



General Permit No. TXG870000

This is a new General Permit

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
P.O. BOX 13087
AUSTIN, TX 78711-3087

GENERAL PERMIT TO AUTHORIZE POINT SOURCE DISCHARGE OF
BIOLOGICAL PESTICIDES AND CHEMICAL PESTICIDES THAT LEAVE A
RESIDUE IN WATER

under provisions of
Section 402 of the Clean Water Act (CWA)
and Chapter 26 of the Texas Water Code

This general permit authorizes the point source discharge of biological pesticides or chemical pesticides (including insecticides, nematicides, rodenticides, fungicides and herbicides) that leave a residue in water when such applications are made into or over, including near waters of the United States (U.S.) including exceptional, high, intermediate, limited or no significant aquatic life use receiving waters as designated in the Texas Surface Water Quality Standards only according to limitations, requirements and other conditions set forth in this general permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the State of Texas, and other orders of the TCEQ (Commission). The issuance of this general permit does not grant to the permittee the right to use private or public property for the conveyance of wastewater along the discharge route. This includes property belonging to, but not limited to, any individual, partnership, corporation or other entity. Neither does this general permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary for the application of pesticides.

This general permit and the authorization contained herein shall expire at midnight on November 2, 2016.

EFFECTIVE: November 2, 2011

ISSUED: NOV 04 2011

A handwritten signature in black ink, reading "Bryan L. Shaw".

For the Commission

TPDES GENERAL PERMIT NO. TXG870000
 RELATING TO THE POINT SOURCE DISCHARGE OF PESTICIDES TO
 WATERS OF THE U.S.

<u>Table of Contents</u>	<u>Page</u>
Part I. Definitions	3
Part II. Permit Applicability and Coverage	13
A. Categories of Authorized Pesticides Discharge	13
B. Discharges Eligible for Authorization	16
C. Limitations on Coverage.....	17
D. Obtaining Authorization.....	19
E. Permit Expiration	23
F. Terminating Coverage.....	24
G. Alternative TPDES Permit Authorization	24
H. Severability	25
Part III. Level I Operators	25
A. Applicability	25
B. Effluent Limitations	25
1. Technology-Based Effluent Limitations.....	25
2. Water Quality-Based Effluent Limitations.....	28
C. Visual Evaluation Requirements.....	29
D. Pesticide Discharge Management Plan	29
E. Recordkeeping	34
F. Reporting and Notification	36
Part IV. Level II Operators	40
A. Applicability	40
B. Effluent Limitations	40
1. Technology-Based Effluent Limitations.....	40
2. Water Quality-Based Effluent Limitations.....	41
C. Visual Evaluation Requirement.....	41
D. Corrective Action	41
E. Recordkeeping	42
F. Reporting and Notification	43
Part V. Level III Operators	44
A. Applicability	44
B. Effluent Limitations	44
C. Recordkeeping and Reporting.....	45
Part VI. Standard Permit Conditions	45

Part I. Definitions

The following words and terms, for the purposes of this general permit, shall have the following meanings.

Action Threshold – The point at which pest populations or environmental conditions cannot be tolerated necessitating that pest control action must be taken based on economic, human health, aesthetics, or other effects. An action threshold may be based on current and /or past environmental factors that are or have been demonstrated to be conducive to pest emergence and /or growth, as well as past and /or current pest presence. Action thresholds are those conditions that indicate both the need for control actions and the proper timing of those actions.

Active Ingredient – Any substance (or group of structurally similar substances if specified by the Executive Director) that will prevent, destroy, repel or mitigate any pest, or that functions as a plant regulator, desiccant, or defoliant within the meaning of Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) § 2(a) (7 U.S.C. § 136(a)). Active ingredient also means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for the production of that pesticidal substance.

Adverse Incident – An unusual or unexpected incident, that an operator has observed upon inspection or that the permittee or permitting authority otherwise becomes aware that:

- (a) There is evidence that a person or non-target organism has likely been exposed to a pesticide or pesticide residue, and
- (b) The person or non-target organism suffered a toxic or adverse effect documented by the appropriate TCEQ Regional Office.

Agents – Persons who act for the operator or representatives of the operator.

Best Management Practices (BMPs) – Best management practices are examples of control measures that may be implemented to meet effluent limitations. They are schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the U.S. BMPs also include treatment requirements, operating procedures, and practices to control spillage or leaks, or drainage from raw material storage.

Biological Control Agents –Organisms that can be introduced to a site for the control of a target pest, such as herbivores, predators, parasites, and hyperparasites.

Biological Pesticides (also called Biopesticides) - Include microbial pesticides, biochemical pesticides and plant-incorporated protectant. A microbial pesticide is a microbial agent intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or dessicant, that (1) is a eucaryotic

microorganism including, but not limited to, protozoa, algae, and fungi; (2) is a procaryotic microorganism, including, but not limited to, Eubacteria and Archaeobacteria; or (3) is a parasitically replicating microscopic element, including but not limited to, viruses.

A biochemical pesticide is a pesticide that: (1) is a naturally-occurring substance or structurally-similar and functionally identical to a naturally-occurring substance; (2) has a history of exposure to humans and the environment demonstrating minimal toxicity, or in the case of a synthetically-derived biochemical pesticide, is equivalent to a naturally-occurring substance that has such a history; and (3) has a non-toxic mode of action to the target pest(s). A plant-incorporated protectant is a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for production of such a pesticidal substance. It also includes any inert ingredient contained in the plant or produce.

CFR – Code of Federal Regulations.

Chemical Pesticides – All pesticides not otherwise classified as biological pesticides.

Control Measure – Any BMP or other method used to meet the effluent limitations to minimize the discharge of pollutants to waters of the U.S.

Cultural Methods - Manipulation of the habitat to increase pest mortality by making the habitat less suitable to the target pest.

CWA – Clean Water Act, also known as the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251–1387.

Cyanobacteria (blue green algae) – This is a group of unicellular photosynthetic organisms without a well-defined nucleus.

Declared Pest Emergency Situation – A public declaration by the federal, state, or a local government that has determined that there is a pest problem that requires control through the application of a pesticide for pest control beginning less than ten days after identification of the need for pest control based on:

- (a) Significant risk to human health;
- (b) Significant economic loss;
- (c) Significant risk to:
 - (1) Endangered species,
 - (2) Threatened species,
 - (3) Beneficial organisms, or
 - (4) The environment; or
- (d) Significant threat to quality of life

Discharge – When used without qualification, means the "discharge of a pollutant."

Discharge of a Pollutant – Any addition of any “pollutant” or combination of pollutants to waters of the U.S. from any “point source,” or any addition of any pollutant or combination of pollutants to the waters of the “contiguous zone” or the ocean from any point source other than a vessel or other floating craft that is being used as a means of transportation. This includes additions of pollutants into waters of the U.S. from: surface runoff that is collected or channeled by man; discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works.

Edwards Aquifer - As defined in 30 TAC Chapter § 213.3 (relating to the Edwards Aquifer), that portion of an arcuate belt of porous, water-bearing, predominantly carbonate rocks known as the Edwards and Associated Limestones in the Balcones Fault Zone trending from west to east to northeast in Kinney, Uvalde, Medina, Bexar, Comal, Hays, Travis, and Williamson Counties; and composed of the Salmon Peak Limestone, McKnight Formation, West Nueces Formation, Devil’s River Limestone, Person Formation, Kainer Formation, Edwards Formation, and Georgetown Formation. The permeable aquifer units generally overlie the less-permeable Glen Rose Formation to the south, overlie the less-permeable Comanche Peak and Walnut Formations north of the Colorado River, and underlie the less-permeable Del Rio Clay regionally.

Edwards Aquifer Recharge Zone – Generally, that area where the stratigraphic units constituting the Edwards Aquifer crop out, including the outcrops of other geologic formations in proximity to the Edwards Aquifer, where caves, sinkholes, faults, fractures, or other permeable features would create a potential for recharge of surface waters into the Edwards Aquifer. The recharge zone is identified as that area designated as such on official maps located in the offices of the TCEQ and the appropriate underground water conservation district. Also, see 30 TAC § 213.3.

Employees – Persons employed by the operator for wages or salary.

EPA Approved or Established Total Maximum Daily Loads (TMDLs) – “EPA Approved TMDLs” are those that are developed by a State and approved by EPA. “EPA Established TMDLs” are those that are issued by EPA.

FFDCA – Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301–399a.

FIFRA – Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136–136y.

Filamentous Algae – Algae that grows in long strings or mats in water.

For-Hire Commercial Applicator - Includes persons licensed by the Texas Department of Agriculture who make contractual pesticide applications that they or their employer receives compensation (e.g., lawn care firms, pest control companies).

General Permit - A permit issued under the provisions of 30 Texas Administrative Code (TAC), Chapter 205, authorizing the discharge of waste into waters of the U.S.

for one or more categories of waste discharge within a geographical area of the state or the entire state as provided by Texas Water Code (TWC) §26.040.

General Use Pesticide – Any pesticide that is typically purchased and used by the general public and does not meet the definition of restricted use pesticide, state limited use pesticide, or regulated herbicide in 4 TAC § 7.1.

Hydrophytic Vegetation - A plant growing in water or a substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content.

Inert Ingredient - Any substance (or group of structurally similar substances if designated by the Executive Director), other than an active ingredient that is intentionally included in a pesticide product. Inert ingredient also means any substance, such as a selectable marker, other than the active ingredient, where the substance is used to confirm or ensure the presence of the active ingredient, and includes the genetic material necessary for the production of the substance, provided that genetic material is intentionally introduced into a living plant in addition to the active ingredient.

Integrated Pest Management (IPM) – Is an effective and environmentally sensitive approach to pest management that relies on a combination of common-sense practices. IPM uses current, comprehensive information on the life cycles of pests and their interaction with the environment. This information, in combination with available pest control methods, is used to manage pest damage by the most economical means; and with the least possible hazard to people, property, and the environment.

