

# Stipulated Injunction and Order for Protection of California Red-Legged Frog

## FROGS AND PESTICIDE HAZARDS



Exposure to some pesticide products  
may harm frogs or their habitat

*Español al dorso*

# Basis for the Lawsuit

CENTER FOR BIOLOGICAL DIVERSITY  
BECAUSE LIFE IS GOOD



Vs.





# Basis for the Lawsuit

- The suit by the Center for Biological Diversity alleged that U.S. EPA failed to solicit a U.S. Fish & Wildlife Service formal ESA Section 7 consultation on the risks from 66 pesticides to the threatened California red-legged frog

# Stipulations

- Section 7 Consultation Schedule
- Interim Injunctive Relief
  - Prohibitions on the use of the 66 pesticides
  - Exemptions to the prohibitions
  - Notification requirements



# Prohibitions

- Use of the 66 pesticides is **prohibited** in all areas described as *aquatic feature* or *upland habitat* of the frog in 564 PLSS Sections as defined by the Center for Biological Diversity.
- Use of the 66 pesticides is **prohibited** in all areas described as *aquatic breeding, non-breeding aquatic* or *upland* critical habitat for CRLF as defined by the USFWS in an April 13, 2006 Federal Register Notice.

# Buffer Areas Imposed

- Use of the 66 pesticides is **prohibited** within 60 feet by ground or 200 feet by air from the edge of all *aquatic features* or *upland habitats* in **564 PLSS Sections** as defined by the Center for Biological Diversity.
- Use of the 66 pesticides is **prohibited** within 60 feet by ground or 200 feet by air from the edge of *aquatic breeding, non-breeding aquatic* or *upland habitat* for CRLF as defined by the USFWS in an April 13, 2006 Federal Register Notice.



## Pesticides: Endangered Species Protection Program

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## Steps and Information for Pesticide Users

This page is available in a PDF printable version ([Steps and Information for Pesticide Users](#), 5 pages, 50 Kb, [about PDF](#))

### Information to Assist Pesticide Users in Determining Whether the Injunction Applies to their Proposed Pesticide Use

On October 20, 2006, the Federal District Court for the Northern District of California issued a Stipulated Injunction that resolves a case brought against EPA by the Center for Biological Diversity. The court's injunction puts in place buffer areas around certain habitats of the California red-legged frog, and disallows use of certain pesticides within those habitats and buffer zones. EPA is providing this information to help pesticide users identify those pesticides and areas subject to the injunction. The following four steps will help you determine whether the injunction applies to your proposed pesticide use:

1. Active Ingredients Subject to the Injunction
2. General Geographic Areas Subject to the Injunction
3. Exceptions to the Injunction
4. Determining Whether a Specific Proposed Application Site is Subject to the Injunction

### Step 1 – Active Ingredients Subject to the Injunction

The court's injunction only addresses pesticides containing certain ingredients. Are you planning to apply a pesticide product containing one or more of the following pesticide active ingredients? If you answer "no", the court's injunction does not apply to the pesticide use. If you answer "yes" go to step 2. *Note: the active ingredient in a pesticide product may be found on the front panel of the product label under "Ingredients".*

As EPA completes its review of these pesticides, some may no longer be subject to the injunction. If the active ingredient below is in [brackets], its review is complete and is no longer subject to the injunction.



# Flow Chart

1. Active Ingredients Subject to the Injunction
2. General Geographic Areas Subject to the Injunction
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4. Determining Whether a Specific Proposed Application Site is Subject to the Injunction



