

**RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
OFFICE OF WATER RESOURCES  
235 PROMENADE STREET  
PROVIDENCE, RHODE ISLAND 02908-5767**

PUBLIC NOTICE OF PROPOSED PERMIT ACTIONS UNDER THE RHODE ISLAND POLLUTANT DISCHARGE ELIMINATION SYSTEM (RIPDES) PROGRAM WHICH REGULATES DISCHARGES INTO THE WATERS OF THE STATE UNDER CHAPTER 46-12 OF THE RHODE ISLAND GENERAL LAWS OF 1956, AS AMENDED.

**DATE OF NOTICE:** April 6, 2017

**PUBLIC NOTICE NUMBER:** PN 17-01

**DRAFT RIPDES PESTICIDE GENERAL PERMIT (PGP)  
FOR DISCHARGES FROM THE APPLICATION OF PESTICIDES**

In accordance with Chapter 46-12 of the Rhode Island General Laws, the discharge of pollutants to Waters of the State via a point source discharge is prohibited unless in compliance with the terms and conditions of a RIPDES permit issued in accordance with State Regulations. The United States Court of Appeals for the 6th Circuit has ruled that discharges from pesticides and herbicides (including their residues) into waters of the United States require coverage under a NPDES Permit. As a result, in 2012 the Rhode Island Department of Environmental Management (DEM) determined that the most efficient approach to permitting these discharges is to utilize a general permit and issued a general permit that covered these discharges. The 2012 PGP is scheduled to expire on June 21, 2017. In order to ensure that there is no lapse in permit coverage, DEM's Office of Water Resources and Division of Agriculture have developed a draft 2017 PGP that it intends to issue prior to June 21st. The conditions and requirements in DEM's 2017 PGP remain largely unchanged from the DEM's 2012 PGP.

DEM's PGP applies to "Decision-makers" (those who determine how to control pests, including financial considerations) and "Applicators" (those who apply or supervise the application of the pesticide). The 2017 PGP will continue to cover four use patterns. These use patterns are the discharge of pesticides to Waters of the State resulting from: (1) Mosquito and Other Flying Insect Pest Control; (2) Weed and Algae Control; (3) Animal Pest Control at Cranberry Bogs; and (4) Forest Canopy Pest Control. This permit does not cover, nor is permit coverage required, for pesticides applications that do not result in a point source discharge to Waters of the State. In addition, the existence of this general permit will not alter the requirement that discharges of pesticides to Waters of the State that are not included in these use patterns be covered by an individual permit or another general permit.

As was done in the 2012 issuance, DEM has made a determination that the need to submit a separate RIPDES application, or Notice of Intent (NOI), is not necessary. Instead, the application of pesticides shall be automatically authorized on the effective date of the PGP or the effective date the applicable DEM Division of Agriculture approval, whichever is later. The PGP does not expand the Division of Agriculture's current approval process.

The draft PGP requires compliance with manufacturer specifications, industry standards and recommended industry practices related to the application of pesticides, relevant legal requirements and other provisions that a prudent Operator would implement to reduce and/or eliminate pesticide discharges to waters of the United States.

## **FURTHER INFORMATION ABOUT THE DRAFT PERMIT:**

A fact sheet (describing the legal and policy questions considered in these permit actions) may be downloaded at <http://www.dem.ri.gov/programs/water/permits/ripdes/> or a hard copy may be obtained at no cost by writing or calling DEM as noted below:

Aaron Mello  
Rhode Island Department of Environmental Management  
RIPDES Program  
235 Promenade Street  
Providence, Rhode Island 02908-5767  
Phone: 401-222-4700, extension 7405  
E-mail: [aaron.mello@dem.ri.gov](mailto:aaron.mello@dem.ri.gov)

The administrative record containing all documents relating to these permit actions is on file and may be inspected, by appointment, at the DEM's Providence office mentioned above between 8:30 a.m. and 4:00 p.m., Monday through Friday, except holidays.

## **PUBLIC HEARING**

Pursuant to Chapters 46-12 and 42-35 of the Rhode Island General Laws, a public hearing has been tentatively scheduled to consider the Draft RIPDES Pesticide General Permit, if requested. Requests for a Public Hearing must be submitted in writing to the attention of Aaron Mello at the address indicated above. Notice should be taken that if DEM receives a request from twenty-five (25) people, a governmental agency or subdivision, or an association having no less than twenty-five (25) members on or before 4:00 PM, Monday, May 8, 2017, the public hearing will be held at the following time and place:

Thursday, May 11 2017 at 5:00 PM  
Room 280  
235 Promenade Street  
Providence, Rhode Island 02908

Interested persons should contact DEM in advance to confirm if a hearing will be held at the time and location noted above.

In accordance with Rule 43 of the RIPDES Regulations, the following is a summary of the procedures that shall be followed at the Public Hearing:

1. The Presiding Officer shall have the authority to open and conclude the Hearing and to maintain order; and
2. Any persons appearing at such a hearing may submit oral or written statements and data concerning the draft permit.

In addition, for the sake of accuracy, it is requested that statements be submitted in writing at the time of the hearing or be mailed to Aaron Mello at the above address, before the date of the hearing. Oral testimony will also be heard at the Public Hearing.

235 Promenade is accessible to the handicapped. Individuals requesting interpreter services for the hearing impaired must notify the DEM at 831-5508 (T.D.D.) 72 hours in advance of the hearing date.

**PUBLIC COMMENT PERIOD: (April 6, 2017 to May 12, 2017)**

Interested parties must submit comments on the permit actions and the administrative record to the address above no later than 4:00 P.M. May 12, 2017.

All persons who believe any condition of the draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period on May 12, 2017. Commenters may request a longer comment period if necessary to provide a reasonable opportunity to comply with these requirements. Comments should be directed to Aaron Mello as directed above.

If, during the public comment period, significant new questions are raised concerning the permit, DEM may require a new draft permit or fact sheet or may reopen the public comment period. A public notice will be issued for any of these actions.

**FINAL DECISION AND APPEALS:**

Following the close of the comment period, and after a public hearing, if such hearing is held, the Director will issue a final permit decision and forward a copy of the final decision to each person who has submitted written comments or requested notice. Within 30 days following the notice of the final permit decision, any interested person may submit a request for a formal hearing in accordance with the requirements of Rule 49 of the Regulations for the Rhode Island Pollutant Discharge Elimination System.

March 30, 2017

Date

Angelo S. Liberti

Angelo S. Liberti, P.E.

Chief of Surface Water Protection

Office of Water Resources

Department of Environmental Management