



Endangered Species Litigation

Important Guidance for California Pest Management Professionals from the National Pest Management Association and the Pest Control Operators of California

June 15, 2010

The U.S. District Court for the Northern District of California recently approved an Order and Stipulated Injunction restricting the use of 75 pesticides in eight San Francisco Bay area counties to protect 11 federally listed threatened or endangered species. The counties include Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma counties and most rodenticides and termiticides are among the restricted pesticides. Click [here](#) to see the full list of restricted pesticides and the species identified in the Stipulated Injunction. (The use of pesticides indoors is not covered by the Stipulated Injunction.)

The Stipulated Injunction stems from a 2007 lawsuit filed by the environmental group Center for Biological Diversity alleging that the U.S. Environmental Protection Agency (EPA) failed to meet its obligation under the Endangered Species Act to consult with the U.S. Fish and Wildlife Service and National Marine Fisheries Service (Services). While EPA does assess the potential risk a pesticide poses to wildlife including threatened and endangered species during the initial registration and reevaluation processes, it has not formally consulted with the Services when doing so, leaving it vulnerable to litigation.

The use restrictions for each active ingredient outlined in the Stipulated Injunction will stay in place until EPA completes its review and any necessary consultation with the Services regarding the potential effects of the active ingredient on the subject species. In the meantime, the interim protective measures are no-use buffer zones adjacent to certain features within certain geographic areas in the eight counties. The buffer zones are different depending on the species at issue and the pesticide being used.

The National Pest Management Association (NPMA) and Pest Control Operators of California (PCOC) expressed concerns about some of the restrictions included in the original proposal EPA issued for public comment last summer. Some of the use restrictions outlined in the Stipulated Injunction adopted by the court, including the use

of rodenticides and termiticides and public health vector control programs are greatly relaxed from the restrictions that were originally proposed.

EPA has developed maps to help applicators comply with the use restrictions. These can be found at EPA's Interim Pesticide Use Limitations [Interactive Map](#). NPMA and PCOC continue to have concerns about the adequacy of the maps and continue to meet with EPA to better understand and refine the maps. If the mapping is amended or refined, we will notify you.

The use restrictions are now in effect and will remain in effect until further order of the court. Commercial applicators who do not comply with these restrictions may be in violation of a court order and could be subject to court imposed sanctions.

General

1. If you apply pesticides in Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, or Sonoma County, NPMA and PCOC recommend that you familiarize yourself with the use restrictions by visiting [EPA's website](#).
2. Each of the 75 active ingredients listed in the Stipulated Injunction is subject to use restrictions. Except for the rodent control, termite control and public health vector control exceptions discussed below, PMPs may not use a listed active ingredient within the buffer zones established for that active ingredient in the Stipulated Injunction.
3. A complete list of the affected pesticides is contained in Appendix A.
4. The specific buffer zones in the counties referred to above can be found on EPA's Interim Pesticide Use Limitations [Interactive Map](#). Input an address or zoom in on the location where an application is to be made, then click on the location. On the right margin, there will appear a list of active ingredients that may not be used at that location.
5. There are no use restrictions for the use of products inside structures.

Rodent Control

Except for brodifacoum, bromodialone, difenacoum and difethialone for which the buffers on the SFB interactive map continue to apply, there are no buffers for use of a pesticide for control of rodents adjacent to residential buildings (e.g., houses, apartment buildings, nursing homes, hospitals) or food handling, processing or serving establishments, provided:

1. the pesticide is applied by a certified applicator certified in a category that includes the use of rodenticides; and

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2. the pesticide is used in a tamper-resistant bait station deemed to be a Tier 1 bait station according to the standards described in the “Risk Mitigation Decision for Ten Rodenticides” (EPA May 2008); and
3. the bait station is placed within ten feet of the structure.

Subterranean Termite Treatment

There are no buffers for use of a pesticide for subterranean termite control provided:

1. the pesticide is applied by a certified applicator certified in a category that includes the use of subterranean termite control products; and
2. the product is used within 10 feet of the structure being treated for termites.

Public Health and Vector Control Programs

There are no buffers imposed when:

1. the pesticide is used as part of a public health vector control program provided such program is administered by public entities; or
2. the pesticide is used by a certified applicator for control of a vector pest when such control is necessary to respond to a federally or state-declared public health emergency.

Members that have questions or need additional information should contact NPMA at (800)678-6722 or PCOC at (916)372-4363.

Appendix A
Pesticides Covered by the Stipulated Injunction

(Products commonly used by PMPs are listed in bold font)

2,4-D	chlorpyrifos	magnesium	phosmet
acephate	cyfluthrin	phosphide	phorate
acrolein	cyhalothrin	malathion	potassium nitrate
alachlor	(lambda)	maneb	propargite
aldicarb	cypermethrin	mancozeb	resmethrin
aluminum phosphide	deltamethrin	metam sodium	s-metolachlor
atrazine	diazinon	methamidophos	simazine
azinphos-methyl	difenacoum	methidathion	sodium cyanide
bensulide	difethialone	methomyl	sodium nitrate
beta-cyfluthrin	dimethoate	methoprene	strychnine
bifenthrin	diphacinone	methyl bromide	tetramethrin
brodifacoum	disulfoton	metolachlor	thiobencarb
bromadiolone	diquat dibromide	naled	tralomethrin
bromethalin	endosulfan	oryzalin	trifluralin
carbaryl	EPTC (eptam)	oxydemeton-methyl	warfarin
carbofuran	esfenvalerate	oxyfluorfen	zeta-cypermethrin
chlorophacinone	ethoprop	PCNB	zinc phosphide
chlorothalonil	fenpropathrin	pendimethalin	
cholecalciferol	fipronil	permethrin	
	fluvalinate	phenothrin	
	imidacloprid		