# 66 Pesticide Active Ingredients Named in the Injunction

- 1,3-dichloropropene
- 2,4-D
- Acephate
- Alachlor
- Aldicarb
- Atrazine
- Azinphos-methyl
- Bensulide
- Bromacil
- Captan
- Carbaryl
- Chloropicrin
- Chlorothalonil
- Chlorpyrifos
- Chlorthaldimethyl
- Diazinon
- Dicofol
- Diflubenzuron
- Dimethoate
- Disulfoton
- Diuron
- Endosulfan
- EPTC
- Esfenvalerate
- Fenamiphos
- Glyphosate
- Hexazinone
- Imazapyr
- Iprodione
- Linuron
- Malathion
- Mancozeb
- Maneb
- Metam Sodium
- Methamidophos
- Methidathion
- Methomyl
- Methoprene
- Methyl parathion
- Metolachlor
- Molinate
- Myclobutanil
- Naled
- Norflurazon
- Oryzalin
- Oxamyl
- Oxydemeton-methyl
- Oxyfluorfen
- Paraquat dichloride
- Pendimethalin
- Permethrin
- Phorate
- Phosmet
- Prometryn
- Propanil
- Propargite
- Propyzamide
- Rotenone
- Simazine
- SSS-tributyl phosphorothiolate
- Strychnine
- Thiobencarb
- Triclopyr (BEE + TEA)
- Trifluralin
- Vinclozolin
- Ziram

# 24 are herbicides

- 1, 3 Dichloropropene
- 2, 4 Dichlorophenoxy acetic acid
- Alachlor
- Atrazine
- Bromacil
- Chloropicrin
- Diuron
- EPTC
- Glyphosate
- Hexazinone
- Imazapyr
- Linuron
- Metam Sodium
- Metalochlor
- Oryzalin
- Oxyfluorofen
- Paraquat dichloride
- Pendimethalin
- Prometryn
- Propanil
- Propyzamide
- Simazine
- Triclopyr (BEE + TEA)
- Trifluralin



# 3 are used in habitat restoration

- Glyphosate
- Imazapyr
- Triclopyr

# Section 7 Consultation Schedule

- Effects determinations and initiation of consultation for all 66 pesticides shall be completed within 36 months of the date of the order.

10 pesticides within 9 months;  
10 additional pesticides within 12 months;  
7 additional pesticides within 16 months;  
7 additional pesticides within 20 months;  
7 additional pesticides within 24 months;  
8 additional pesticides within 28 months;  
8 additional pesticides within 32 months;  
9 additional pesticides within 36 months



# Terminating Event

- [The injunction no longer applies] when the Agency makes a determination that the pesticide's use has "no effect" on the California red-legged frog, or, where EPA determined the pesticide's use may affect the species, when EPA completes consultation with the U.S. Fish and Wildlife Service.

# Effects Determinations

- Ten effects determinations have been completed

[www.epa.gov/espp/litstatus/effects/redleg-frog/index.html](http://www.epa.gov/espp/litstatus/effects/redleg-frog/index.html)

- Four are herbicides:
  - Chloropicrin
  - Imazapyr
  - Metam Sodium
  - Metolachlor



