



**Brazos River Authority**

***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 degrades**
  - **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**