Jurisdictional Boundary - the limits or territory within which authority may be exercised by the Operator.

Mechanical or Physical Methods - Mechanical tools, or physical alterations of the environment that target pest prevention or removal.

Minimize - To reduce or eliminate pesticide discharges to waters of the U.S. through the use of achievable control measures to the extent technologically available and economically practicable.

Non-Native Plants – A plant living outside of its natural or historical range of distribution. Not all non-native plants are considered to be noxious plants.

Non-target Organisms – Includes the plant and animal hosts of the target species, the natural enemies of the target species living in the community, and other plants and animals, including vertebrates, living in or near the community that are not the target of the pesticide.

Notice of Change (NOC) - A written submission to the Executive Director from a permittee authorized under a general permit, providing any changes to information previously provided to the Commission, or any changes with respect to the nature or operations of the regulated entity or the characteristics of the discharge.

Notice of Intent (NOI) - A written submission to the Executive Director from an applicant requesting coverage under the terms of this general permit.

Notice of Termination (NOT) - A written submission to the Executive Director from a permittee authorized under a general permit requesting termination of coverage under the general permit.

Operator – The person legally responsible for pest management activities resulting in the discharge of pesticides to waters of the U.S. Legally responsible in this context means the person who controls the timing, location, method and means of pest management. Employees, agents and for-hire commercial applicators are not operators but, if hired by an operator covered under the general permit, such employees, agents and for-hire commercial applicators will be authorized and covered under the general permit without the need to obtain individual coverage. However, for-hire commercial applicators, acting on their own accord without consultation with the landowner, are operators for purposes of this general permit if they are legally responsible for pest management activities and must individually seek coverage under the general permit as operators.

Permittee – Any person authorized under this general permit. Permittee also includes any person hired by or under contract with an operator covered under the general permit.

Pest – Any organism under circumstances that make it deleterious to man or the environment and if it is:

- (a) Any vertebrate animal other than humans;
- (b) Any invertebrate animal, including but not limited to, any insect, other arthropod, nematode, or mollusk such as a slug and snail, but excluding any internal parasite of living humans or other living animals;
- (c) Any plant growing where it is not wanted, including any moss, algae, liverwort, or other plant of any higher order, and any plant part such as a root; or
- (d) Any fungus, bacterium, virus, or other microorganism, except for those on or in living humans or other living animals and those on or in processed food or processed animal feed, beverages, drugs (as defined in FFDCA § 201(g)(1)), 21 U.S.C. § 321(g)(1), and cosmetics (as defined in FFDCA § 201(i), 21 U.S.C. § 321(i)).

Pest Management Area – A contiguous area of land, including any waters of the U.S., where the permittee is responsible for and is authorized to conduct pest management activities as covered by this permit (e.g., for an operator who is a mosquito control district, the pest management area is the total area of the district).

Pest Management Strategy – An action or no action, taken to reduce the population of target pests below the action threshold.

Pesticide –Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, or any nitrogen stabilizer. The term does not include any article that is a “new animal drug” within the meaning of § 201(w) of the FFDCA (21 U.S.C. § 321(w)) that has been determined by the Secretary of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article, or that is an animal feed within the meaning of § 201(x) of that Act (21 U.S.C. § 321(x)) bearing or containing a new animal drug. The term also does not include liquid chemical sterilant products (including any sterilant or subordinate disinfectant claims on those products) for use on a critical or semi-critical device, as defined in FFDCA § 201 (21 U.S.C. § 321). For purposes of the preceding sentence, the term “critical device” includes any device that is introduced directly into the human body, either into or in contact with the bloodstream or normally sterile areas of the body and the term “semi-critical device” includes any device that contacts intact mucous membranes, but that does not ordinarily penetrate the blood barrier or otherwise enter normally sterile areas of the body. [FIFRA § 2(u), 7 U.S.C. § 136(u)].

The term also applies to insecticides, herbicides, fungicides, rodenticides, and various other substances used to control pests. The definition encompasses all uses of pesticides authorized under FIFRA, including uses authorized under §§ 3 (registration of pesticides, 7 U.S.C. § 136a), 5 (experimental use permits, 7 U.S.C. § 136c), 18 (exemptions of Federal and State agencies, 7 U.S.C. § 136p), 24(c) (authority of States, additional uses, 7 U.S.C. § 136v(c)), and 25(b) (authority of Administrator, exemption of pesticides, 7 U.S.C. § 136w(b)).

Note: Drugs used to control diseases of humans or animals (such as livestock and pets) are not considered pesticides; those drugs are regulated by the Food and Drug Administration. Fertilizers, nutrients, and other substances used to promote plant survival and health are not considered plant growth regulators and thus, are not pesticides. Biological control agents, except for certain microorganisms labeled as pesticides, are exempted from regulation as pesticides under this general permit and FIFRA. (Biological control agents include beneficial predators such as birds or ladybugs that eat insect pests, parasitic wasps, fish, etc).

This permit uses “pesticide” when referring to the pesticide as applied. When referring to the chemical in the pesticide product with pesticidal qualities, the permit uses the term “active ingredient.”

Pesticide Product – A pesticide in the particular form (including composition, packaging, and labeling) that the pesticide is, or is intended to be, distributed or sold. The term includes any physical apparatus used to deliver or apply the pesticide if distributed or sold with the pesticide.

Pesticide Use Patterns – The pesticide use patterns describe the type of pests being controlled and / or the location and method of pesticide application.

Pesticide Research and Development – Activities undertaken on a systematic basis to gain new knowledge (research), or the application of research findings or other scientific knowledge for the creation of new or significantly improved products or processes (experimental development). These types of activities are generally categorized under the four-digit code of 5417 under the 2007 North American Industry Classification System.

Pesticide Residue – Includes that portion of a pesticide application that is discharged from a point source to waters of the U.S. and no longer provides pesticidal benefits but which may impact non-target species. It may include the pesticide and degradates of the pesticide.

Phytoplankton - Photosynthetic plankton, mainly unicellular algae.

Point Source – Any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff or nonpoint source silvicultural activities.

Political subdivision - A county, municipality, special district, school district, junior college, district, housing authority, or any other legally established political subdivision of the state.

Pollutant – Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. For purposes of this definition, a “biological pesticide” is considered a “biological material,” and any “pesticide residue” resulting from use of a “chemical pesticide” is considered a “chemical waste.”

Potentially Invasive Plants – Plants that are not indigenous to Texas, and have been shown to have invasive tendencies.

Private Entity – A person who is not defined as a public entity.

Public Access – Land owned by a public entity.

Public Entity - A Federal, State, city, district, or other political subdivision including a school district, university, public utility (e.g., electric, water, gas), a special district such as a mosquito control district, or a similar entity; an Indian tribe or authorized Indian tribal organization (e.g., as identified by category code 92 in the 2007 NAICS, and government establishments engaged in other sectors including but not limited to

category codes 22 (Utilities) and 71 (Arts, Entertainment, and Recreation) in the 2007 NAICS).

Regulated Herbicide – A herbicide product that contains any of the following active ingredients:

- (a) 2,4-dichlorophenoxyacetic acid (2,4-D)
- (b) 2-methyl-4-chlorophenoxyacetic acid (MCPA)
- (c) 3,6-dichloro-*o*-anisic acid (dicamba)
- (d) 3,7-dichloro-8-quinolinecarboxylic acid (quinclorac)

Formulations containing the active ingredients listed above are exempt from being classified as regulated herbicides if they meet one of the following criteria:

- (1) Specialty fertilizer mixtures that are labeled for ornamental use and registered in the Texas Agriculture Code, Chapter 63, concerning Commercial Fertilizer; or
- (2) Products that are ready for use and require no further mixing or dilution before use and are packaged in containers with a capacity of one gallon or less for liquid formulations and four pounds or less for dry or solid materials.

Restricted-Use-Pesticide – A pesticide classified as a restricted-use pesticide by the United States Environmental Protection Agency.

State-Limited-Use Pesticide – Any pesticide product that contains any of the following active ingredients:

- (a) 2,4-dichlorophenoxyacetic acid (2,4-D)
- (b) 2,4-dichlorophenoxy butyric acid (2,4-DB)
- (c) 2,4-dichlorophenoxy propionic acid (2,4-DP)
- (d) 2-methyl-4-chlorophenoxyacetic acid (MCPA)
- (e) 3,6-dichloro-*o*-anisic acid (dicamba)
- (f) 3,4-dichloropropionanilide (propanil)
- (g) 5-bromo-3-sec-butyl-6-methyluracil (bromacil)
- (h) 2,4-bis(isopropylamino)-6-methoxy-*s*-triazine (prometon)
- (i) 3,7-dichloro-8-quinolinecarboxylic acid (quinclorac)
- (j) Devices using the active ingredients sodium fluoroacetate (Compound 1080) and sodium cyanide, in any quantity, for livestock predation.

TAC – Texas Administrative Code.

