

**MANAGEMENT AGENCY AGREEMENT BETWEEN THE
STATE WATER RESOURCES CONTROL BOARD AND THE
DEPARTMENT OF PESTICIDE REGULATION**

This Management Agency Agreement (MAA) is between the State Water Resources Control Board (State Board) and the Department of Pesticide Regulation (DPR). Both agencies are part of the California Environmental Protection Agency.

The State Board and DPR have responsibilities to protect water quality from the potential adverse effects of pesticides. Both agencies concur that the State will benefit from a unified and cooperative program to protect water quality related to the use of pesticides.

WHEREAS:

1. The purpose of this MAA is to:
 - (a) Enter into a voluntary agreement between two agencies having discretionary and complementary authority regarding pesticides.
 - (b) Ensure that all pesticides registered in California are used in a manner that protects water quality and the beneficial uses of water while providing effective, environmentally sound pest management.
 - (c) Identify roles and responsibilities of the two agencies regarding both water quality protection and pesticide regulation, and to describe how the agencies will work cooperatively to protect water quality in these areas.
 - (d) Coordinate respective authorities in a cohesive manner to eliminate duplication of effort and inconsistency of action.
 - (e) Coordinate respective authorities to solve water quality problems related to pesticide use by promoting the development and use of preventive practices through both self-regulatory and regulatory efforts.

2. DPR is the lead agency, with local administration by County Agricultural Commissioners (Commissioners), for pesticide regulation in California. DPR has the authority and responsibility in the Food and Agricultural Code (FAC) to:

- (a) Provide for the proper, safe, and efficient use of pesticides that are essential for protecting the public health and safety in the production of food, fiber, forest products, ornamental horticulture, and for other uses that include structure, home, and landscape maintenance.
- (b) Protect the environment from environmentally harmful pesticides by prohibiting, regulating, or controlling uses of such pesticides.
- (c) Assure the agricultural and pest control workers safe working conditions where pesticides are present.
- (d) Permit pest control by competent and responsible licensees, certificate holders, permittees, and operator identification holders under strict control of the DPR Director and Commissioners.
- (e) Ensure that pesticides are properly labeled and appropriate for the use designated by the label.
- (f) Encourage the development and implementation of pest management systems, stressing application of biological and cultural pest control techniques with selective pesticides, when necessary, to achieve acceptable levels of control with the least possible harm to nontarget organisms and the environment.
- (g) Continuously evaluate pesticides to determine if any endanger the agricultural or nonagricultural environment, placing appropriate restrictions on use including limitations on worker reentry, quantity used, area treated, and manner of application.
- (h) Establish, as necessary, criteria to evaluate environmental effects of pesticides.
- (i) Coordinate with other local, state, and federal agencies responsible for environmental issues regarding pesticides and water quality.

3. The local administration of DPR's pesticide regulatory program is the responsibility of the Commissioners with coordination, supervision, and training provided by DPR. As part of enforcing pesticide laws and regulations, the Commissioners evaluate permit requests for the use of restricted use pesticides, provide information and training, monitor and inspect pesticide handling and use operations, investigate suspected pesticide misuse, and take enforcement or other appropriate action against violators. Commissioners may also be involved in preventive action such as mitigation measures development, education, and compliance. The term "mitigation" as used for the MAA and The California Pesticide Management Plan for Water Quality (Plan) means to moderate or eliminate an existing condition at a specific site using such reduced-risk practices as noted in Appendix II of the Plan. It does not include remediation, provide other water supplies, or create wetlands.

4. The State Board and the nine Regional Water Quality Control Boards (Regional Boards) are the lead agencies for coordination and control of water quality in California. The State Board and Regional Boards have the authority and responsibility, pursuant to the State Porter-Cologne Water Quality Control Act, the California Water Code, and federal Clean Water Act to:
 - (a) Designate and protect appropriate beneficial uses of water for the benefit of the State.