# Flow Chart

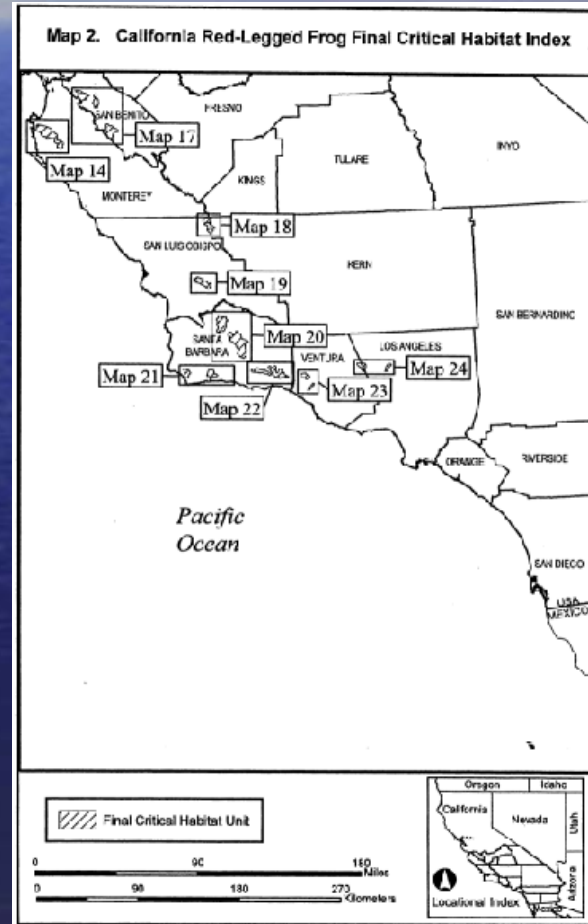
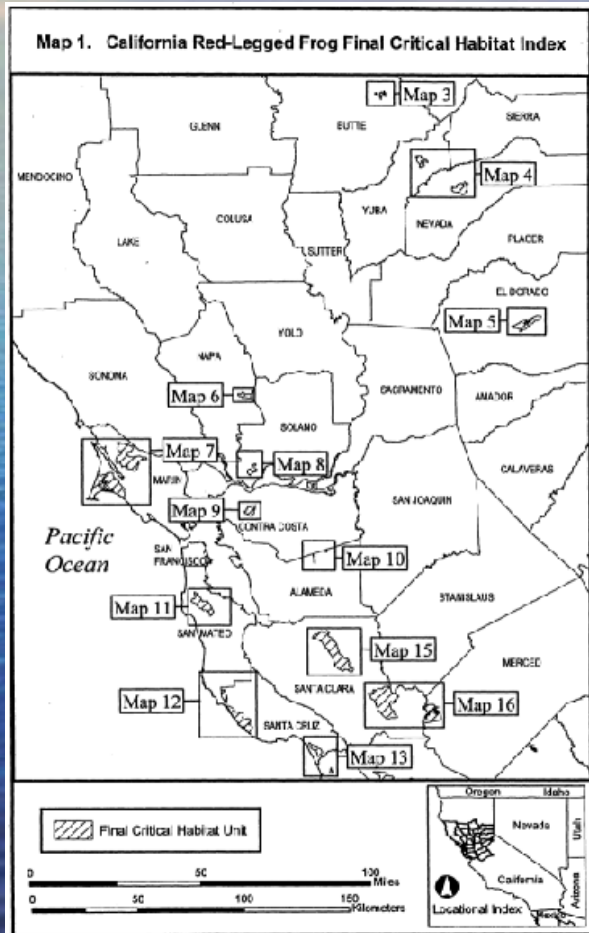
1. Active Ingredients Subject to the Injunction
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The prohibitions are applicable in certain areas within 33 counties.