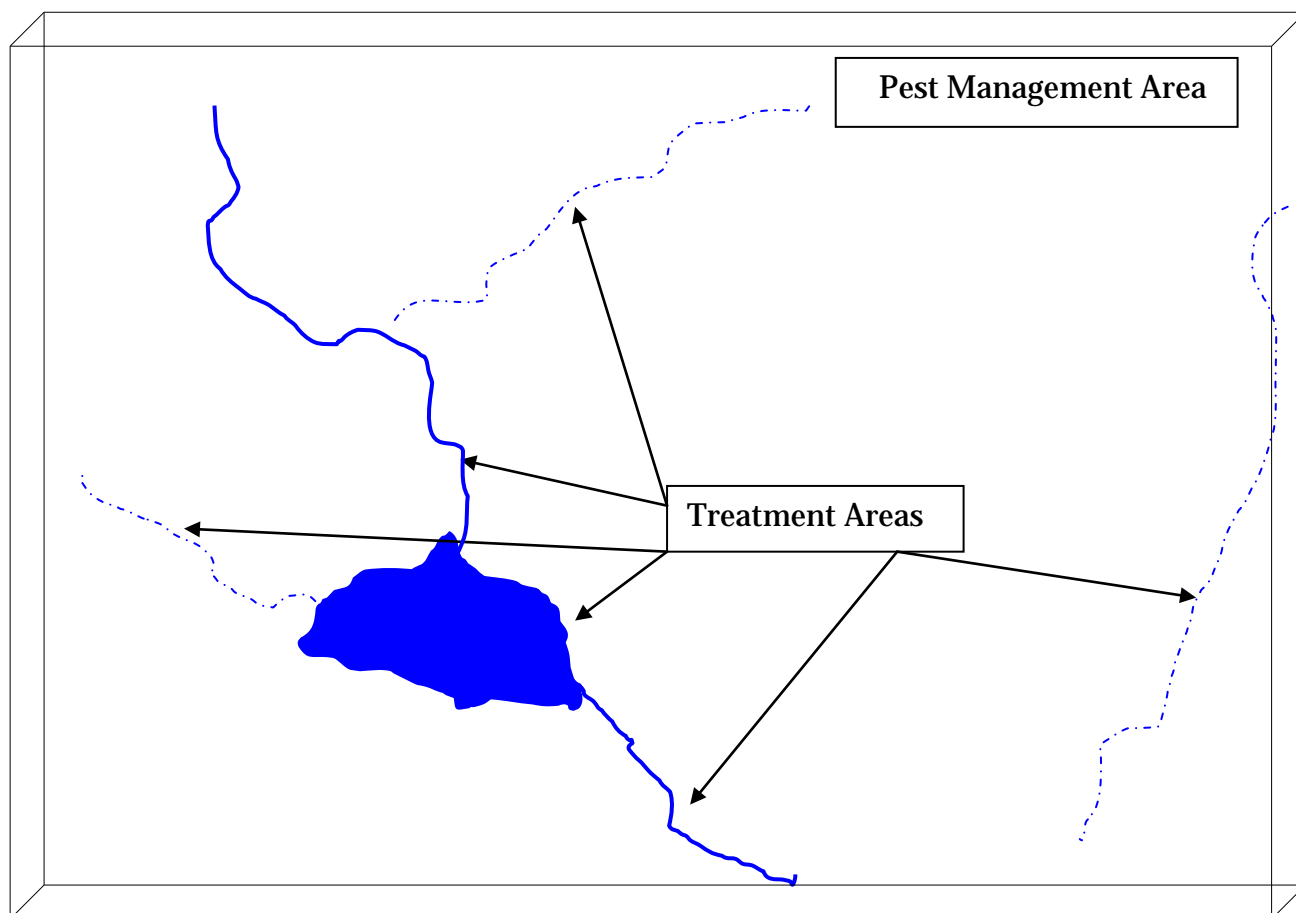
Target Pest – The organism toward which pest control measures are being directed.

Total Maximum Daily Loads (TMDLs) – The total amount of a substance that a water body can assimilate and still meet the Texas Surface Water Quality Standards. See 30 TAC § 307.3.

Toxic or Adverse Effects - Effects that occur within waters of the U.S. on non-target plants, fish or wildlife that are unusual or unexpected as a result of exposure to a pesticide residue (e.g., effects to organisms not otherwise described on the pesticide product label or otherwise not expected to be present). Adverse effects to small organisms may not be directly observable.

Texas Pollutant Discharge Elimination System (TPDES) Permit – The state program for issuing, amending, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under the Clean Water Act §§ 307, 402, 318, and 405, the Texas Water Code (TWC), and the Texas Administrative Code (TAC) regulations.

Treatment Area – An area of land, including any waters of the U.S., within a pest management area where pesticides are being applied at a concentration that is adequate to control the targeted pests within that area. Multiple treatment areas may be located within a single “pest management area.” For discharges with the pesticide use pattern of Area-Wide Pest Control Area, a single pest management area will be considered a treatment area.



U.S.C. – United States Code.

Water's Edge - The surface area of the channel that is not covered by water during low flow conditions immediately bordering: (1) waters of the U.S., or (2) a conveyance to waters of the U.S. along which water (e.g., runoff, irrigation waters, or floodwaters) flows.

Waters of the United States (waters of the U.S.): EPA regulations at 40 CFR 122.2 define Waters of the United States as follows:

- (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.

Exceptions: For purposes of this general permit, waters of the U.S. does not include playa lakes, stock ponds, other isolated wetlands, or conveyances without a hydrologic surface connection to waters of the U.S.

Water Quality Standards – As defined in 30 TAC §307.

Part II. Permit Applicability and Coverage

A. Categories of Authorized Pesticide Discharges

This permit covers the following groups of operators:

1. Level IA: Operators that meet the following criteria:
 - (a) public entities applying Restricted Use Pesticides (RUP), State Limited Use (SLU) Pesticides or Regulated Herbicides (RH) to waters of the U.S. where there is public or private access or private entities applying RUP or SLU pesticide or RH to waters of the U.S. where there is public access; and
 - (b) who meet the threshold for one of the following pesticide use patterns in one calendar year:
 - (i) Mosquito and Other Insect Pests Control- Operators treating a pest management area greater than or equal to 6,400 acres and containing waters of the U.S.;
 - (ii) Vegetation and Algae Pest Control- Operators treating a treatment area greater than or equal to 100 acres in water or greater than or equal to 200 linear miles at water's edge;
 - (iii) Animal Pest Control- Operators treating a treatment area greater than or equal to 100 acres in water or greater than or equal to 200 linear miles at water's edge;
 - (iv) Area-wide Pest Control- Operators treating a pest management area greater than or equal to 6,400 acres and containing waters of the U.S.; or
 - (v) Forest Canopy Pest Control- Operators treating a pest management area greater than or equal to 6,400 acres and containing waters of the U.S.
2. Level IB: Operators that meet the following criteria:
 - (a) public entities applying general use pesticides (GUP) to waters of the U.S. where there is public or private access, private entities applying GUP to waters of the U.S. where there is public access, or private entities applying GUP, RUP or SLU pesticide or RH to waters of the U.S. where there is only private access; and
 - (b) who meet the pesticide use pattern thresholds in Part II.A.1(b).

3. Level II: Operators that meet the following criteria:
 - (a) Public or private entities applying RUP or SLU pesticides or RH to waters of the U.S. where there is public or private access, or public or private entities applying GUP to one (1) acre or more of waters of the U.S. in one calendar year where there is public or private access; and
 - (b) who do not meet the pesticide use pattern thresholds in Part II.A.1(b).

4. Level III: Operators that meet the following criteria:
 - (a) Public or private entities applying GUP regardless of the number of applications, to less than one (1) acre of waters of the U.S. in one calendar year where there is public or private access; and
 - (b) who do not meet the pesticide use pattern thresholds in Part II.A.1 .(b).

PESTICIDES GENERAL PERMIT REQUIREMENT MATRIX

ANNUAL THRESHOLD	LOCATION OF USE	TYPE OF PESTICIDE USED	PERMIT REQUIREMENTS
Above Annual Threshold	Use by public entities where there is either public or private access (Examples: State Agencies, Cities and Counties)	Restricted or State-Limited Use Pesticide or Regulated Herbicide	Level IA Compliance NOI Required – ePermit TCEQ HQ ** Annual report required Operator must be licensed by TDA Fees: NOI - \$100 paper or \$75 ePermit; Annual - \$100 with \$500 cap for county-wide or state-wide
	OR		
	Use by private entities where there is public access (Examples: pest control company doing nuisance insect control in parks)	General Use Pesticide	Level IB Compliance – no annual report Self Certification Form to TCEQ Regional Office No fees
	Use by private entities where there is only private access (Examples: 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 Form to TCEQ Regional Office Operator must be licensed by TDA No fees
General Use Pesticide		Level IB Compliance – no annual report Self Certification Form to TCEQ Regional Office No fees	
Below Annual Threshold (No NOI Required)	Restricted or State-Limited Use Pesticide or Regulated Herbicide		Level II Compliance Self Certification Form (Onsite) Operator must be licensed by TDA No fees
	General Use Pesticide 1 acre of Waters of the U.S. or more annually		Level II Compliance Self Certification Form (Onsite) No fees
	General Use Pesticide Less than 1 acre of Waters of the U.S. annually		Level III Compliance No fees

****Single Pest Management Area NOI; or Public or private entities with more than five (5) pest management areas within a single county or a county whose pest management area is the same as its jurisdictional boundary may submit a single NOI for a county-wide NOI; or if a person or an entity has more than ten (10) pest management areas within the state the person or entity can apply for state-wide NOI.**

B. Discharges Eligible for Authorization

This permit is available to operators who discharge to waters of the U.S. from the application of biological pesticides or chemical pesticides that leave a residue in water when such applications are made into or over including near waters of the US when the pesticide application is for one of the following pesticide use patterns:

1. Mosquito and Other Insect Pests Control.

Pesticide applications to control mosquitoes and nuisance insect pests, such as Mayflies, Caddisflies, Stoneflies or Black flies, that develop or are present during a portion of their life cycle in or above standing or flowing water.

2. Vegetation and Algae Pest Control.

Pesticide applications to control invasive or nuisance vegetation, algae and pathogens in waters of the U.S. and at water's edge, including, but not limited to, 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.

3. Animal Pest Control.

Pesticide applications to control invasive or nuisance animals in waters of the U.S. and at water's edge. Nuisance animals include, but are not limited to, fish, lampreys, insects, mollusks, rodents or pathogens.

