

**2019
MANAGEMENT AGENCY AGREEMENT**

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 and nine Regional Water Quality Control Boards (Water Boards) and the Department of Pesticide Regulation (DPR). These agencies are part of the California Environmental Protection Agency.

The Water Boards 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 that supersedes and updates prior agreements.

(b) Enter into an agreement between two agencies having complementary authority regarding pesticides and water quality. Work cooperatively to address: (i) pesticide use that may cause potential adverse impacts to water, which is regulated by DPR, and; (ii) discharges of pesticides that cause water quality impacts, which are regulated by the Water Boards.

(c) Ensure that all pesticides registered in California are used in a manner that protects water quality while providing effective, environmentally sound pest management.

(d) Identify how the agencies will work together to evaluate water quality, identify existing water quality problems, identify threats to water quality related to pesticides, and develop mitigation strategies to address problems.

(e) 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.

(f) Coordinate respective authorities in a cohesive and efficient manner to prevent duplication of effort and inconsistency of action.

(g) Coordinate respective authorities to solve water quality problems related to pesticide use by promoting the development of practices that reduce or eliminate impacts on water quality or prevent pesticide use that may impact water quality.

2. DPR is the lead agency, with local administration by County Agricultural Commissioners (Commissioners), for pesticide regulation in California. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) delegates primary pesticide use enforcement responsibility to DPR. Divisions 6 and 7 of the Food and Agricultural Code (FAC) occupy the whole field of regulation regarding the registration, sale, transportation, or use of pesticides and grant DPR the authority and responsibility 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 pesticide application by agricultural and pest control workers do not result in unsafe pesticide exposure.

(d) Permit professional 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 for both consumer and professional use 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 human exposure, 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. DPR has a Ground Water Protection Program (GWPP) and a Surface Water Protection Program (SWPP). These programs address both agricultural and nonagricultural sources of pesticide residues in water and include pollution prevention and response elements.

The GWPP is based on 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 GWPP 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 Water Board and the Office of Environmental Health Hazard Assessment, pesticide chemicals found in ground water or soil as a result of legal agricultural use; and modifying or canceling the use of such chemicals, if necessary.

DPR's SWPP operates with authority granted in FIFRA, FAC, and California Code of Regulations (CCR). The key preventive component of DPR's pesticide regulatory program is the evaluation of new active ingredients and products with the potential to adversely impact surface water quality as part of DPR's registration process. Additional preventive components include outreach to professional applicators and promotion of best management practices that reduce pesticide drift and runoff. DPR relies on its program of continuous evaluation of active ingredients to determine if registered pesticides are impacting surface water and to evaluate the efficacy of mitigation or regulatory actions.

4. 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 material 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.

5. The Water Boards are the lead agencies for coordination and control of both surface and ground water quality in California. The Water Board's mission is to preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial use, for the benefit of present and future generations. The Water 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 do the following:

(a) Enter into MAAs with the other agencies to work toward the prevention and abatement of surface and groundwater pollution.

(b) Designate and protect beneficial uses of water for the benefit of the State.

(c) 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.

(d) Develop, implement, and enforce actions to achieve water quality objectives and limit degradation of water quality including, but not limited to, issuing Waste Discharge Requirements (WDRs), conditional waivers of WDRs, and prohibitions or conditional prohibitions of waste discharge; conducting compliance inspections and initiating enforcement actions; supporting development of nonpoint source pollution control implementation programs created by third-party organizations that help groups of dischargers comply with Water Board WDRs, waivers of WDRs, or basin plan prohibitions; and executing financial agreements in the form of loans or grants.

(e) Develop, implement, and enforce regulations and policies for the protection of water quality.

(f) Evaluate the condition of waters of the State and determine if waters are impaired (i.e., not meeting water quality objectives and therefore not sustaining their designated beneficial use(s)).

(g) The Water Boards have several surface and ground water programs that include monitoring for pesticides and/or toxicity, such as the Surface Water Ambient Monitoring Program and the Groundwater Ambient Monitoring and Assessment program, Regional Monitoring Programs, and discharge and receiving water monitoring requirements for dischargers established under multiple regulatory programs.

(h) Implement Water Code Section 106.3, which establishes as state policy that every human have access to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes, by tracking communities that do not have, or at risk of not having, safe, clean, affordable, and accessible water; this includes sharing information with the public on the compliance status of drinking water systems; and by taking actions to ensure safe, clean, affordable, and accessible water, such as revising or establishing water quality control plans, policies, and grant criteria; permitting; monitoring; and administering water rights.

THE AGENCIES AGREE AS FOLLOWS:

1. DPR agrees:

(a) To implement, in coordination with the Commissioners and Water Boards, this MAA, and the Implementation Plan for the MAA in a manner consistent with the mandates and authority granted in FIFRA, CCR, and FAC to protect the environment by regulating pesticide sales and use and by fostering reduced-risk pest management.

