for aquatic pesticide discharges. The NOI only applies to waters of the U.S. for one of the three Statewide NPDES General Permits for discharges of Aquatic Pesticides for Vector Control, Weed Control, Spray Applications, and Aquatic Animal Invasive Species. These Statewide General Permits require preparation of an Aquatic Pesticide Application Plan (APAP) for aquatic pesticide discharges. The APAP is a comprehensive plan developed and implemented by the project proponent, which describes the project, the need for the project, what will be done to reduce water quality impacts, and how those impacts will be monitored. The APAP, among other elements, must contain an examination of alternatives to not use pesticides or use less pesticides and a description of BMPs to ensure only a minimum and consistent amount of pesticide is used. Items in the following required information checklist marked with an asterisk (*) are likely to be found within an APAP.

- ❑ *Purpose and Goals statement that (a) demonstrates that the target organism is a primary cause of the problem being addressed, and (b) provides evidence that the proposed application of pesticides will accomplish the project goals.

- ❑ *Project description including, proposed schedule, duration, name of pesticide, chemical composition of the pesticide to be used, including inert ingredients if available from the manufacturer method and rate of application, copy of MSDS, spatial extent of application, water body, control/mitigation measures to be used, contact information for person in responsible charge of project.

- ❑ *An explanation of how the planned treatment will result in the minimum discharge of chemical substances that can reasonably be expected for an effective treatment.

- ❑ *An explanation of how the aquatic pesticide applications will minimize impacts to beneficial uses by describing the BMPs that will be implemented to limit the effects of the pesticide to the shortest time and within the smallest area necessary for project success. This includes a Spill contingency plan that addresses proper transport, storage, spill prevention and cleanup to protect human health and the environment

- ❑ A description of the failure of non-chemical measures to effectively address the target organisms. The description will include either (i) evidence that non-chemical efforts failed to address target organisms or (ii) justification, accepted by the Water Board, of why non-chemical measures were not employed or are not feasible to achieve the treatment goals.

- ❑ *A written communication and notification plan that includes documented measures to notify potentially affected parties who may use the affected water for any beneficial use. The notification plan must include any associated water use restrictions or precautions. Project proponents must provide potable drinking water where necessary and must obtain any necessary permits from California Division of Drinking Water (DDW) for supply of potable drinking water.

  For projects conducted in Lake Tahoe the following additional requirements apply to project proponents:
  - ❍ Provide via certified mail, or equivalent, notice of the proposed pesticide project to water purveyors whose source water relies on the surface water and/or groundwater wells designated under the direct influence of the surface water.
  - ❍ Provide comments written from, and written responses to, the water purveyors notified above.
  - ❍ An estimate of the maximum foreseeable concentrations of pesticide components in any surface water intake used for drinking water supplies.

  Public notification requirements may be waived where project proponent is an agency signatory to Cooperative Agreement with DDW and evidence is provided of notification exemption.

- ❑ Certified Environmental Document must be submitted by the applicant. If the applicant is a federal agency, then it must prepare a CEQA equivalent document. (Projects in this Neither Emergency or Time Sensitive category will not likely qualify for a CEQA exemption, but instead will require a more comprehensive CEQA analysis (i.e., Mitigated Neg Dec, EIR.)).

- ❑ Information to comply with section 5.3 of the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California (State Implementation Plan) This criteria is **only required if an aquatic pesticide that contain priority pollutants (e.g., copper, acenaphthene, aldrien)** is proposed by public entities or mutual water districts for uses including vector or weed control, pest eradication, or fishery management, or control measures needed to purvey safe drinking water.

- ❑ Compliance with Antidegradation. Evidence that the proposed discharge complies with State and Federal anti-degradation policies. The burden of proof will be on the project proponent to demonstrate that the project, of its own merits, is consistent with antidegradation policies. This information should include an alternatives analysis, best management plans, monitoring plans, discussion about how the discharge is the minimum needed to accomplish the project objective and how any impacts will be avoided or minimized, evidence the proposed discharge will not unreasonablly affect beneficial uses, and evidence that water quality degradation and impacts to beneficial uses will be limited to the shortest time possible and within the smallest area necessary for project success.

- ❑ **A detailed monitoring and reporting program.** The monitoring and reporting program must be submitted for review and acceptance by the Water Board and must be followed to assess the effects of treatment on surface and ground waters, and on bottom sediments if specified by the Water Board. The monitoring and reporting program must include, but not be limited to, monitoring sites, analytes, methods, frequencies, schedule, quality assurance, and measurable objectives to determine if the project goals were achieved (e.g., acreage treated, reduction in biomass of target species, improved water quality). The monitoring plan must identify a dedicated budget and specify the entity/person(s) responsible for the monitoring.

  The pre-project biological monitoring program and the monitoring, reporting, and mitigation program for non-target communities must be peer-reviewed by independent experts. The peer reviewers must be proposed by project proponent(s) and must be mutually agreeable to both the project proponent(s) and the Water Board.

  The biological monitoring program must be based on an appropriate study design, metrics, and performance criteria to evaluate restoration of non-target biological life potentially affected by the pesticide application. Monitoring of biota should include appropriate indicators (e.g., macroinvertebrates, aquatic plants). The indices used in

the assessment must be commonly accepted by the scientific community and accepted by the Water Board.

For projects with the goal of removing an invasive species community, project proponent shall consider using a reference site to gauge restoration of the non-target species to desired conditions or establish project goals and objectives. The recovery target will be measured using appropriate indicators (e.g., macroinvertebrates, aquatic plants) that demonstrate restoration of non-target species to levels equal to or better than pre-treatment conditions (a reference site may be used to represent pre-project conditions).

When applicable, biological monitoring must be designed, and conducted as long as needed, no less than annually, to effectively demonstrate that non-target macroinvertebrate populations have been fully restored. Fully restored means that the structure and function of non-target macroinvertebrate communities have returned to conditions that reflect pre-project conditions. Function will be judged by metrics and indices related to trophic levels (e.g., functional feeding groups) and productivity (e.g., abundance, biomass). Structure will be judged based on metrics and indices related to richness and diversity (e.g., taxa richness, multivariate O/E (observed/expected) model predictions, multivariate ordinations) and presence of sensitive and rare taxa. This definition of “fully restored” shall be provided to the peer reviewers prior to peer review of the monitoring and reporting program, with instructions to determine whether the monitoring design is capable of determining whether full restoration has been achieved.

Within two years of the last treatment for a specific project, a qualified biologist(s) representing the project proponent must assess the restoration of non-target aquatic life and benthic communities within the treated waters, and if, based on the monitoring data, the evidence demonstrates, certify in writing that all affected non-target biological communities have been fully restored. The certification shall be accompanied by a report detailing the pre-project and post-project monitoring, including detailed explanation of the assessment methods used and the rationale for the certification. Macroinvertebrates shall be identified and classified, and data provided in electronic formats using conventions acceptable to the Water Board.

If non-target biological communities are not fully restored after two years, the project proponent must conduct continued annual monitoring and implement the proposed mitigation measures until the Water Board accepts the certification.