 - (b) Establish water quality objectives, both numeric and narrative, for the reasonable protection of the beneficial uses of water or the prevention of nuisance within a specific area.

 - (c) Develop, implement, and enforce programs to achieve water quality objectives including, but not limited to, issuance of Waste Discharge Requirements, conducting compliance inspections, initiating enforcement actions, and controlling nonpoint sources of pollution pursuant to the Nonpoint Source Management Plan.

 - (d) Develop, implement, and enforce regulations and policies consisting of principles and guidelines deemed essential for the protection of water quality.

5. DPR and the State Board entered into a Memorandum of Understanding (MOU) in December 1991. The agencies agreed to develop an implementation plan to carry out the identified principles of agreement. This MAA and Plan fulfill that agreement. Once approved, the MAA and Plan will replace the MOU as the functional agreement between DPR and the State Board relative to pesticides and water quality.
6. DPR, in cooperation with the State and Regional Board staff and Commissioners, prepared the Plan to describe a cooperative effort for protecting surface and ground water quality. This is a dynamic document that will be amended as necessary to ensure the development and use of preventive activities and practices, and responsive efforts, ranging from self-regulation to regulatory measures, as appropriate, to protect the beneficial uses of the State's waters from the potential adverse effects associated with the use of pesticides which may contribute to water pollution.
7. DPR has a Ground Water Protection Program and a Surface Water Protection Program. These programs, administered locally by Commissioners, address both agricultural and nonagricultural sources of pesticide residues in water and include pollution prevention and response elements. The Ground Water Protection Program is based on general authority in the FAC to protect the environment from environmentally harmful pesticides, and specific authority in the Pesticide Contamination Prevention Act (PCPA, FAC sections 13142 through 13152) that establishes a process to prevent further pollution of ground water by agricultural pesticides. The Ground Water Protection Program focuses on developing reduced-risk practices for pesticides identified as having moved through soil to ground water, research designed to evaluate pesticide use practices and irrigation methods that reduce movement of pesticides from application sites, outreach through training programs for pesticide users, and implementation of the PCPA. The PCPA provides mechanisms for identifying, monitoring, and tracking potential ground water pollutants; reviewing, in cooperation with the State Board and the Office of Environmental Health Hazard Assessment, pesticide chemicals found in ground water or soil as a result of agricultural use; and modifying or canceling the use of such chemicals. Chemicals found in ground water or soil due to nonagricultural use, such as uses in urban areas and that have been determined to present a hazard or potential adverse effect, will be considered for review

as part of the reevaluation process described in sections 6220-6225 of Title 3 of the California Code of Regulations.

The DPR Surface Water Protection Program has preventive and response components that reduce the presence of pesticides in both agricultural and urban surface water. The program's preventive component includes local outreach to promote management practices that reduce pesticide runoff. It also includes DPR's registration process in which potential adverse effects to surface water quality, particularly those in high risk situations, are evaluated. The response component includes mitigation to meet water quality goals. Mitigation options recognize the value of self-regulating efforts to reduce pesticides in surface water, as well as regulatory authorities of DPR and the State and Regional Boards.

8. The State and Regional Boards have several surface and ground water programs that include monitoring, such as, the Toxic Substances Monitoring Program, State Mussel Watch, and the Bay Protection and Toxic Cleanup Programs.
9. In 1988 the State Board adopted a Nonpoint Source Management Plan which describes the measures the State will take to address nonpoint sources of water pollution. Those measures include entering into MAAs with other agencies to work toward the prevention and abatement of nonpoint source pollution.
10. The State and Regional Boards have developed and are in the initial stages of implementing a watershed management strategy pursuant to their Strategic Plan. They are looking to watershed management as a means to develop partnerships among all stakeholders, including government, business, and citizens. Effective watershed management relies on stewardship and a common vision for the desired condition of the resource.