4. Area-Wide Pest Control.

Aerial and ground application of a pesticide to control the population of a target pest where control technologies over large areas are most effective to avoid substantial and widespread economic or social impact. These efforts involve aerial and ground pesticide applications to areas that include a wide range of diverse habitats such that a portion of the pesticide applied will unavoidably be applied over and deposited to waters of the U.S. to target the pests effectively. Examples include, but are not limited to, aerial crop dusting, aerial and ground application for the control of nuisance and disease borne mosquitoes using pesticides, ground application of pesticides for the maintenance of rights-of-ways, drainage ditches, and other governmental infrastructure for crucial functions of health and safety; urban landscaping, treating orchard pests, or controlling fruit flies.

5. Forest Canopy Pest Control.

Aerial and ground application of a pesticide over a forest canopy to control the population of a pest species (e.g., insect or pathogen) where to target the

pests effectively a portion of the pesticide unavoidably will be applied over and deposited into water. Examples include, but are not limited to, spraying trees to control target pest like aphids or pecan weevils, using pesticides to manage vegetation in forested stands or those planned for reforestation, 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.

C. Limitations on Coverage

Irrigation return flows from agriculture or agricultural stormwater runoff or nonpoint source silvicultural activities is exempt from this permit even when they contain pesticides or pesticide residues. The CWA specifically exempts these categories of discharges from requiring TPDES permit coverage. The following discharges otherwise subject to this permit are not eligible for coverage under this permit and the operator must apply for an individual permit or be covered by another applicable general permit prior to discharging.

1. Discharges other than use patterns listed in Part II.B.
2. Discharges to Water Quality-Impaired Receiving Waters. Impaired waters for the purposes of this permit include both waters with EPA-approved and EPA-established Total Maximum Daily Loads (TMDLs) and waters for which EPA has not yet approved or established a TMDL.
 - (a) Discharges of the constituent(s) of concern to impaired water bodies when there is an EPA approved TMDL and TCEQ approved TMDL implementation plan are not eligible for this permit unless they are consistent with the EPA approved TMDL and the TCEQ TMDL implementation plan. Constituents of concern are those for which the water body is listed as impaired.
 - (b) The Executive Director may amend this general permit or develop a separate general permit for discharges to these water bodies. For discharges not eligible for coverage under this permit, the discharger must apply for and receive an individual permit or other applicable general permit authorization prior to discharging.
3. Discharges to Waters Designated as Tier 3 for Antidegradation Purposes

An operator is not eligible for coverage under this permit for discharges to waters designated as Tier 3 (outstanding natural resource waters) for anti-degradation purposes under 30 TAC §307.5(b)(3).
4. Discharges Currently or Previously Covered by Another Permit

An operator is not eligible for coverage under this permit if any of the following circumstances apply:

- (a) Discharge of pesticides are currently covered under another TPDES permit; or
 - (b) Discharges from activities where any TPDES permit has been or is in the process of being denied, terminated, or revoked by TCEQ (this does not apply to the routine reissuance of permits every five years).
5. Discharges are not eligible for authorization under this general permit if prohibited by:
- (a) 30 TAC Chapter 311 (relating to Watershed Protection);
 - (b) 30 TAC Chapter 213 (relating to Edwards Aquifer); or
 - (c) any other applicable rules or laws.
6. Compliance with Water Quality Standards

Discharges that would cause or contribute to a violation of water quality standards or that would fail to protect and maintain existing designated uses of receiving waters are not eligible for coverage under this general permit. The Executive Director may require an application for an individual permit or alternative general permit to authorize discharges of pesticides that are determined to cause a violation of water quality standards or are found to cause, or contribute to, the loss of a designated use of receiving waters.

7. Denial of Authorization

- (a) The Executive Director may deny an application for authorization under this general permit, and may require that the applicant apply for an individual permit or alternative general permit if the Executive Director determines that the discharge will not maintain existing uses of receiving waters.
- (b) The Executive Director may deny a NOI or revoke authorization under this general permit if the applicant submits any false information in a NOI.
- (c) The Executive Director may deny, cancel, revoke, or suspend authorization to discharge under this general permit based on a finding of historical and significant noncompliance with the provisions of this general permit.

- (d) Denial of authorization to discharge under this general permit or suspension of a permittee's authorization under this general permit will be done according to Commission rules in 30 TAC § 205.4 (relating to General Permits for Waste Discharges).
- (e) Any operator that has a customer classification that is a poor performer under 30 TAC § 60 (relating to Compliance History) is not eligible for coverage under this general permit and must be authorized under an individual permit.

D. Obtaining Authorization

1. Operators Required to Submit a Notice of Intent (NOI).

If all the following conditions are met, the operator shall submit a NOI to obtain authorization under this permit:

- (a) The operator meets the criteria in Part II.A.1;
- (b) The operator meets the criteria in Part II.B.; and
- (c) The operator is not prohibited in Part II.C.

2. Application for Authorization to Discharge

- (a) Submission of a NOI is an acknowledgment that the conditions of this general permit are applicable to the proposed discharge, and that the applicant agrees to comply with the conditions of this general permit.
- (b) The NOI must contain all information as prescribed on forms provided by the Executive Director.
- (c) The operator shall submit a NOI for each pest management area that meets the requirements of Part II.A.1. Public or private entities with more than five (5) pest management areas within a single county or a county whose pest management area is the same as its jurisdictional boundary may submit a single NOI for a county-wide permit. Persons or entities with more than ten (10) pest management areas may submit a single NOI for a statewide permit.
- (d) An operator may submit a NOI to TCEQ using the electronic Notice of Intent (eNOI) system accessible at <http://www.tceq.texas.gov> or paper form.
- (e) Following review of the NOI, the Executive Director will either confirm coverage by providing a notification and an authorization number to

the applicant or notify the applicant that coverage under this general permit is denied.

- (f) A copy of the NOI, along with any correspondence from the Executive Director confirming permit coverage, must be retained at the address provided in the NOI.

3. Contents of the NOI

The NOI form must require, at a minimum, the following information:

- (a) the legal name, address and telephone number of the applicant;
- (b) the site name or identifier of the Pest Management Area(s);
- (c) the name of the water body (receiving waters) and TCEQ 4-digit Segment Number that will receive the pesticide discharge;
- (d) the county where the Pest Management Area is located;
- (e) the contact and contact address for the PDMP;
- (f) the pesticide use pattern(s); and
- (g) certification that the PDMP will be prepared and implemented.

4. Discharge Authorization Date

- (a) Applicants seeking authorization to discharge under this general permit shall submit a completed notice of intent (NOI) or a completed Self Certification Form, as applicable, on a form approved by the Executive Director. Applications are not required for facilities that are automatically authorized under this general permit. Provisional authorization to discharge under the terms and conditions of this general permit begins 48 hours after a completed NOI is postmarked for delivery to the TCEQ. For electronic submittal of NOIs, provisional authorization to discharge under the terms and conditions of this general permit begins immediately following confirmation of receipt of the electronic NOI by the TCEQ.

Following review of the NOI, the Executive Director will: 1) determine that the NOI is complete and confirm coverage by providing a written notification and an authorization number; 2) determine that the NOI is incomplete and request additional information needed to complete the NOI; or 3) deny coverage in writing. Denial of coverage will be made in accordance with TCEQ rules related to General Permits for Waste Discharges, 30 TAC §205.4.

- (b) In response to a declared pest emergency situation, authorization to discharge under the terms and conditions of this permit is effective immediately for the area of the declared pest emergency situation and a NOI must be submitted by paper no later than 30 days after commencement of the discharge.
- (c) Upon issuance of this general permit, operators that are required to submit a NOI or Self Certification Form have provisional authorization from the effective date of this permit until 90 days after the effective date of this permit. Within 90 days of the effective date of this general permit operators that are required to submit a NOI or Self Certification Form shall submit such documentation for continued coverage. Failure to submit a NOI or Self Certification Form by the deadline will result in expiration of the provisional authorization to operate under the general permit.

5. Fees

- (a) An application fee must be submitted with the NOI.
 - (1) \$100 if submitting a paper NOI, or
 - (2) \$75 if submitting by online e-permitting.
- (b) Annual Water Quality Fees:
 - (1) \$100 for a pest management area, or
 - (2) \$500 for a county-wide or statewide permit.
- (c) A fee is not required for submission of a Notice of Change (NOC) or Notice of Termination (NOT).

6. Revocation of Individual Permit

For facilities authorized under an individual permit, the submittal of a NOI constitutes the applicant's intent to be authorized under this general permit and also serves as a request to voluntarily revoke coverage under the individual permit. The individual permit will be revoked following issuance of the acknowledgment letter providing coverage under the general permit.

7. Change of Operational Control

Authorization under this general permit is not transferable. If the operational control of the pest management area changes, the present permittee shall submit a NOT and the proposed permittee, shall submit a

NOI. The NOT and NOI must be submitted not later than 10 days prior to the change in operational control. Any change in a permittee's Charter Number, as registered with the Texas Secretary of State, or any change in the entity status is considered a change in ownership of the company and would require the new permittee to apply for permit coverage as stated above. If the NOT and NOI are submitted as required under this provision, there will be no lapse in authorization.

8. Notice of Change

A NOC form must be submitted with supplemental or corrected information within 14 days following:

- (a) the time when the permittee knows or should have known that the permittee failed to submit any relevant facts or submitted incorrect information in the NOI; or
- (b) the time when relevant facts in the NOI change, including but not limited to: permittee address, permittee phone number, the addition or removal of a pest management area, the site name or identifier of the Pest Management Area, a change in the location of records for the pest management area, a change in the location of the PDMP, or a change in the contact or contact address for the PDMP.