(b) To evaluate the potential risk of new pesticide products to surface waters during the registration process and consider this risk in making its registration decisions.

(c) To promote environmentally sound pest management, including integrated pest management, by providing information, education, incentives, and encouraging community-based problem solving.

(d) To respond to water quality concerns that pose a significant adverse effects to aquatic organisms through DPR's regulatory authority.

(e) To provide routine updates of its ongoing and planned pesticide monitoring programs, model development, and special projects to Water Board staff through routing of protocols and study reports, and other correspondence, as appropriate.

(f) To confer with Water Board staff when DPR or Commissioner staff develop reduced-risk practices and required use restrictions.

2. The Water Boards agree:

(a) To implement, in coordination with DPR, this MAA and its Implementation Plan in a manner consistent with and in conformity with State and Regional Water Board plans, policies, and regulations so that water quality is protected from adverse impacts and unauthorized degradation due to the discharge of pesticides registered in California.

(b) To provide routine updates of ongoing and planned pesticide-related programs to DPR.

(c) To confer with DPR when developing or revising total maximum daily loads, water quality criteria and objectives, nonpoint source pollution control implementation programs, 303(d) listing for pesticides, best management practices or other water quality control plan requirements, and significant or statewide permit requirements related to the discharge of pesticides.

(d) To, in coordination with DPR, seek to ensure that waters of the State are monitored as necessary to assess whether pesticide discharges are causing or contributing to water quality impacts or degradation. This can be accomplished through monitoring and reporting requirements for dischargers and responsible parties, as well as Water Board monitoring programs and projects, and coordination with other monitoring entities.

(e) To require and support the use of best management practices relating to pesticides to reduce pesticide discharges, work to ensure attainment of water quality standards, and prevent unauthorized degradation of water quality through implementation and enforcement of water quality laws, regulations, policies, plans and programs.

3. The Water Boards and DPR mutually agree:

(a) To work cooperatively to minimize pesticide water quality impacts to the greatest extent possible, recognizing that the mandates of DPR (regulation of pesticide use under FIFRA, FAC, and CCR) and the Water Boards (protection against water quality impacts from pesticide discharges under the Clean Water Act and Porter Cologne) are complementary yet different.

- (b) To have the Executive Director of the State Water Board, the Executive Officer of each Regional Water Quality Control Board, and the Director of DPR each direct one staff member to assist in implementing this MAA.
- (c) To work cooperatively to address the discharge of pesticides that may cause or contribute to surface water or groundwater pollution, including surface water toxicity.
- (d) To communicate as feasible and appropriate at the staff and executive level when developing or revising regulations and supporting implementation of projects relative to potential impacts of pesticides on water quality.
- (e) To implement the activities outlined in the Implementation Plan for this MAA, which describes a cooperative effort for protecting surface and ground water quality; and to amend the implementation plan as necessary to ensure the development and use of preventive activities and practices, and responsive efforts to protect water quality of the State from the potential adverse effects of pesticides.
- (f) That the provisions of the MAA and Implementation 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 Implementation Plan are solely within the discretion of the signatory agencies.
- (g) To promote technical and policy consultations concerning pesticide water quality issues through formal channels, such as standing interagency committees and workshops and meetings, as well as through informal staff exchanges of information. The Water Boards and DPR 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.
- (h) To share chemistry and toxicity monitoring results, pesticide use reporting, and water discharge permittee information between agencies through publicly available databases and optimize compatibility where possible.
- (i) To convene or attend, when necessary, interagency staff meetings for the purpose of sharing information on seminars, training opportunities, regulatory actions, or results of scientific research or monitoring related to the impact of pesticides in water.
- (j) To participate in developing State policies, guidelines, water quality control plans, and management plans relative to pesticide impacts on water quality.
- (k) To work in cooperation with regulated industries, researchers, and educators to identify issues and develop mitigation strategies relative to pesticide impacts on water quality.
- (l) That all references to the State Water Board and Regional Water Board(s) in the MAA and Implementation Plan include staff, to the extent the action is delegable.

COMMUNICATION, 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 Water Boards and DPR, which cannot otherwise be informally resolved, will be referred to the Executive Director of the State Water Board and/or the Executive Officer of affected Regional Boards and the Director of DPR. Conflicts which cannot be resolved at this level may be referred to the Secretary of the Environmental Protection Agency.

RESERVATION OF AUTHORITY

Nothing herein shall be construed in any way as limiting the authority of the Water Board or Regional Water Boards in carrying out their legal responsibilities for management, regulation, coordination, and control of water quality.

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

MODIFICATION/RECISION

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

6/26/19

Date

Original Signed By

Val Dolcini, Acting Director

STATE WATER RESOURCES CONTROL BOARD

Approves

June 19, 2019

Date

Original Signed By

Eileen Sobeck, Executive Director