

**Response to Comments**

**Draft Amendments to the  
Statewide General National Pollutant Discharge Elimination  
System (NPDES) Permit for Residual Aquatic Pesticide  
Discharges to Waters of the United States from Algae and  
Aquatic Weed Control Applications**

**State Water Resources Control Board  
April 20, 2016**

The State Water Board received seven comment letters on the draft amendments to the Aquatic Weed Control Permit. The public notice was published on February 23, 2016 with a comment deadline of March 25, 2016 with an extension granted to Michael Blankinship to April 2, 2016 per his request. The seven commenters are noted in Table 1 below.

**Table 1 – Draft Aquatic Weed Control Permit Amendments Commenters**

<b>Company</b>	<b>Representative</b>
Association of California Water Agencies	Rebecca Franklin
BioSafe Systems, LLC	Jeff Kline
Blankinship & Associates, Inc.	Michael Blankinship
California Department of Water Resources	David Duval
Clean Lakes Inc.	Thomas McNabb
General Public	Terry McNabb
SePRO Corporation	Sarah Miller

All comments from commenters addressed two permit amendments: 1) the definition of “contained, non-flowing waters” related to applications of the pesticide active ingredients hydrogen peroxide, peroxyacetic acid, or sodium carbonate peroxyhydrate added to Attachment A – Definitions of the draft permit amendments and 2) the additional use restrictions for products containing hydrogen peroxide, peroxyacetic acid and/or sodium carbonate peroxyhydrate added in section IX.C.7 of the draft permit amendments. The specific text of these draft permit amendments is shown below:

**1) Attachment A – Definitions**

***Contained, Non-Flowing Waters***

*For the purposes of this permit, “contained, non-flowing waters” shall mean a water body that has no inflow or outflow immediately preceding and for a period of at least 48 hours following application of the pesticide active ingredients hydrogen peroxide, peroxyacetic acid, or sodium carbonate peroxyhydrate.*

**2) Section IX.C.7**

***Additional Restrictions for Use of Products Containing Hydrogen Peroxide, Peroxyacetic Acid, and Sodium Carbonate Peroxyhydrate***

*In addition to FIFRA label requirements, products containing the active ingredients sodium carbonate peroxyhydrate, hydrogen peroxide, and/or peroxyacetic acid must be applied with the following additional use restrictions:*

- a. Apply products containing these active ingredients only to contained, nonflowing waters;*
- b. Do not apply products containing these active ingredients during prime fish feeding times (i.e., at dawn or dusk and when flying insects are visible over water surface) to protect resident fish species;*

- 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 to allow mobile aquatic life to escape the treatment area; and*
- e. *Only treat one-half of the contained water body at a time to minimize impacts to the aquatic system and, do not make subsequent treatments of the untreated area in the same water body within 48 hours of the initial water body treatment.*

Comments on these additions stressed that the proposed additional use restrictions on sodium carbonate peroxyhydrate, hydrogen peroxide, and peroxyacetic acid will:

- 1) result in reduced efficacy of these pesticide active ingredients;
- 2) result in increased incidence of nuisance algae and weeds;
- 3) result in pesticide applicators using pesticide active ingredients that are more toxic and persistent in the environment than these pesticide active ingredients; and
- 4) result in limiting the use of these pesticide active ingredients to small, isolated water bodies.

Commenters also noted that the proposed additional use restrictions are unwarranted, breakdown of these pesticide active ingredients is rapid and leaves no residuals, and product label restrictions mitigate any potential impacts to fish, amphibians, and other aquatic organisms.

In addition, the California Department of Pesticide Regulation has advised that the permit cannot establish requirements that contradict or go beyond what is on the pesticide product labels. While some product labels with sodium carbonate peroxyhydrate, hydrogen peroxide, or peroxyacetic acid listed as active ingredients specify some or all of the proposed additional use restrictions added to section IX.C.7 of the draft permit amendments, all product labels containing these active ingredients do not specify these additional use restrictions. Since the permit lists only active ingredients and not specific products, it is inappropriate to specify blanket use restrictions for these active ingredients in the permit.

Based on the public comments and the California Department of Pesticide Regulation feedback, the proposed addition of 1) the definition of “contained, non-flowing waters” in Attachment A and 2) Section IX.C.7 have been removed from the proposed permit amendments.