# USFWS Designated Critical Habitat



# 564 Sections

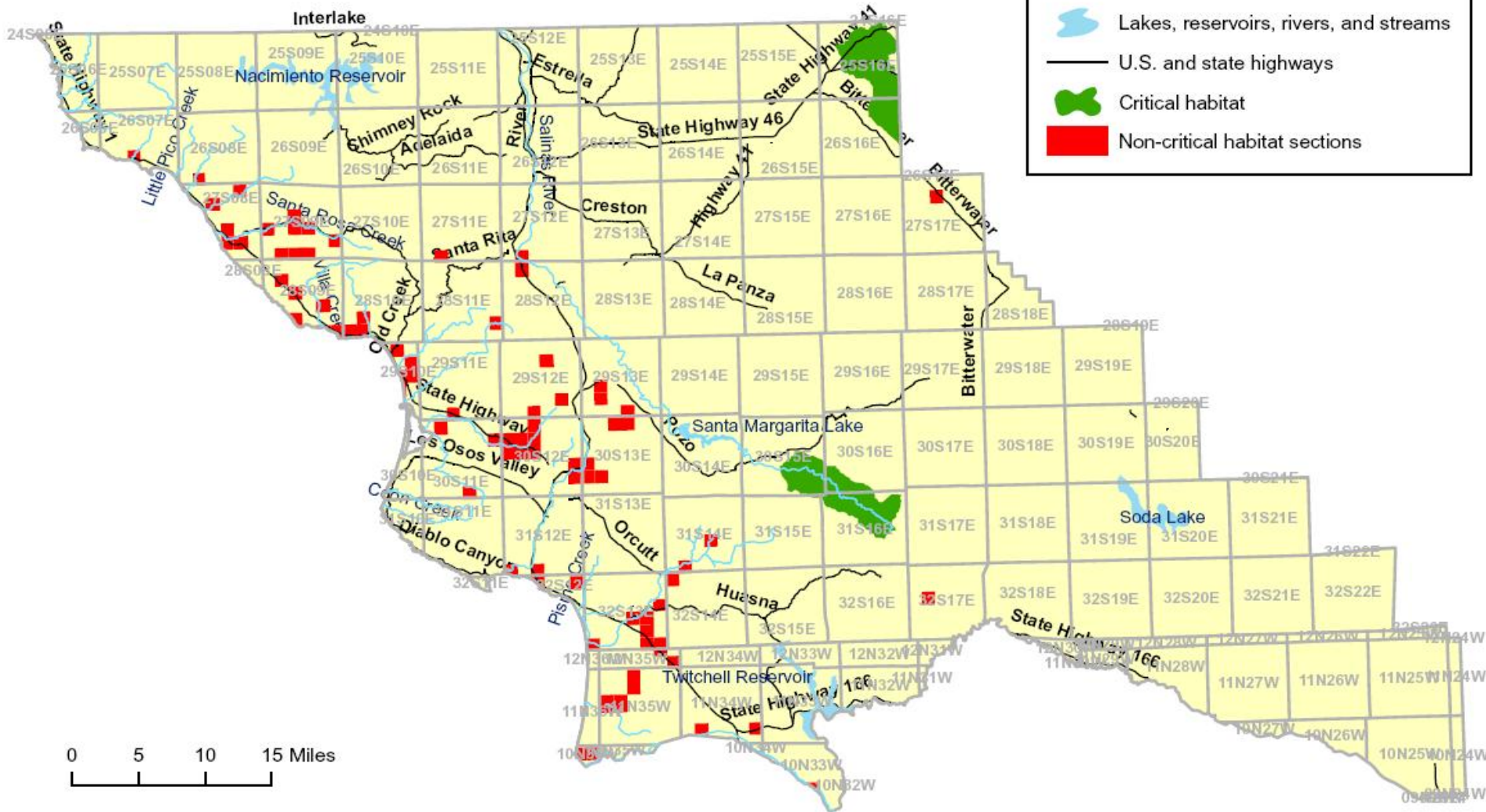
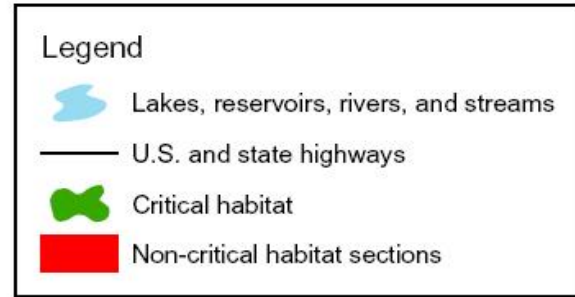
1                   **b. California Red-Legged Frog Populations Outside Final Critical Habitat.**

2                   The EPA's authorization of any use of any of the Pesticides is hereby ENJOINED,  
3 VACATED, and SET ASIDE in all Aquatic Features and Upland Habitats found in the  
4 following 564 sections of California:

5                   M26N07W25, M17N16W03, M17N17W07, M15N16W33, M15N16W34,  
6                   M14N16W33, M04N03W11, M04N03W21, M04N03W22, M04N03W30,  
7                   M04N03W27, M04N03W25, M04N02W30, M04N02W31, M03N03W05,  
8                   M02N03W10, M02N04W14, M02N03W18, M02N03W20, M02N01W21,  
9                   M02N03W30, M02N03W31, M02N03W33, M01N03W07, M01N03W08,  
10                  M28N12E26, M14N11E21, M13N11E01, M10N12E01, **ETC.**