THE AGENCIES AGREE AS FOLLOWS:

1. DPR agrees:
 - (a) To implement, in coordination with the Commissioners, State Board, and Regional Boards, the Plan in a manner consistent with and in conformity with State and

Regional Board plans, policies, and regulations so that water quality is protected from adverse impacts due to the use of pesticides registered in California.

- (b) To have DPR and Commissioner staff provide routine updates of their ongoing and planned pesticide monitoring programs to State and Regional Board staff.
- (c) To provide the State Board with an annual report on the effectiveness of the MAA and Plan and to propose revisions of the Plan as necessary to ensure protection of water quality.
- (d) To have DPR and Commissioner staff confer with State and Regional Board staff when developing reduced-risk practices, quantitative response limits, and required use restrictions.

2. The State Board agrees:

- (a) To accept the MAA and Plan as measures consistent with the State's Nonpoint Source Management Plan unless it is determined by the State Board that implementation is inadequate to protect beneficial uses.
- (b) To accept the MAA and Plan as a coordinated effort for protecting water quality and beneficial uses of water from the potential harmful effects from the use of pesticides.
- (c) To have State and Regional Board staff provide routine updates of their ongoing and planned pesticide monitoring programs to DPR and Commissioner staff.
- (d) To have State and Regional Board staff and management actively participate in the annual update on the implementation of the Plan and identify concerns regarding the coordination and control of water quality due to changes in laws, regulations, policies, and water quality control plans.

- (e) To have State and Regional Board staff confer with DPR and Commissioners when developing or revising water quality objectives for pesticides.
3. The State Board and DPR mutually agree:
- (a) That the provisions of the MAA and Plan are not intended to be the subject of any third party actions to enforce such provisions and that decisions concerning the adequacy of compliance with the provisions of the MAA and Plan are solely within the discretion of the signatory agencies.
 - (b) To promote technical and policy consultations concerning pesticide water quality issues through formal channels, such as standing interagency committees and State Board workshops and meetings, as well as through informal staff exchanges of information. The State Board, Regional Boards, DPR, and Commissioners will consult during the early stages of planning any investigation relating to pesticides and water quality. The agencies will provide technical assistance to each other upon request.
 - (c) To implement a pesticide detection notification system to ensure mutual awareness of pesticide finds in State waters and provide results of pesticide monitoring in an expeditious manner. Reporting requirements and procedures for data referrals are described in the Plan.
 - (d) That nothing in the MAA or Plan is intended to abrogate any legal requirement on any person or agency to report pesticide spills, such as to the State Office of Emergency Services.
 - (e) To collect, exchange, and disseminate information on (1) the use of pesticides, (2) impacts on the quality of the State's waters from such uses, and (3) any efforts to mitigate those impacts.
 - (f) To share information on pesticide formulations, environmental fate and toxicity of active ingredients,

inert ingredients, and breakdown products. Procedures to protect proprietary information are described in the Plan.

- (g) To ensure that compliance with State and Regional Boards' established numeric and narrative water quality objectives is achieved. Responsibility for interpretation of compliance with narrative water quality objectives will continue to rest with the State and Regional Boards.
- (h) To convene interagency staff meetings at least every six months to discuss existing and proposed projects of mutual interest and to serve as a forum for considering changes to the MAA and Plan.
- (i) To consult each other in developing or revising statutes and regulations relative to pesticides which may impact water quality.
- (j) To participate in developing State policies, guidelines, water quality control plans, and management plans relative to pesticide use and water quality.
- (k) To work in cooperation with regulated industries, researchers, and educators to identify issues and develop mitigation strategies.
- (l) To promote the development and implementation of reduced-risk practices whenever necessary to protect the beneficial uses of the waters of the State from the potentially adverse effects of certain pesticides. Plans to implement reduced-risk practices should:
 - (1) describe the actions necessary to achieve the objectives, including recommendations for appropriate actions by any public or private entity;
 - (2) set a schedule for actions to be taken; and
 - (3) describe where water quality criteria are applied and the monitoring to be undertaken to determine compliance with water quality objectives.