9. Operators Not Required to Submit a NOI

Operators that meet the following requirements may be authorized under this general permit and are not required to submit a Notice of Intent, unless otherwise required by the Executive Director:

- (a) The operator does not meet the criteria in Part II.A.1.;
- (b) The operator meets the eligibility provisions outlined in Part II.B.;
- (c) The operator is not prohibited from authorization under this general permit in Part II.C;
- (d) The operator complies with applicable requirements of this permit; and
- (e) The operator complies with the self certification requirements below:
 - (1) Operators that meet the criteria in Part II.A.2, must complete a self certification form and submit it to the appropriate TCEQ Regional Office.
 - (2) Operators that meet the criteria in Part II.A.3, must complete a self certification form and keep it onsite.

- (3) Operators that meet the criteria in Part II.A.4 are not required to complete a self certification form.

E. Permit Expiration

1. Permit Term

This general permit is effective for five years from the date of issuance. Authorizations for discharge under the provisions of this general permit may be issued until the expiration date of the general permit. This general permit may be amended, revoked, or cancelled by the Commission after notice and comment as provided by 30 TAC §§ 205.3 and 205.5.

2. Permit Renewal

If the Commission proposes to reissue this general permit before the expiration date, the general permit will remain in effect after the expiration date for those existing discharges covered by the general permit in accordance with 30 TAC Chapter 205. The general permit will remain in effect for these discharges until the date on which the Commission takes final action on the proposal to reissue this general permit. No new NOIs will be accepted or new authorizations honored for authorization under the former general permit after the expiration date.

3. Application following Renewal

Upon issuance of a renewed or amended general permit, all operators, including those covered under the expired general permit, shall submit a NOI or NOT in accordance with the requirements of the renewed or amended permit or submit an individual permit application, within 120 days after the effective date of the renewed or amended general permit. Failure to submit a NOI or NOT by the deadline will result in expiration of the existing authorization to operate under the general permit.

4. Expiration without Renewal

According to 30 TAC § 205.5(d) (relating to Permit Duration, Amendment, and renewal), if the Commission has made a determination that the general permit will not be renewed at least 90 days before the expiration date, permittees authorized under this general permit shall submit an application for an individual permit or alternative general permit before the expiration date. If the application for an individual permit or alternative general permit is submitted before the general permit expiration date, authorization under this expiring general permit remains in effect until the issuance or denial of an individual permit or alternative general permit.

F. Terminating Coverage

1. A permittee shall terminate coverage under this general permit through the submittal of a NOT, on a form approved by the Executive Director, when the permittee changes; the discharge becomes authorized under an individual permit or alternative general permit; or when the permittee determines that the annual threshold in Part II.A.1.(b) will not be exceeded during the remainder of the permit term.

Authorization to discharge terminates at midnight on the day that a NOT is postmarked for delivery to the TCEQ. If TCEQ provides for electronic submission of NOTs, then authorization to discharge terminates immediately following confirmation of receipt of the electronic NOT form by the TCEQ.

2. Operators covered under this permit that are not required to submit a NOI are terminated from permit coverage when they no longer have a discharge from the application of pesticides. These operators are not required to submit a NOT to terminate permit coverage.

G. Alternative TPDES Permit Authorization

1. Individual Permit Alternative

Discharges eligible for authorization under this general permit may alternatively be authorized by an individual permit according to 30 TAC Chapters 281 and 305 (relating to Applications Processing and Consolidated Permits).

2. Transfer of an Authorization Type

When an individual TPDES permit is issued or authorization to discharge under an alternative TPDES general permit is granted to discharge a pollutant to a waters of the U.S. as a result of a pesticide application, the authorization to discharge under this permit is terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit.

Discharges from facilities currently authorized by a TPDES individual permit, and discharges from facilities currently authorized under another TPDES general permit, may only be authorized under this TPDES general permit if the following conditions are met:

- (a) The discharges meet the applicability and eligibility requirements for coverage under this general permit;

- (b) The current individual permit does not contain numeric water quality-based effluent limitations for the discharge (unless the discharges that resulted in the limitations have ceased and any contamination that resulted in these limitations is removed or remediated);
- (c) The Executive Director has not determined that continued coverage under an individual permit is required based on consideration of a total maximum daily load (TMDL) model, antibacksliding policy, history of substantive noncompliance, or other site-specific considerations;
- (d) A previous application or permit for the discharge has not been denied, terminated, or revoked by the Executive Director as a result of enforcement or water quality related concerns. The Executive Director may provide a waiver to this provision based on new circumstances at the pest management area, or if there is a new operator; and
- (e) The authorization to discharge under a current individual permit or alternative general permit will be terminated or canceled on the effective date of coverage under this permit.

H. Severability

The provisions of this general permit are severable and invalidation of a portion of this permit does not render the whole permit or the remainder of the permit invalid. The Commission's intent is that the permit is to remain in effect to the extent possible; in the event that any part of this permit is invalidated, TCEQ will advise the regulated community as to the effect of this invalidation.

Part III. Level I Operators.

A. Applicability

The requirements in this Part apply to operators that meet the criteria in Part II.A.1 or Part II.A.2, except as noted.

B. Effluent Limitations

1. Technology-Based Effluent Limitations

(a) Minimize Pesticide Discharges into Waters of the United States

Permittees shall develop and implement control measures to minimize discharges resulting from application of pesticides to waters of the U.S. to the extent achievable using best management practices that are technologically available and economically practicable and achievable. To minimize discharges resulting from application of pesticides, operators shall:

- (1) In accordance with state law and the pesticide label, use only the amount of pesticide and frequency of pesticide applications necessary to control the target pest, using equipment and application procedures appropriate for this task. In no case exceed the maximum application rate, established under FIFRA, referenced on the pesticide product label. To minimize the total amount of pesticide applied, the operator shall consider different application rates, frequencies, or both to accomplish effective control in accordance with the following:
 - (i) Base the rate of application on what is known to be effective against the target pest or as necessary for resistance management; and
 - (ii) Base the frequency of applications on target pest action thresholds to provide effective and economical control and to prevent unnecessary impact on non-target organisms.
- (2) Maintain pesticide application equipment in proper operating condition including requirement to calibrate, clean, and repair such equipment and prevent leaks, spills, or other unintended discharges; and
- (3) Assess weather conditions (e.g. temperature, precipitation and wind speed) in the treatment area to ensure application is consistent with all applicable federal requirements.

(b) Integrated Pest Management (IPM) Practices

Permittees that discharge pollutants as a result of the application of pesticides for the sole purpose of pesticide research and development are not required to fully implement Part III.B.1.(b) for discharges resulting from those pesticide research and development activities but shall implement Part III.B.1.(b) to the extent that its requirements do not compromise the research design. The discharge may not result in an exceedance of the state water quality standards or criterion, whether narrative or numeric. All other permittees shall comply with the following requirements for each pesticide use pattern.

Prior to the first pesticide application and at least once each calendar year thereafter during which a permittee will have a discharge, the permittee shall develop and implement written integrated pest management practices to comply with the non-numeric effluent limitations in the permit for each treatment area and pesticide use pattern as follows:

- (1) Identify the problem.

- (i) Identify target pests;
 - (ii) Establish target pest densities or identify environmental condition(s), either current or based on historical data that serve as action threshold(s) for implementing pest management strategies;
 - (iii) Establish procedures to determine target pest densities;
 - (iv) For Vegetation and Algae Pest Control and Animal Pest Control:
 - a. Identify possible factors causing or contributing to the target pest problem (e.g., nutrients, invasive species, etc); and
 - b. Identify areas with target pest problems and characterize the extent of the problems, including, for example water use goals not attained for wildlife habitat, fisheries, vegetation, and recreation.
 - (v) For Mosquito and Other Insect Pests Control:
 - a. Identify known breeding sites for source reduction, larval control, and habitat management; and
 - b. Analyze existing surveillance data to identify new or unidentified sources of mosquito or other nuisance insect pest problems as well as sites that have recurring pest problems.
 - (vi) For Area-Wide Pest and Forest Canopy Pest Controls:
 - a. Identify current distribution of the target pest and assess potential distribution in the absence of control measures; and
 - b. Develop a species-specific control strategy based on developmental and behavioral considerations for each target pest.
- (2) Pest Management Strategies. The permittee shall evaluate, select and implement one or more of the following management strategies that successfully minimizes discharges of pesticides, while considering effectiveness and efficiency, impact to water quality, impact to non-target organisms, pest resistance, feasibility, and cost effectiveness:

- (i) No action
 - (ii) Prevention
 - (iii) Mechanical or physical methods
 - (iv) Cultural methods
 - (v) Biological control agents
 - (vi) Pesticide application
- (3) Pesticide Use. If pesticide application is used as a pest management strategy, the permittee shall:
- (i) Apply pesticide only when the action threshold(s) have been met or disease is present;
 - (ii) Reduce the impact on the environment and non-target organisms by evaluating the restrictions, application timing, and application methods in addition to applying the pesticide only when the action thresholds have been met;
 - (iii) For Mosquito and Other Insect Pest Control:
 - a. In situations or locations where practicable and feasible for efficacious control, use larvicides as a preferred pest control when the larval action thresholds have been met; and
 - b. In situations or locations where larvicide use is not practicable or feasible for efficacious control, use adulticides when adult action thresholds have been met.
 - (iv) For Area-Wide Pest and Forest Canopy Pest Controls: Use pesticides against the most susceptible developmental stage.

2. Water Quality-Based Effluent Limitations

- (a) Any discharge that causes or contributes to an excursion of any applicable numeric or narrative water quality standard is prohibited and is a violation of this permit.
- (b) If at any time a permittee becomes aware, or the Executive Director determines, that the discharge causes or contributes to an excursion of

an applicable water quality standard, then the permittee shall take corrective action.

- (c) The Executive Director may require a permittee to obtain coverage under an individual permit as necessary to protect water quality.

