Pesticide General Permit
TXG870000
Reason for Regulation

- January 2009 - US Sixth Circuit Court of Appeals ruled that permits are required for all pesticide applications that leave a residue in water when applied into, over or near waters of the US.
- Ruling required EPA and designated states to develop permits for pesticide application (NPDES and/or TPDES) these new permits are called Pesticide General Permits (PGPs).
Original Federal and State and PGP Timeline

• EPA planned to finalize NPDES PGP by December 2010
  – not issued to date
• States required finalize PGPs by April 2011
  – TCEQ Commissioners Agenda - April 6, 2011
  – If approved, permit will be effective April 9, 2011
Stay of Vacature

• March 28, 2011 - 6th Circuit Court granted the EPA’s request for a 6 month stay of the vacature of its rule exempting pesticide spraying from National Pollutant Discharge Elimination System permit coverage.
• More time for pesticide applicators to obtain NPDES permits
• Allows for time for Endangered Species Act consultation
• NPDES permit covers MA, NH, NM, ID, OK, AK, DC, US territories and Indian Lands
• Permits will be required on October 31, 2011
TCEQ Response to Stay of Vacature

- TCEQ is removing the proposed draft TPDES pesticide general permit from the currently scheduled April 6, 2011 Commissioner’s Agenda.
- No changes to proposed TPDES PGP anticipated
- New effective date – October 31, 2011
TPWD - State Aquatic Vegetation Management Plan

- Organizations and individuals conducting vegetation management activities in public water must first submit a Treatment Proposal for review by TPWD and local controlling entities.

- If treating aquatic vegetation, must do both the TPWD Treatment Proposal and PGP.
Individual TDPES Permit Required

- Use pattern not authorized by PGP
- Waterbody is impaired for the pesticide or is degradates
  - Unless consistent with EPA approved TMDL and TCEQ Implementation Plan
- Waterbody is designated as Tier 3 – Outstanding Natural Resource for antidegradation purposes
- Discharges would contribute to a violation of water quality standards or fail to protect designated uses
PGP Exemptions

- Playa Lakes
- Stock Ponds
- Isolated Wetlands
- Conveyances without a hydrologic surface connection to water of the US
Treatment Area

• A contiguous area of land, including any waters of the U.S., within a pest management area where pesticides are being applied.

• The annual treatment area threshold is calculated as acreage treated per event.
PGP Annual Application Thresholds

- Mosquito & Other Insects – 6,400 acres
- Vegetation and Algae – 100 acres in water or 200 linear miles of shore
- Nuisance Animal – 100 acres in water or 200 linear miles of shore
- Area Wide – 6,400 acres per year
- Forest Canopy Pest – 6,400 acres
Levels of PGP Authorization

- Level IA
- Level IB
- Level II
- Level III


**Level IA**

- Meet or exceed application thresholds
- Public access
- May apply Restricted Use Pesticides (RUP), State-Limited Use (SLU) or Regulated Herbicides (RH)
- Applicator must be licensed by TDA
- Notice of Intent required to obtain authorization
- Must submit annual report to TCEQ
Level IB

- Meet or exceed application thresholds
- Public access to treated area using General Use Pesticides
- Private access using RUP, SLU or RH pesticides
- If using RUP, SLU or RH pesticides applicator must be licensed by TDA
- Self-Certification Form must be submitted to TCEQ prior to application
Level II

- Do not meet application thresholds
- If using RUP, SLU or RH pesticides applicator must be licensed by TDA
- Required to keep a Self-Certification Form on-site
Level III

- Less than one acre of water treated per calendar year
- General use pesticides only
- Required to follow FIFRA label on packaging
Self-Certification Form

• Will be made available when the permit is issued
• TCEQ has provided provisional authorization for 90 days after the effective date of the permit, to allow for time to put together information for their paperwork after October 31, 2011