

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:** October 12, 2022

**PUBLIC NOTICE NUMBER:** PN 22-02

**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 latest 2017 PGP expired on June 21, 2022. DEM's Office of Water Resources and Division of Agriculture have developed a draft 2022 PGP that it intends to issue.

The draft 2022 PGP permit has been revised to reflect the following: replaced Pest Control at Cranberry Bogs with Aquatic Pest Control for a more general coverage of Pesticide Application to control pests in water and at the water's edge; added a section regarding Discharges Currently or Previously Covered by another Permit to provide additional clarification on discharges not eligible for coverage under the PGP; added an additional condition for twenty-four hour Adverse Incident Notification; added language regarding adverse incident reporting where multiple Operators are authorized to discharge; removed language regarding Notices of Intent as they are not required under the PGP; and made other minor changes throughout the PGP that included arrangement of the permit, corrections of grammatical, typographical, regulation reference errors, and removal of minor inconsistencies.

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 2022 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) Aquatic Pest Control; 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 2017 issuance, DEM 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:**

Copies of the draft general permit and fact sheet (describing the significant factual, legal and policy questions considered in these permit actions) may be obtained at no cost by writing or calling DEM as noted below:

Cameron Murray, Environmental Engineering Associate  
Rhode Island Department of Environmental Management  
Office of Water Resources  
235 Promenade Street  
Providence, Rhode Island 02908-5767  
Phone: 401-222-4700, extension 2777274  
E-mail: [cameron.murray@dem.ri.gov](mailto:cameron.murray@dem.ri.gov)

The information is also available at the following website during the public comment period:

<https://dem.ri.gov/environmental-protection-bureau/water-resources/permitting/ripdes>

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 COMMENT AND REQUEST FOR 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 Cameron Murray at the address indicated above. Notice should be taken that if the 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, November 14, 2022, the public hearing will be held at the following time and place:

Thursday, November 17, 2022, 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.

If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call DEM at the number listed above or RI Relay 711 at least (3) business days prior to the hearing so arrangements can be made to provide such assistance at no cost to the person requesting.

Interested parties must submit comments on the permit actions and the administrative record to the address above no later than 4:00 PM November 18, 2022.

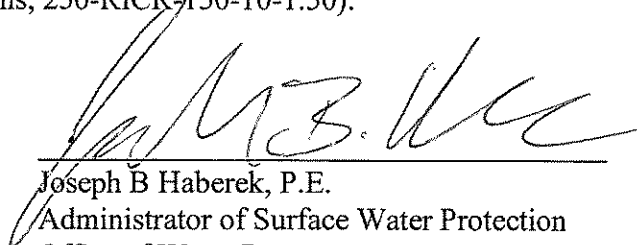
If, during the public comment period, significant new questions are raised concerning the permit, DEM may require a new draft permit or fact sheet or may reopen the public comment period. A public notice will be issued for any of these actions.

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 under 250-RICR-150-10-1.42 of the Regulations of Rhode Island Pollutant Discharge Elimination System. **The public comment period is from Wednesday, October 12, 2022, to Friday, November 18, 2022.** Commenters may request a longer comment period, if necessary, to provide a reasonable opportunity to comply with these requirements. Comments should be directed to DEM as noted above.

#### **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 Section 1.50 of the Regulations for the Rhode Island Pollutant Discharge Elimination System (RI Code of Regulations; 250-RICR-150-10-1.50).

10/6/2022  
Date

  
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Joseph B Haberek, P.E.  
Administrator of Surface Water Protection  
Office of Water Resources  
Department of Environmental Management