C. Visual Evaluation Requirements

Permittees shall conduct a visual evaluation consisting of spot checks in the treatment area to and around where pesticides are applied for possible and observable toxic or adverse effects as follows:

1. Prior to each pesticide application to determine if the target pest action threshold(s) are met and weather conditions are conducive to proper application;
2. Prior to each pesticide application for Mosquito and Other Insect Pest and Area-Wide Pest Control to identify conditions (e.g. temperature, precipitation, and wind speed in the treatment area) that support development of pest populations and are suitable for control activities;
3. During the application when considerations for safety and feasibility allow; and
4. Within a reasonable period of time after each pesticide application, not to exceed the time required for maximum effect indicated on the product label.

D. Pesticide Discharge Management Plan

Permittees shall prepare a Pesticide Discharge Management Plan (PDMP) for each pest management area covered under this permit. The PDMP must be prepared within 90 days of coverage under this general permit. A permittee may refer to procedures in other documents that meet the requirements of this permit in the PDMP, but a copy of the referenced document must be kept in the PDMP and should be made available for review when requested by the Executive Director.

1. Contents of Pesticide Discharge Management Plan. A PDMP must contain the following elements:
 - (a) Pesticide Discharge Management Team. The permittee shall identify PDMP team members by name or title as well as their individual responsibilities, including:
 - (1) Person(s) responsible for managing pests in the pest management area;

- (2) Person(s) responsible for developing and revising the PDMP; and
- (3) Person(s) responsible for developing, revising, and implementing corrective actions and other effluent limitation requirements; and
- (4) Person(s) responsible for pesticide applications. If the pesticide applicator is unknown at the time of plan development, indicate whether or not a for-hire applicator will be used and indicate when the applicator will be identified.

Identification of team members must include any written agreement(s) between the permittee and any other operator(s), such as a for-hire commercial pesticide applicator, that specify the division of responsibilities between operators as necessary to comply with the provisions of this permit.

(b) Problem Identification

- (1) Pest problem description. The permittee shall document the following:
 - (i) Identify the geographic boundaries of the pest management area and each treatment area and waters of the U.S. within the pest management area on a general location map (e.g., topographic, vicinity map, original United States Geological Survey 7.5 minute quadrangle map, a portion of a city or county map, or other map);
 - (ii) Pesticide use patterns for each treatment area;
 - (iii) Target pest(s);
- (2) Action threshold(s) for the pest management area, including data used in developing the action threshold(s) and method(s) to determine when the action threshold(s) has been met.
- (3) List of pesticide(s) or any degradates for which the water-body is impaired; and
- (4) Procedures to determine target pest densities.

- (c) Evaluation and Selection of Pest Management Strategies. In the PDMP, the permittee shall document the evaluation of pest management strategies for the pest management area. The permittee shall select the pest management strategies that most successfully minimize discharges resulting from application of pesticides, including the use of pesticide and non-pesticide methods. The evaluation must establish if

and when the following pest management strategies will be used while considering impact to water quality, impact to non-target organisms, pest resistance, feasibility, and cost effectiveness:

- (1) No action
 - (2) Prevention
 - (3) Mechanical and physical methods
 - (4) Cultural methods
 - (5) Biological control agents
 - (6) Pesticides
- (d) **Response Procedures.** The permittee shall document the following procedures in the PDMP:
- (1) **Spill Response Procedures.** The permittee shall take appropriate measures necessary to prevent spills and to clean up spills of any pesticide. There shall be no disposal of pesticides or residues from storage or application equipment into waters of the U.S. Where potential spills can occur the permittee shall:
 - (i) Identify the procedures for stopping, containing and cleaning up leaks, spills and other releases;
 - (ii) Make available the necessary equipment to personnel to implement a clean up. Employees who may cause, detect, or respond to a spill or leak must be trained in these procedures. If possible, one of these employees should be a member of the PDMP team;
 - (iii) Document procedures and schedules for maintenance activities to minimize potential for leaks, spills, and unintended or accidental release of pesticides from pesticide containers;
 - (iv) Document the chain of command notification for spills, both internal to permittee's agency or organization and external;
 - (v) Document state and federal contacts with phone number;
 - (vi) Document the name, location, and telephone number of the nearest emergency medical facility;

- (vii) Document the name, location, and telephone number of the nearest hazardous chemical responder (including police and fire department);
 - (viii) Maintain contact information for the National Pesticide Telecommunications Network at 800-858-7378; and
 - (ix) Maintain contact information for the National Spill Response Center at 800-424-8802 or <http://www.nrc.uscg.mil/nrchip.html>.
- (2) **Equipment Maintenance Schedules and Procedures.** The permittee shall document in the PDMP the schedules and procedures for maintaining the application equipment in proper operating condition, including calibrating, cleaning, and repairing the equipment.
- (3) **Adverse Incident Response Procedures.** Procedures for responding to adverse incidents must be identified and documented as follows:
- (i) Course of action and timing of responses to any adverse incident;
 - (ii) Chain of command notification for the adverse incident, both internal to the permittee's agency or organization and external;
 - (iii) State and Federal contacts with phone numbers;
 - (iv) Name, location, and telephone of nearest emergency medical facility; and
 - (v) Name, location, and telephone of nearest hazardous chemical responder (including police and fire department).
- (4) **Visual Evaluations.** The permittee shall document the procedures for visual evaluations:
- (i) The process for determining the location of any visual evaluations;
 - (ii) A schedule and procedures for any visual evaluations;
 - (iii) The person (or position) responsible for conducting visual evaluations; and

- (iv) Procedures for documenting any observed toxic or adverse effects.

2. Pesticide Discharge Management Plan Modifications

- (a) The PDMP must be reviewed whenever necessary to address any of the triggering conditions for corrective action or when a change in pest control activities significantly changes the type or quantity of pollutants discharged. Changes must be made to the PDMP before the next pesticide application that results in a discharge, if practicable, or if not, as soon as possible thereafter. The revised PDMP must be signed and dated in accordance with Part VI.H. of this permit. The PDMP must be reviewed at a minimum of once per calendar year to ensure compliance with effluent limitations of this permit including the problem description, evaluation and selection of pest management strategies, schedules and procedures, adverse incident action plan and visual evaluations. The permittee shall modify the PDMP and implement corrective actions if the following occur:

- (1) An unauthorized release or discharge (e.g., spill, leak, or discharge not authorized by this or another TPDES permit) occurs;
- (2) The permittee becomes aware, or the Executive Director determines, that the control measures are not adequate or sufficient for the discharge to meet applicable water quality standards;
- (3) The Executive Director determines that the permittee failed to:
 - (i) Use only the amount of pesticide and frequency of pesticide applications necessary to control the target pest, using equipment and application procedures appropriate for this task;
 - (ii) Perform regular maintenance activities to ensure that the application equipment is in proper operating condition to minimize the potential for leaks, spills, and unintended or accidental release of pesticides to waters of the U.S.; or
 - (iii) Calibrate, clean, and repair equipment on a regular basis to ensure that the application equipment is in proper operating condition.
- (4) Executive Director determines that modifications to the control measures are necessary to meet the effluent limits in this permit;
or

(5) The permittee observes or is otherwise made aware of a toxic or adverse effect.

(b) If the PDMP is required to be revised by Part III.D.2.(a)(1) for reasons other than for toxic or adverse effect, spills or leaks, the permittee shall make the revisions and implement corrective actions before the next pesticide application that results in a discharge, or as soon as practicable. If revisions and corrective actions cannot be made prior to the next pesticide application, the permittee shall document in the PDMP the reasons why. The permittee shall also document in the PDMP within five (5) days the following information:

- (1) Identification of the condition(s) triggering the need for corrective action;
- (2) A brief description of the circumstances of the situation;
- (3) Date the problem was identified;
- (4) Summary of corrective action taken or to be taken;
- (5) Date corrective action was initiated; and
- (6) Date corrective action was completed or expected to be completed.

3. Pesticide Discharge Management Plan Availability

Permittees shall retain a copy of the PDMP either onsite or at the address provided on the NOI and these documents must be immediately available to the Executive Director upon request. Documents in the public record file of the Commission are available to a member of the public upon request.

E. Recordkeeping

Permittees shall keep written records in the PDMP as required by this permit. These records must be accurate and complete to demonstrate compliance with the conditions of this permit. Permittees may harmonize state law (4 TAC §7.33), FIFRA and CWA recordkeeping practices, where appropriate.

Operators are required to keep the following records either onsite or at the location provided in the NOI for a period of at least 5 years from the date the record was created and these documents must be made available to the Executive Director upon request:

1. A copy of this permit (an electronic copy is also acceptable);

2. A copy of any adverse incident reports;
3. A copy of spill or leak reports;
4. A copy of the NOI or self certification form, as applicable, submitted to TCEQ along with any correspondence to or from TCEQ specific to coverage under this permit;
5. A copy of the acknowledgment certificate issued by TCEQ, if applicable;
6. **Pesticide Application Records: The following information must be recorded in the PDMP for each treatment area as soon as possible but no later than fourteen (14) days after implementing pest management strategies (non-pesticide methods and pesticide application):**
 - (a) The name(s) of the record keeper;
 - (b) Pesticide applicator's name;
 - (c) Target pest(s);
 - (d) Pest management strategies used and what action threshold(s) have been met;
 - (e) Date of pre- and post-application surveillance and visual evaluations;
 - (f) Date pest management strategy was conducted;
 - (g) Name and total amount (in gallons or pounds) of pesticide product applied, including the product's EPA registration numbers;
 - (h) Concentration (%) of active ingredient in formulation;
 - (i) Identify of which treatment area or portion of a treatment area was treated;
 - (j) Any observed toxic or adverse effects to non-target organisms;
 - (k) A copy of any modifications made to the PDMP during the term of the permit;
 - (l) Date that application equipment was calibrated, cleaned, and repaired, if applicable;
7. A copy of the Pesticide Discharge Management Plan; and

8. A copy of all annual reports, if applicable, and any other report(s) required to be prepared or filed under this general permit.

