

## BACKGROUND

In January 2009 the U.S. Sixth Circuit Court of Appeals held that Clean Water Act permits are required for all biological pesticide or chemical pesticide applications that leave a residue in water when such applications are made into or over, including near waters of the U.S.

The Texas Commission on Environmental Quality (TCEQ) is the regulatory agency responsible for enforcing the Clean Water Act (CWA) in Texas. They work cooperatively with the Texas Department of Agriculture to ensure pesticides are used and disposed of according to label directions.

The Texas AgriLife Extension Service has an educational mission. The Pesticide Safety Education Program develops pesticide safety and regulatory compliance and assistance information for pesticide users from all sectors (Agricultural, Structural, Public Health, and Homeowners).

Under the Texas Pollutant Discharge Elimination System (TPDES) Pesticides General Permit, the operator covered by the permit must file the appropriate documents and implement all the compliance requirements.

### Compliance Action Levels

**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.

**Level IA:** Operators are required to submit Notice of Intent (NOI) Application and annual report to be prepared and retained on site. It is \$100 for a paper form, \$75 for an ePermit. If a permittee has one pest management area (PMA), he will pay a \$100 annual water quality fee. If a permittee has up to five PMAs, he will pay a \$500 annual water quality fee. If a permittee has six or more PMAs within the same county (county-wide permit), he will pay a \$500 annual water quality fee. If a permittee has ten PMAs within the state, he will pay a \$1000 annual water quality fee. If a permittee has 11 or more PMAs (state-wide permit), he will pay a \$500 annual water quality fee.

**Level IB:** Operators are required to submit a completed Self-Certification form TCEQ-20604 to TCEQ Regional Office. No annual report required. No fees.

**Level II:** Operators below the annual thresholds - Not required to submit NOI. Completed Self Certification Form TCEQ-20605, kept on-site. No fees.

**Level III:** Operators applying general use pesticides to less than 1 acre of waters of the U. S. - No NOI required. No fees.

### Annual Thresholds

◆ Mosquito and other insect pests control - operators treating a PMA greater than or equal to 6,400 acres and containing waters of the U.S.

- ◆ 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.
- ◆ 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.
- ◆ Area-wide pest control - operators treating a PMA greater than or equal to 6,400 acres and containing a water of the U.S.
- ◆ Forest canopy pest control - operators treating a PMA greater than or equal to 6,400 acres and containing a water of the U.S.

### How to Comply

#### If you are above the annual threshold:

If you are a public entity and there is public or private access to the water, or if you are a private entity and there is public access to the water, and you are applying Restricted Use Pesticides (RUP), State Limited Use Pesticides (SLU) or Regulated Herbicides (RH) you must follow **Level IA** Compliance and applicator must be licensed by TDA.

#### Level IA Compliance requires:

Permit application and fee to TCEQ in Austin; Pesticide Discharge Management Plan (PDMP); Integrated Pest Management (IPM) Practices; Visual Evaluation pre-, during and post-application; Adverse Incident report if necessary; Spill/Leak Notification if necessary; Annual Report on-site or readily available; Annual Water Quality Fee (\$100;\$500 cap)

#### If you are above the annual threshold:

If you are public or private entity and there is public or private access to the water, and you are applying General Use Pesticides, or if you are a private entity with private access only to the water and you will be applying a RUP, SLU or RH you must follow Level IB Compliance and applicator must be licensed by TDA.

#### Level IB Compliance requires:

Self-certification form to TCEQ regional office; PDMP; IPM Practices; Visual Evaluation pre-, during and post-application; Adverse Incident report if necessary; Spill/Leak Notification if necessary

#### If you are below the annual threshold:

And you are applying Restricted Use Pesticides (RUP), State Limited Use Pesticides (SLU) or Regulated Herbicides (RH) you must follow Level II Compliance and the applicator must be licensed by TDA. OR you are applying General Use Pesticides to one acre or more of waters of the U.S. you must follow Level II Compliance.

#### Level II Compliance requires:

Self-certification form on-site or readily available;

#### If you are below the annual threshold:

And you are applying General Use Pesticides to less than one acre annually you must follow **Level III** Compliance.

#### Level III Compliance requires:

Follow directions on the product label

## HOW TO CONTACT TCEQ

Contact TCEQ at (512) 239-4671

Questions can also be emailed to  
[PGP@TCEQ.TEXAS.GOV](mailto:PGP@TCEQ.TEXAS.GOV)

Further information about the pesticides general permit can be obtained from the following web address:  
<http://www.tceq.texas.gov/permitting/wastewater/general/pestgpair>  
<http://www.tceq.texas.gov/>



## HOW TO CONTACT TEXAS AGRILIFE EXTENSION

Contact Extension at  
(979) 845-3849

Questions can also be e-mailed to  
[dking@ag.tamu.edu](mailto:dking@ag.tamu.edu)  
[www-aes.tamu.edu](http://www-aes.tamu.edu)



*Educational programs of the Texas AgriLife Extension Service are open to all people without regard to race, color, sex, disability, religion, age or national origin.*

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Texas Commission on  
Environmental Quality

## PRIVATE APPLICATORS

WHAT YOU NEED TO  
KNOW ABOUT THE  
TEXAS PESTICIDES  
GENERAL PERMIT  
TXG870000



TEXAS COMMISSION  
ON ENVIRONMENTAL  
QUALITY

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