

Texas Pesticides General Permit Working Draft

Stakeholder Meeting

9-9-2010

Pest Management Thresholds of Applications for Level 1A and/or Level 1B Compliance (Annual Total):

- **Mosquito & Other Insect Pest:** 3,200 acres per year (EPA uses 640 acres)
- **Vegetation & Algae:** 100 acres in water or 200 linear miles of water's edge per year (EPA uses 20 acres or 20 linear miles)
- **Nuisance Animal:** 100 acres in water or 200 linear miles of water's edge per year (EPA uses 20 acres or 20 linear miles)
- **Area-wide Pest:** 3,200 acres per year (EPA does not have this category)
- **Forest Canopy Pest:** 3,200 acres per year (EPA uses 640 acres)

Pesticide General Permit Requirement Matrix

AMOUNT OF PESTICIDE USED IN OR NEAR WATERS OF THE UNITES STATES	LOCATION OF USE	TYPE OF PESTICIDE USED	PERMIT REQUIREMENTS
Above Annual Threshold Use	Use by public entities where there is either public or private access (State Agencies, Cities and Counties) OR	Restricted or State-Limited Use Pesticide or Regulated Herbicide	Compliance NOI Required – ePermit TCEQ HQ Operator must be licensed by TDA Fees: NOI - \$100 paper or \$75 ePermit; Annual - \$100 with \$500 cap for county-wide or state-wide
	Use by private entities where there is public access (Pest control company doing nuisance insect control in parks)	General Use Pesticide	Level IB Compliance – no annual report Self Certification Letter to TCEQ Regional Office No fees
	Use by private entities where there is only private access (Farmers on stock ponds or creeks, homeowner’s association around lake; pest control company doing nuisance insect control in neighborhoods)	Restricted or State-Limited Use Pesticide or Regulated Herbicide	Level IB Compliance – no annual report Self Certification Letter to TCEQ Regional Office Operator must be licensed by TDA No fees
		General Use Pesticide	Level 1B Compliance – no annual report Self Certification Letter to TCEQ Regional Office No fees
		Restricted or State-Limited Use Pesticide or Regulated Herbicide	Level II Compliance Self Certification Statement (Onsite) Operator must be licensed by TDA No fees
	Level II Compliance Self Certification Statement (Onsite) No fees		
Level III Compliance No fees			
Below Annual Threshold Use (No NOI Required) (public or private entities on land with public or private access applying small volumes of pesticides for control)	General Use Pesticide 1 Ac. or more annually	General Use Pesticide Less than 1 Ac. annually	Level II Compliance Self Certification Statement (Onsite) No fees
	General Use Pesticide Less than 1 Ac. annually		Level II Compliance Self Certification Statement (Onsite) No fees
	General Use Pesticide Less than 1 Ac. annually		Level III Compliance No fees

Pesticide Use Patterns authorized under the Pesticides General Permit:

- **Mosquito & other Insect Pest**

(Examples include spraying for disease control or nuisance in residential neighborhoods or public parks or treating a waterbody for mosquito larva, Mayflies, Caddisflies, Stoneflies or Black flies)

- **Vegetation & Algae**

(Examples include free-floating plants such as duck weed or watermeal, emergent plants such as cattails, noxious weeds, non-native and potentially invasive plants, filamentous algae, Cyanobacteria, or phytoplankton)