F. Reporting and Notification

1. Annual Reporting. Permittees that meet the criteria in Part II.A.1 shall prepare and keep onsite an annual report and be readily available for review by a TCEQ representative. When a permittee terminates permit coverage, the permittee shall submit an annual report for the portion of the year up through the date of the termination. The annual report is due no later than 45 days after permit termination date. The annual report must contain the following information:
 - (a) Operator's name;
 - (b) Authorization number(s);
 - (c) Contact person name, title, e-mail address (if any), and phone number;
 - (d) For each treatment area, report the following:
 - (1) Identification of any waters or other treatment area, including size, either by name or by location, to which pesticide has been applied;
 - (2) Pesticide use pattern(s) (i.e., mosquito and other insect pest, vegetation and algae pest, animals pest, area-wide pest or forest canopy pest);
 - (3) Name and total amount (in gallons or pounds) of pesticide product applied, including the product's EPA registration numbers;
 - (4) Target pest(s);
 - (5) Company name(s) and contact information for pesticide applicator(s), if different from the NOI submitter;
 - (6) Whether or not the permittee was required to take corrective action, if so provide brief description of corrective actions taken;
 - (7) Whether this pest control activity was addressed in the PDMP prior to pesticide application; and
 - (8) Whether or not the permittee provided written report(s) to TCEQ of an adverse incident.

2. Potential Adverse Incident Notification

If a permittee knows or should have known or has been informed of an adverse incident, the permittee shall notify the appropriate TCEQ Regional Office within 24 hours of becoming aware of the potential adverse incident or call the TCEQ 24-hour Spill Reporting Line at 1-800-832-8224. If the permittee is unable to notify TCEQ within 24 hours, the permittee shall do so as soon as possible and provide the rationale why the permittee was unable to provide the notification within 24 hours.

When providing the 24-hour notice for any potential adverse incident, the permittee shall include at least the following information:

- (a) The name and telephone number of the person providing notification;
- (b) Permittee name and mailing address;
- (c) The TCEQ authorization number for the pest management area;
- (d) The name and telephone number of a contact person, if different from the person providing the 24-hour notice;
- (e) How and when the person providing notification became aware of the adverse incident;
- (f) Description of the location of the adverse incident;
- (g) Description of the adverse incident identified;
- (h) The pesticide product, including EPA pesticide registration number for each pesticide that was applied in the area of the adverse incident; and
- (i) Description of any corrective actions the permittee has taken or will take to correct, repair, remedy, cleanup, or otherwise address any adverse effects.

3. Adverse Incident Written Report

Within fourteen (14) days of becoming aware of an adverse incident, the permittee shall provide a written report of the adverse incident to the appropriate TCEQ Regional Office. The adverse incident report must include at least the following information:

- (a) Information required to be provided in Part III.F.2;

- (b) Date and time the permittee provided 24 hour notice to TCEQ of the adverse incident;
- (c) Location of the adverse incident, including the names of any waters affected and appearance of those waters (sheen, color, clarity, etc.);
- (d) A description of the circumstances of the adverse incident including species affected, number of individuals and approximate size of dead or distressed organisms;
- (e) Magnitude of the effect (e.g. aquatic square area or total stream distance affected);
- (f) Pesticide application rate, application site (e.g., water's edge, above, or direct to water), and method of application;
- (g) Description of the habitat and the circumstances under which the adverse incident occurred (including any available ambient water data);
- (h) If laboratory tests were performed, an indication of which test(s) were performed, and when, and provide a summary of the test results immediately upon availability (if not available at the time of submission of the 14-day report);
- (i) If applicable, explain why the permittee believes the adverse incident could not have been caused by exposure to the pesticide;
- (j) Description of any corrective actions the permittee has taken or will take to prevent recurrence; and
- (k) Target and non-target organism(s) that were affected.

4. Spill or Leak Notification

The permittee shall notify the TCEQ Regional Office within 24 hours of becoming aware of a spill or leak that resulted in a discharge to waters of the U.S. If the permittee is unable to notify TCEQ Regional Office within 24 hours, the permittee shall do so as soon as possible and also provide the rationale for why the permittee was unable to provide the notification within 24 hours. The notification must include at least the following information:

- (a) The name and telephone number of the person providing notice;
- (b) Permittee name and mailing address;

- (c) TCEQ authorization number for the pest management area;
- (d) The name and telephone number of a contact person, if different from the person providing the 24-hour notice;
- (e) How and when the person providing notification became aware of the spill or leak;
- (f) Description of the location of the spill or leak;
- (g) Description of the spill or leak identified;
- (h) The EPA pesticide registration number of each pesticide product spilled or leaked, and the known or estimated quantities spilled or leaked that were discharged to waters of the U.S.; and
- (i) Description of any steps the permittee has taken or will take to contain the spill or leak.

5. Spill or Leak Written Report

Within fourteen (14) days of becoming aware of a spill or leak, the permittee shall provide a written report of the spill or leak to the appropriate TCEQ Regional Office. The spill or leak report must include the following information:

- (a) Information required to be provided in Part III.F.4;
- (b) Summary of corrective action taken or to be taken;
- (c) Date corrective action was initiated; and
- (d) Date corrective action was completed or expected to be completed.

6. Other Reporting Requirement.

The permittee shall report any noncompliance, other than that required by Part III.F. 1-5 above that may endanger human health or safety, or the environment to the TCEQ. Report of this information must be provided orally or by facsimile transmission to the TCEQ regional office within 24 hours of knowing of the noncompliance. A written submission of this information must also be provided within five (5) working days of knowledge of the noncompliance. The written submission must contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; and the period of noncompliance, including exact dates and times. If the noncompliance has not been corrected, written submission must also contain the anticipated

time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance and to mitigate its adverse effects.

Part IV. Level II Operators.

A. Applicability

This Part applies to operators that meet the criteria in Part II.A.3.

B. Effluent Limitations

1. Technology-Based Effluent Limitations

Minimize Pesticide Discharges into Waters of the United States. Operators shall develop and implement control measures to minimize discharges resulting from the application of pesticides to waters of the U.S. to the extent achievable using best management practices that are technologically available and economically practicable and achievable. To minimize discharges resulting from application of pesticides, operators shall:

- (a) In accordance with state law and the pesticide label, use only the amount of pesticide and frequency of pesticide applications necessary to control the target pest, using equipment and application procedures appropriate for this task. In no case exceed the maximum application rate, established under FIFRA, referenced on the pesticide product label. To minimize the total amount of pesticide applied, the operator shall consider different application rates, frequencies, or both to accomplish effective control in accordance with the following:
 - (1) Base the rate of application on what is known to be effective against the target pest or as necessary for resistance management; and
 - (2) Base the frequency of applications on the lowest frequency possible to provide effective and economical control and to prevent unnecessary impact on non-target organisms.
- (b) Maintain pesticide application equipment in proper operating condition including requirement to calibrate, clean, and repair such equipment and prevent leaks, spills, or other unintended discharges; and
- (c) Assess weather conditions (e.g. temperature, precipitation and wind speed) in the treatment area to ensure application is consistent with all applicable federal requirements.

2. Water Quality-Based Effluent Limitations

- (a) Any discharge that causes or contributes to an excursion of any applicable numeric or narrative water quality standard is prohibited and is a violation of this permit.
- (b) If at any time a permittee becomes aware, or the Executive Director determines, that the discharge causes or contributes to an excursion of an applicable water quality standard, then the permittee shall take corrective action.
- (c) The Executive Director may require a permittee to obtain coverage under an individual permit as necessary to protect water quality.

C. Visual Evaluation Requirement

Permittees shall conduct a visual evaluation consisting of spot checks in the treatment area to and around where pesticides are applied for possible and observable toxic or adverse effects as follows:

- 1. Within a reasonable period of time after each pesticide application, not to exceed the time required for maximum effect indicated on the product label; and
- 2. During the application when considerations for safety and feasibility allow.

D. Corrective Action

- 1. Situations Requiring Revision of Control Measures.

The permittee shall review and revise control measures if any of the following situations occur to ensure that the situation is eliminated and will not be repeated:

- (a) An unauthorized release or discharge (e.g., spill, leak, or discharge not authorized by this or another TPDES permit) occurs;
- (b) The permittee becomes aware, or the Executive Director determines, that the control measures are not adequate or sufficient for the discharge to meet applicable water quality standards;
- (c) The Executive Director determines that the permittee failed to:
 - (1) Use only the amount of pesticide and frequency of pesticide applications necessary to control the target pest, using equipment and application procedures appropriate for this task;

- (2) Perform regular maintenance activities to ensure that the application equipment is in proper operating condition to minimize the potential for leaks, spills, and unintended or accidental release of pesticides to waters of the U.S.; or
- (3) Calibrate, clean, and repair equipment on a regular basis to ensure that the application equipment is in proper operating condition.
- (d) TCEQ determines that modifications to the control measures are necessary to meet the effluent limits in this permit; or
- (e) The permittee observes or is otherwise made aware of a toxic or adverse effect.

2. Corrective Action Documentation

For situations requiring revision of control measures other than for toxic or adverse effects, a permittee shall document the situation triggering corrective action within 24 hours of becoming aware of that situation. The documentation must include the following information:

- (i) Identification of the condition(s) triggering the need for corrective action;
- (ii) A brief description of the circumstances of the situation;
- (iii) Date the problem was identified;
- (iv) Date corrective action was initiated; and
- (v) Date corrective action was completed or expected to be completed.

3. Corrective Action Deadlines.

If a permittee determines that changes to control measures are necessary, those changes must be made before the next pesticide application that results in a discharge, or as soon as practicable.