- (m) To implement reduced-risk practices initially upon a self-regulating basis to be followed by regulatory actions if necessary. Whenever possible, self-regulating measures will be attempted before enforcement actions are taken. DPR and Commissioners have responsibility for regulating sources of pesticide pollution resulting from the use of pesticides. Regulatory-based compliance will be achieved by DPR's implementing restricted use pesticide permit requirements and/or regulations coordinated through Commissioners. However, the State and Regional Boards retain responsibility for ensuring compliance with water quality laws, regulations, policies, and plans. This responsibility may be implemented at any time through the State and Regional Boards' Water Quality Control Plan or other appropriate regulatory measures consistent with applicable authorities and the provisions of California's Nonpoint Source Management Plan. The Plan will help make the Nonpoint Source Management Plan specific for pesticides by defining how a four-stage approach will be used to protect beneficial uses of water from the potential adverse effects of pesticides. Stage 1 relies on education and outreach efforts to communicate pollution prevention strategies. Stage 2 efforts involve self-regulating or cooperative efforts to identify and implement the most appropriate site-specific reduced-risk practices. In stage 3, mandatory compliance is achieved through restricted use pesticide permit requirements, implementation of regulations, or other DPR regulatory authority, as required in the FAC. In stage 4, compliance is achieved through the State and Regional Boards' Water Quality Control Plans or other appropriate regulatory measures consistent with applicable authorities. Stages 1 through 4 are listed in a sequence that should generally apply. However, these stages need not be implemented in sequential order, but rather as necessary to assure protection of beneficial uses.
- (n) To develop a feasible surface and ground water monitoring strategy which considers anticipated funding and supports the implementation of the MAA. The

monitoring strategy will be developed no later than one year from the effective date of the MAA and will be implemented to the extent that budgeted resources allow.

- (o) To hold no later than three years after the effective date of the MAA and every three years thereafter public workshops to discuss the implementation of the MAA and Plan.
- (p) That all references to the State Board and Regional Board(s) in the MAA and Plan include staff to the extent the action is delegable.

DISPUTE AND CONFLICT RESOLUTION

It is the desire of both agencies to establish a speedy, efficient, and informal method for resolving interagency conflicts. Conflicts among staff of the State and Regional Boards, DPR, and the Commissioners, which cannot otherwise be informally resolved, will be referred to the Executive Director of the State Board and the Director of DPR. Conflicts which cannot be resolved at this level may be referred to the Secretary for Environmental Protection.

The Executive Director of the State Board and the Director of DPR will each appoint one staff member to assist in resolving conflicts.

RESERVATION OF AUTHORITY

Nothing herein shall be construed in any way as limiting the authority of the State Board or Regional Boards in carrying out their legal responsibilities for management, regulation, coordination, and control of water quality. Action may be taken at any time through the State or Regional Board water quality programs or through other appropriate regulatory measures to assure protection of beneficial uses. Such action will include compliance with the State Board's antidegradation policy and with requirements of the federal Clean Water Act including regulation of point source discharges of pesticides to surface waters.

Nothing herein shall be construed in any way as limiting the authority of DPR in carrying out their legal responsibilities for regulating the sale and use of pesticides.

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MODIFICATION/REVISION

This MAA shall become effective upon the date of final signature and shall continue in effect until modified by the mutual written consent of both parties or until terminated by either party upon a 30-day advance written notice to the other party.

DEPARTMENT OF PESTICIDE REGULATION
Approves

James Wells
James W. Wells, Director

3-19-97
Date

STATE WATER RESOURCES CONTROL BOARD
Approves

Walt Pettit
Walt Pettit, Executive Director

3-14-97
Date

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
Concurs

James M. Strock
James M. Strock
Secretary for Environmental Protection

3/20/97
Date