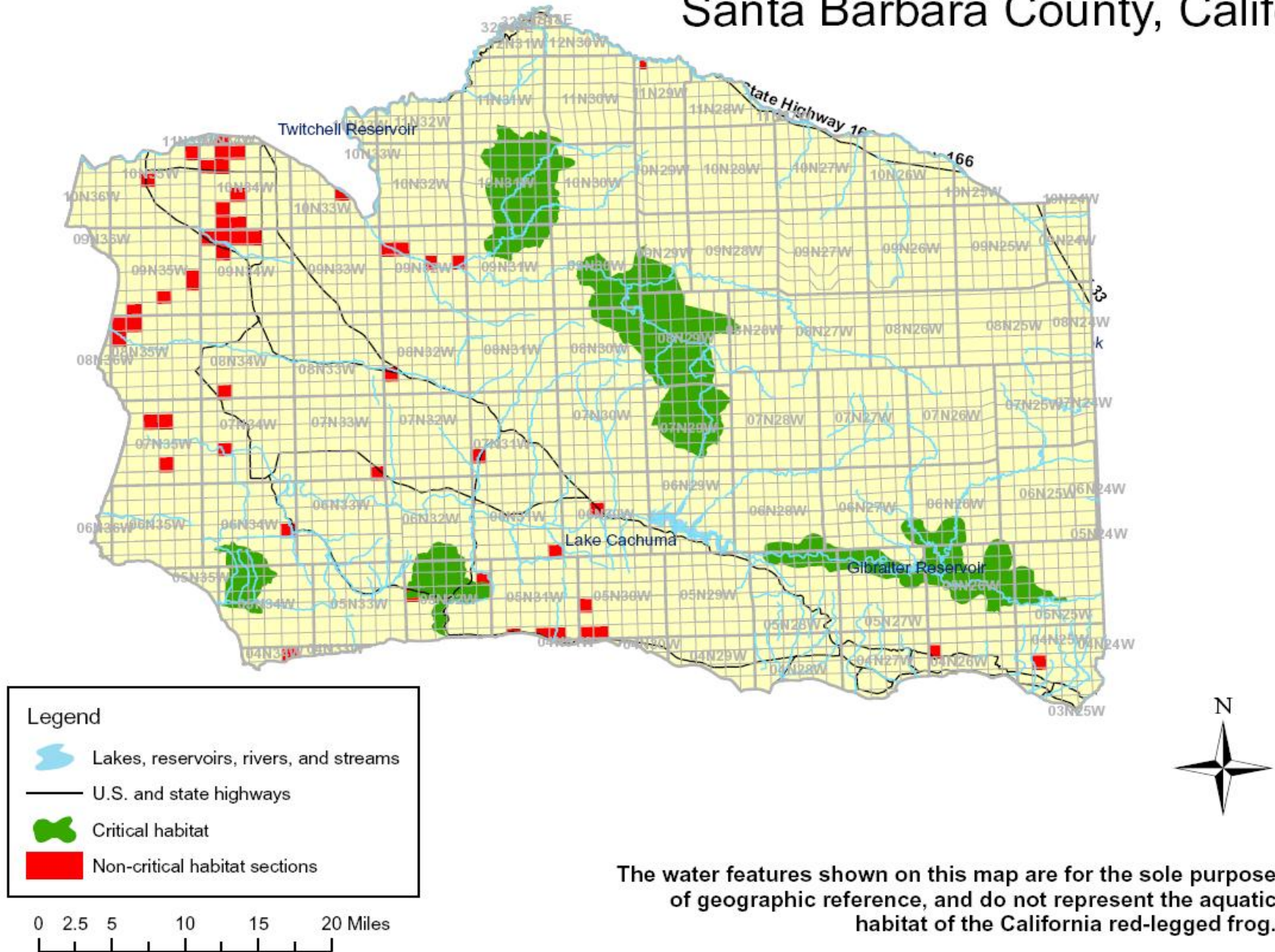
# San Luis Obispo County, California



The water features shown on this map are for the sole purpose of geographic reference, and do not represent the aquatic habitat of the California red-legged frog.