E. Recordkeeping

The permittee shall keep the following records on site for a minimum of 5 years from the date the record was created and shall submit them to the Executive Director within five days of a written request by the Executive Director:

- 1. A copy of this permit (an electronic copy is acceptable);

2. A copy of any Adverse Incident Reports; and
3. A copy of the Self Certification Form.

F. Reporting and Notification

1. **Potential Adverse Incident Notification.** If a permittee knows or has been informed of an adverse incident, the permittee shall notify the appropriate TCEQ Regional Office within 24 hours of becoming aware of the potential adverse incident or call the TCEQ 24-hour Spill Reporting Line at 1-800-832-8224. If the permittee is unable to notify TCEQ within 24 hours, the permittee shall do so as soon as possible and provide the rationale why the permittee was unable to provide the notification within 24 hours.

When providing the 24-hour notice for any potential adverse incident, the permittee shall include at least the following information:

- (a) The name and telephone number of the person providing notification;
 - (b) Permittee name and mailing address;
 - (c) The name and telephone number of a contact person, if different from the person providing the 24-hour notice;
 - (d) How and when the person providing notification became aware of the adverse incident;
 - (e) Description of the location of the adverse incident;
 - (f) Description of the adverse incident identified;
 - (g) The pesticide product, including EPA pesticide registration number for each pesticide that was applied in the area of the adverse incident; and
 - (h) Description of any corrective actions the permittee has taken or will take to prevent recurrence.
2. **Adverse Incident Written Report.** Within fourteen (14) days of becoming aware of an adverse incident, the permittee shall provide a written report of the adverse incident to the appropriate TCEQ Regional Office. The adverse incident report shall include at least the following information:
 - (a) Information required to be provided in Part IV.E.2;
 - (b) Date and time the permittee provided 24 hour notice to the Commission of the adverse incident;

- (c) Location of the adverse incident, including the names of any waters affected and appearance of those waters (sheen, color, clarity, etc.);
- (d) A description of the circumstances of the adverse incident including species affected, number of individuals and approximate size of dead or distressed organisms;
- (e) Magnitude of the effect (e.g. aquatic square area or total stream distance affected);
- (f) Pesticide application rate, application site (e.g., water's edge, above, or direct to water), and method of application;
- (g) Description of the habitat and the circumstances under which the adverse incident occurred (including any available ambient water data);
- (h) If laboratory tests were performed, an indication of which test(s) were performed, and when, and provide a summary of the test results immediately upon availability (if not available at the time of submission of the 14-day report);
- (i) If applicable, explain why the permittee believes the adverse incident could not have been caused by exposure to the pesticide;
- (j) Description of any corrective actions the permittee has taken or will take to prevent recurrence; and
- (k) Target and non-target organism(s) that were affected.

Part V. Level III Operators.

A. Applicability

This Part applies to operators that meet the criteria in Part II.A.4.

B. Effluent Limitations

Operators shall implement control measures to minimize discharges resulting from the application of pesticides to waters of the U.S. to the extent achievable using best management practices.

- (a) Apply in accordance with state law and the pesticide label; and
- (b) Store pesticides and dispose of unused pesticides and their containers according to the label instructions.

C. Recordkeeping and Reporting

Recordkeeping and reporting are not required.

Part VI. Standard Permit Conditions

- A. The permittee has a duty to comply with all conditions in this general permit. Failure to comply with any condition is a violation of the general permit and the statutes under which the general permit is issued. Any violation may be grounds for enforcement action, for terminating coverage under this general permit, or for requiring a permittee to apply for and obtain a TPDES individual permit.
- B. The permittee shall furnish any information, at the request of the Executive Director that is necessary to determine whether cause exists for revoking, suspending, or terminating authorization under this general permit. The requested information must be provided within a reasonable time frame and in no case later than 30 days from the date of the request.
- C. Inspection and entry shall be allowed under Chapters 26-28 of the Texas Water Code (TWC); Texas Health and Safety Code §§ 361.032-361.033 and 361.037; and 40 CFR § 122.41(i). The statement in TWC § 26.014 that Commission entry into a pest management area must occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection is not grounds for denial or restriction of entry to any part of the pest management area, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.
- D. All records, reports, drawings, and other documentation required by this general permit must be maintained for a minimum period of five years from the date of the record and either be kept on-site or made readily available for review by an authorized representative of the Commission upon request. This period may be extended at the request of the Executive Director.
- E. NOIs, NOTs, and NOCs must be signed in accordance with the requirements of 30 TAC § 305.44(a) (relating to Signatories to Applications). Pesticides Discharge Management Plans, reports, and other information requested or required by the Executive Director must be signed in accordance with the requirements of 30 TAC § 305.128 (relating to Signatories to Reports).
- F. Authorization under this general permit may be suspended or revoked for the reasons stated in 30 TAC § 205.4. Notifying the TCEQ of planned changes or an anticipated noncompliance does not stay any general permit condition.
- G. This general permit does not convey any property rights of any sort, or any exclusive privilege.

- H. If the permittee becomes aware that the permittee failed to submit any relevant facts in an NOI, NOT, or NOC, or submitted incorrect information in an NOI, NOT, or NOC or in any report to the Executive Director, the permittee shall promptly submit those correct facts or information.
- I. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under TWC §§7.051, 7.101, 7.148, and 7.149 for violations including, but not limited to, the following:
1. Violating CWA, Sections 301, 302, 306, 307, 308, 318, or 405 (33 U.S.C. §§ 1311, 1312, 1316, 1317, 1318, 1328, or 1345, or any condition or limitation implementing any sections in a general permit issued under CWA, Section 402, or any requirement imposed in a pretreatment program approved under CWA, Section 402(a)(3) or (b)(8) (33 U.S.C. §§ 1342(a)(3) or (b)(8));
 2. Intentionally or knowingly tampering with, modifying, disabling, or failing to use pollution control or monitoring devices, systems, methods, or practices required under this permit; and
 3. Intentionally or knowingly makes or causes to be made a false material statement, representation, or certification in, or omits or causes to be omitted material information from, an application, notice, record, report, plan, or other document, including monitoring device data, filed or required to be maintained by this permit.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



DOCKET NO. 2010-1650-MIS
General Permit No. TXG870000

IN THE MATTER OF THE TPDES	§	BEFORE THE TEXAS
GENERAL PERMIT TO AUTHORIZE	§	COMMISSION ON
DISCHARGES OF BIOLOGICAL	§	ENVIRONMENTAL
PESTICIDES AND CHEMICAL	§	QUALITY
PESTICIDES THAT LEAVE RESIDUE IN	§	
WATER WITHIN THE STATE OF TEXAS	§	

COMMISSION RESOLUTION ISSUING THE GENERAL PERMIT

WHEREAS, under Texas Water Code (TWC) Section (§) 26.121, no person may discharge waste or pollutants into or adjacent to any water in the state except as authorized by a rule, permit, or order issued by the Texas Commission on Environmental Quality (TCEQ or Commission);

WHEREAS, under TWC § 26.027, the TCEQ has the authority to issue permits and amendments to permits for the discharge of waste or pollutants into or adjacent to waters in the state;

WHEREAS, under TWC § 26.040, the TCEQ has the authority to issue a general permit to authorize the discharge of waste into or adjacent to waters in the state;

WHEREAS, the definition of waters of the United States, defined in Title 40 Code of Federal Regulations (40 CFR) 122.2 is a subset of the TWC definition of waters in the state.

WHEREAS, a General Permit (TXG870000) that authorizes discharges to waters of the United States of biological pesticides and chemical pesticides that leave residue in water in the state of Texas was drafted and proposed by the Executive Director and is attached as Exhibit A;

WHEREAS, the TCEQ received public comment on the proposed General Permit;

WHEREAS, the Executive Director made certain changes to the General Permit based on comments received;

WHEREAS, the Executive Director prepared, made available to the public, and filed with the Chief Clerk a written Response to Public Comments on the proposed General Permit in accordance with the requirements of Title 30 Texas Administrative Code (30 TAC) § 205.3(e) and is attached as Exhibit B;

WHEREAS, the Commission has reviewed in accordance with Texas Natural Resources Code § 33.205 and 30 TAC § 205.5(f) the changes to the General Permit for consistency with the Texas Coastal Management Program (CMP) and found that the General Permit is consistent with applicable CMP goals and policies and that the General Permit will not adversely affect any applicable coastal natural resource areas as identified in the CMP;

WHEREAS, the Commission determined in accordance with TWC §§ 26.040(a)(1)-(4) that the General Permit would authorize dischargers who engage in the same or substantially similar types of operations, discharge the same types of waste, are subject to the same requirements regarding effluent limitations or operating conditions, and are subject to the same or similar monitoring requirements;

WHEREAS, the Commission finds in accordance with TWC § 26.040(a)(5) that the General Permit would apply to dischargers who are more appropriately regulated under a general permit than under individual permits and that:

(A) The General Permit was drafted to assure that it can be readily enforced and that the Commission can adequately monitor compliance with the terms of the General Permit; and

(B) The category of discharges covered by the General Permit will not include a discharge of pollutants that will cause significant adverse effects to water quality; and

THEREFORE, after consideration of all public comment and the responses to such comment, the Commission, by this resolution, issues the General Permit as recommended by the Executive Director and adopts the Executive Director's Response to Public Comment. Furthermore, the Commission directs staff to make any non-substantive changes to the permit and the Response to Public Comment to satisfy Texas Register format requirements and requests that the general permit and Commission's Response to Public Comment be made available to the public in accordance with the requirements of TWC § 26.040(d) and 30 TAC § 205.3(e).

It is so **RESOLVED**.

Date of Adoption:

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Bryan W. Shaw, Ph.D., Chairman
For the Commission