- **Nuisance Animal**

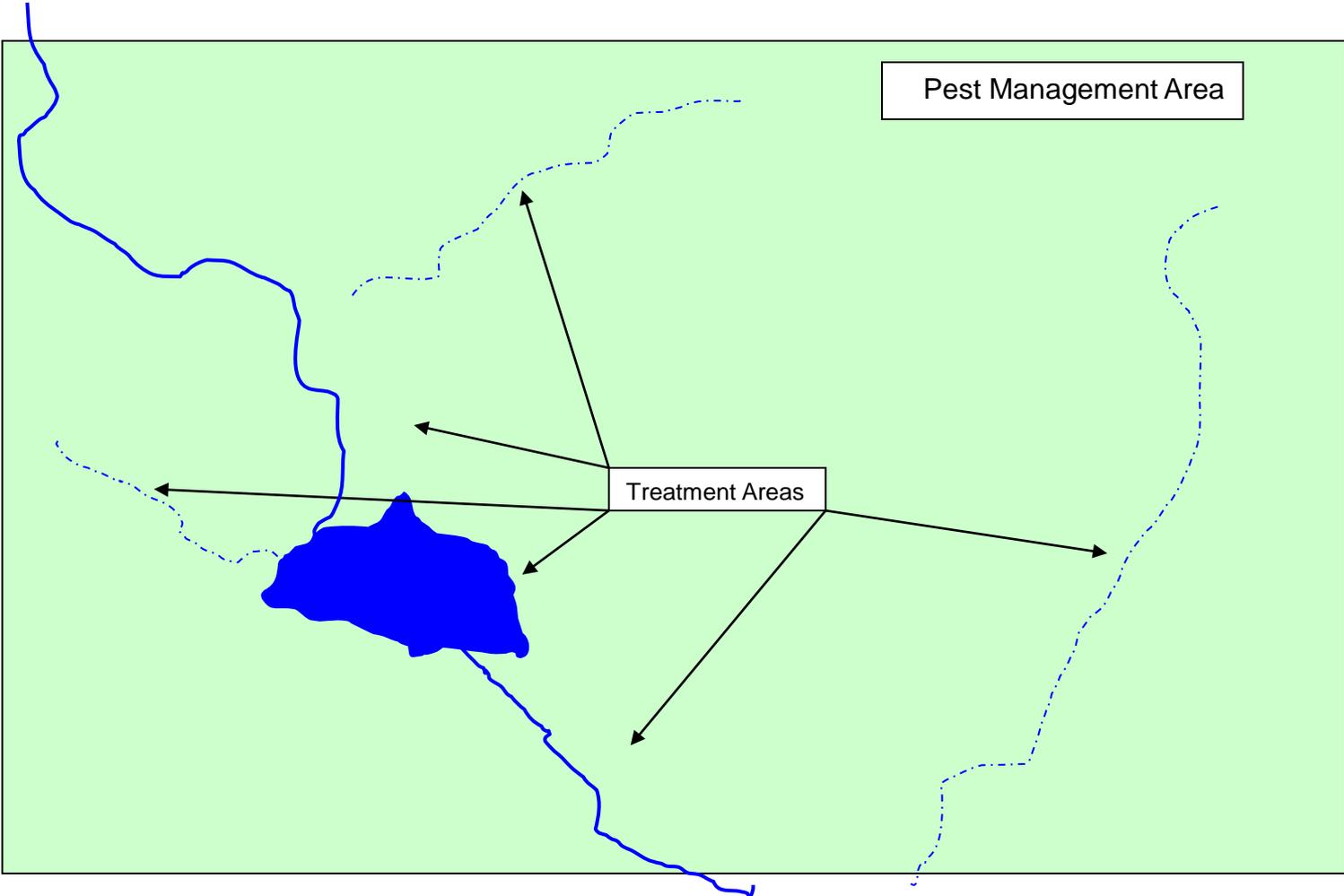
(Examples include fish, lampreys, mollusks, or rodents)

- **Area-wide Pest**

(Examples include crop dusting for bole weevil control, treating orchard pests, or controlling fruit flies)

- **Forest Canopy Pest**

(Examples include spraying trees to control target pest like aphids or pecan weevil, using herbicides to manage vegetation in immature tree stands or using herbicides to manage vegetation to maintain right of ways, or application of pesticides for fungi, insects, weed or vertebrate pests in forest trees management)



Waters of the United States (waters of the U.S.): From 40 CFR 122.2, the term includes:

- (a) All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
- (b) All interstate waters, including interstate “wetlands;”
- (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, “wetlands,” sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - (i) That are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - (iii) That are used or could be used for industrial purposes by industries in interstate commerce;
- (d) All impoundments of waters otherwise defined as waters of the United States under this definition;
- (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;
- (f) The territorial sea; and
- (g) “Wetlands” adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act (other than cooling ponds as defined in 40 CFR Part 423.11(m) that also meet the criteria of this definition) are not waters of the U.S. “Waters of the U.S.” does not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA. Waters of the U.S. does not include playa lakes, constructed retention or detention ponds for storm water treatment, farm ponds, any constructed water body five acres or less in surface area or standing irrigation water.