# Santa Barbara County, California





# Flow Chart

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# Exemptions

- Invasive Species and Noxious Weed Control Programs
- Endangered Species Act-Approved Uses
- Cut stump & basal bark applications
- Right of way, forest, pastures, & lawns

\*\* Some restrictions still apply (next slides)



# Invasive Weed Programs

- Administered by a public agency
- Supervised by a certified applicator
- Limited to localized spot treatments using hand held devices
- Not within 15 feet of aquatic breeding or non-breeding aquatic habitat in USFWS designated critical habitat or within 15 feet of aquatic features in the 564 sections
- Not during or prior to rain if forecast w/in 24 hrs
- If 2, 4-D or triclopyr, only the amine forms

# Endangered Species Act

- A “no jeopardy” biological opinion is issued.
- Use is a “reasonable and prudent alternative” identified in a “jeopardy” BO
- An incidental take permit is issued.
- A “not likely to adversely affect” determination is made by an action agency



# Roadside, Right of Way, Pastures, Lawns, Forests

Use on rights-of-way, roadsides, pastures, lawns, or forests is allowed provided the use is:

- localized spot treatments
- using handheld equipment
- occurs at least sixty feet from Aquatic Features within the Sections and/or at least sixty feet from aquatic breeding or non-breeding aquatic USFWS designated critical habitats

# Cut Stump & Basal Bark

- Cut stump and basal bark applications of the Pesticides are allowed, provided that such use occurs at least sixty feet from Aquatic Features within the Sections and/or at least sixty feet from aquatic breeding or non-breeding aquatic USFWS designated critical habitats



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# California Red-Legged Frog

*Rana aurora draytonii*





# Aquatic Feature, Breeding Habitat





# Non-Breeding Aquatic Habitat



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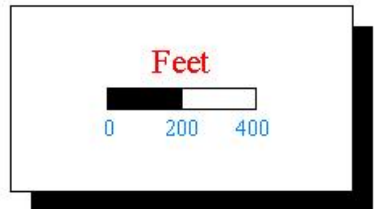


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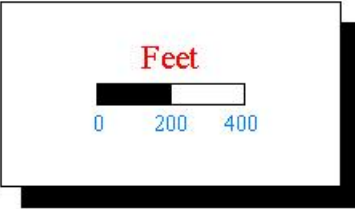


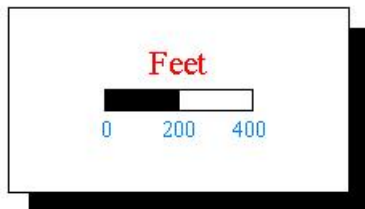
# Upland Habitat



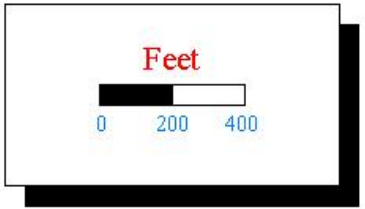


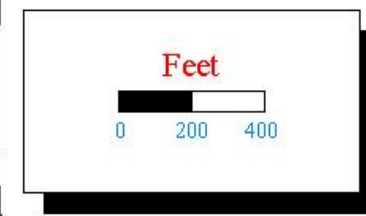














 Roads/Rights of Way

 Upland

 Riparian Vegetation

 Aquatic Breeding habitat

 Non Breeding Aquatic Habitat

 Waterfeature

 Strawberries

 Orchard

 Upland Air Buffer



Feet

0 200 400

# Enforcement

- FIFRA is not a mechanism to enforce the injunction, nor is it enforced by California state and local government through pesticide regulations or permit conditions.
- It can only be enforced through citizen law suits.



## For more information:

- U.S. EPA's Web site:

[www.epa.gov/espp/litstatus/redleg-frog/rlf.htm](http://www.epa.gov/espp/litstatus/redleg-frog/rlf.htm)

- Steps and Information for Pesticide Users:

[www.epa.gov/espp/litstatus/redleg-frog/steps-info.htm](http://www.epa.gov/espp/litstatus/redleg-frog/steps-info.htm)

- DPR's Website:

[www.cdpr.ca.gov/docs/endspec/rl\\_frog/index.htm](http://www.cdpr.ca.gov/docs/endspec/rl_frog/index.htm)