



California Department of Public Health  
**MEMORANDUM**

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**DATE:** May 13, 2011

**TO:** Daniel Sussman, Environmental Scientist  
Lahontan Regional Water Quality Control Board  
2501 Lake Tahoe Blvd  
South Lake Tahoe, CA 96150

**FROM:** Vicki Kramer, Ph.D., Chief  
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**SUBJECT:** Comment Letter – Proposed Amendments to the Water Quality Control Plan for the Lahontan Region: Pesticide Prohibition with Exemption Criteria

The California Department of Public Health, Vector-Borne Disease Section (VBDS) submits these comments in response to the Lahontan Regional Water Quality Control Board (Water Board) publication of proposed amendments to the Water Quality Control Plan for the Lahontan Region (Basin Plan). VBDS understands the important function of the Basin Plan to protect beneficial uses of waters in the Lahontan Region. We appreciate that in drafting these proposed Basin Plan Amendments (BPA), the Water Board recognizes that judicious application of aquatic pesticides for the purpose of protecting public health is consistent with maximum benefit to the people of the State.

We are available for consultation on implementation of this plan in a way that balances protecting the water quality of the Lahontan Region while ensuring the health and safety of the people of California. Thank you for allowing VBDS the opportunity to provide the following comments.

**1) BPA Section: 6. Public Health and Safety – Vector Control (p.8)**

*California Health and Safety Code (HSC section 2000), provides the broad statutory authority for mosquito abatement and vector control districts to conduct effective programs for the abatement and control of mosquitoes and their vectors.*

Comment: Mosquitoes are a type of vector and, therefore, the phrase "...of mosquitoes and their vectors" should be changed to simply read "...of vectors". To be consistent with the California Health and Safety Code, VBDS recommends the following change: "California Health and Safety Code (HSC section 2000), provides the broad statutory authority for mosquito abatement and vector control districts to conduct effective programs for the abatement and control of vectors and public nuisances."

**2) BPA Section: 9.C. i. Prohibition Exemptions and Coverage Under the Statewide General NPDES Permits for Vector and Weed Control (p.15)**

*Before receiving permit coverage, vector and weed control project proponents in the Lahontan Region must first be granted an exemption to the pesticide prohibition (once this Basin Plan Amendment is approved and in effect).*

Comment: Once in effect, this BPA offers a mechanism for vector control districts to legally apply aquatic pesticides in the region. VBDS is concerned that the BPA will not be approved and in effect by the Oct. 31 2011 implementation deadline of the Statewide Vector Control NPDES permit. If the BPA is not in effect before Oct. 31, how will the existing Basin Plan affect the issuance of NPDES permits to vector control agencies operating in the Lahontan Region?

**3) References to public notification in BPA Sections: 11.B.3.c and e (p.31), 11.8.c (p.37), 12. Air Quality – Create Objectionable Odors Affecting a Substantial Number of People (4<sup>th</sup> sentence in paragraph, p.48), 12. Hazards and Hazardous Materials (3<sup>rd</sup> and 5<sup>th</sup> sentences in paragraph, p.50), and Attachment 2: Draft Waste Discharge Prohibition and Exemption Criteria p.7:**

*Public notification and warning plan must be implemented before and during the project and include any water use restrictions or precautions during treatment if necessary*

Comment: VBDS seeks clarification on the specific notification requirements proposed by the Water Board. For agencies seeking coverage under the Statewide NPDES permit (CAG 990004), do the public notice requirements specified in Attachment C Section IV (A)(1) of the permit (p. C-7) satisfy the Water Board's reporting requirements?

VBDS supports that the Water Board requires agencies seeking the vector control exemption be signatory to the Cooperative Agreement with the Department of Public Health. The Cooperative Agreement has two primary functions: 1) ensuring that signatory agencies safely, responsibly, and legally apply pesticides for the good of public health and 2) enabling these agencies to effectively control vectors. Due to the general understanding that vector control protects public health and rapid suppression is essential to achieve this protection, the California Education Code (Sec 17613), the California Food and Agriculture Code (Sec 13187) and California Code of Regulations (3CCR6620) provide notification exemptions for agencies signatory to the Cooperative Agreement. The proposed BPA notification language conflicts with these existing California statutes.

**4) Attachment 1. Definition of Terms**

Comment: VBDS recommends including in the "Definition of Terms" the definition of vector from the Health and Safety Code Section 2002(k): Any animal capable of transmitting the causative agent of human disease or capable of producing human discomfort or injury, including, but not limited to, mosquitoes, flies, mites, ticks, other arthropods, and rodents and other vertebrates.

Throughout the BPA, when referring to activities of vector control agencies, “vector” is equated to “mosquito”. While the BPA exemptions are primarily focused on public health mosquito control activities, we would like the Water Board to recognize that vector control districts and agencies are mandated to protect California’s public health from any animals capable of transmitting causative agents of human disease and injury. The Water Board may need to review public health exemption prohibitions for vectors other than mosquitoes. Inclusion of the definition would clarify that the BPA vector control exemptions are not limited to mosquito control projects.

**5) Attachment 2: Draft Waster Discharge Prohibition and Exemption Criteria, Exemption Criteria for Aquatic Pesticide Use, Purpose and Need for Exemption (1<sup>st</sup> sentence, 6<sup>th</sup> paragraph, p. 3)**

*The treatment event shall not exceed one week, after which time the level of pesticide should be below its minimum effective concentration and water quality objectives should be met within the treatment area*

Comment: Specific for biological larvicides, VBDS requests the Water Board reconsider the restriction of treatment events to less than one week. Many of the biological larvicides used by vector control agencies and approved in the Statewide General Permit are designed to release over time, providing an effective life of more than one week. When applied at legal label rates, these products are very specific to mosquitoes. This combination of high specificity and extended mosquito control is advantageous to both the environment and public health. While specifically controlling larval mosquitoes, use of time-released biological larvicides minimizes the numbers of application events at a site which reduces further habitat disturbances, lessens the chance of a pesticide spill, and decreases other pollution concerns associated with repeated applications.

**6) Attachment 2: Draft Waster Discharge Prohibition and Exemption Criteria, spelling of the word larvacide [sic] (multiple pages)**

Comment: For the sake of continuity, please substitute “larvicide” for “larvacide” in the document. Larvicide is used in the main document and larvacide is used Attachment 2.