Contents of the NOI

The NOI form for a pest management area must require the following information:

- (a) the legal name, address and telephone number of the applicant;
- (b) the site name and address of the pest management area;
- (c) the location of records for the pest management area;
- (d) original United States Geological Survey 7.5 minute quadrangle map of the pest management area showing each treatment area; and
- (e) for each treatment area:
 - (1) the pesticide use pattern(s);
 - (2) a name or identifier of each treatment area within the pest management area;
 - (3) the estimated size (square feet or acres) of each treatment area;
 - (4) identify the name of the water body (receiving waters) or TCEQ Segment number that will receive the discharge, if applicable; and
 - (5) the product and active ingredient name and EPA registration number of pesticides proposed to be applied.

Compliance Action Level Requirements - Administrative

Compliance Action Levels 1A and 1B

- Level IA:** Required to Submit a Notice of Intent (NOI) Application and annual report.
- Level IB:** Required to Submit a Self-Certification Letter to TCEQ Regional Office but no annual report is required.
- Recordkeeping:** permit, any adverse incident reports, spill or leak reports, copy of NOI (IA) or self-certification letter (IB) submitted to TCEQ, certificate issued by TCEQ and pesticide application Records for each treatment area.
- Reporting and Notification:** Annual reporting (IA only), adverse incident notification (24- hr), adverse incident written report (14- day), spill or leak notification (24-hr), spill or leak written report (14-day) and other reporting.
- Fees:** Paper NOI - \$100 each; e-NOI – \$75 each; Annual Fee – \$100 per pest management area. (Considering \$500 cap for County-wide or State-wide permits)
- County-wide permits** available to public entities with more than 5 pest management areas.
- State-wide permits** available to public entities with more than 10 pest management areas.

COMPLIANCE ACTION LEVEL II

Not required to submit a NOI – Self-Certification Letter kept on-site.

COMPLIANCE ACTION LEVEL III

Operators applying pesticides to less than a 1 acre treatment area annually regardless of the number or amount of applications. No NOI record keeping or reporting required.

Compliance Action Level Requirements - Technical

Levels 1A and 1B

Technology-Based Effluent Limitations

- a) Minimize Pesticide Discharges into Waters of the United States by using the lowest effective amount of pesticide product, performing regular maintenance activities to minimize potential for leaks, spills, and unintended discharges of pesticides, and calibrating, cleaning, and repairing application equipment.
- b) Integrated Pest Management (IPM) Practices: The use of pest and environmental information in conjunction with available pest control technologies to prevent unacceptable levels of pest damage by the most economical means and with the least possible hazard to persons, property and the environment. Operators will identify the problem, develop pest management strategy and if there is the need, pesticide use.

Water Quality-Based Effluent Limitations. The permit prohibits any discharge that causes or contributes to an excursion of any applicable numeric or narrative water quality standards and requires permittees to take corrective action if a discharge causes or contributes to an excursion of an applicable water quality standard. The TCEQ may impose additional water quality based limitations if discharges are not controlled as necessary to meet applicable water quality standards.

Visual Evaluation Requirements - visual evaluation three (3) days after pesticide application, consisting of spot checks in the area to and around where pesticides are applied for possible and observable toxic or adverse effects.

Pesticide Discharge Management Plan

- (1) Pesticide Discharge Management Team
- (2) Pest management area description
- (3) Control measure description
- (4) Schedules and procedures pertaining to control measures used to comply with effluent limitations (e.g., application rate and frequency, spill prevention, pesticide application equipment, pest surveillance, and assessing environmental conditions)
- (5) Documentation to support eligibility considerations

Level II

Minimize Pesticide Discharges into Waters of the United States

Water Quality-Based Effluent Limitations

Visual Evaluation Requirements

Corrective Action: Situations requiring revision of control measures, corrective action documentation and corrective action deadlines

Recordkeeping: permit and any adverse incident reports

Reporting and Notification: Adverse incident notification (24-hr) and adverse incident written report (14-day)

Level III

Minimize Pesticide Discharges into Waters of the United States

Water Quality-Based Effluent Limitations

Next Steps

- Sept 9th Stakeholder meeting – questions and comments (informal)
- Written comments due by Sept 16th (informal)
- Publish proposed draft permit in Texas Register (by end of October)
- Public Meeting on proposed draft permit (early December)
- Commission Adoption/EPA Approval (March)
- Implementation (April 2011)

Questions/Comments