

Minnesota Pollution Control Agency

Municipal Division

Public Notice:

Intent to Issue National Pollutant Discharge Elimination System/State Disposal System General Permit for Small Municipal Separate Storm Sewer Systems (MS4 General Permit) and Request for Public Comments;

Notice of Public Meeting With Regard to the MS4 General Permit; and

Notice of Intent to Establish Interested Persons Mailing List With Regard to Plans Submitted Pursuant to the MS4 General Permit

NOTICE IS HEREBY GIVEN that the Commissioner of the Minnesota Pollution Control Agency (MPCA) intends to reissue the National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) General Permit (MNR040000) (“MS4 General Permit”) under the provisions of Minn. R. 7001.0210, for discharges of stormwater associated with small Municipal Separate Storm Sewer Systems (MS4s). Comments on the proposed permit are requested from affected or interested parties. Comments should be submitted in writing in accordance with the provisions of this notice as stated below.

NOTICE IS ALSO HEREBY GIVEN that the MPCA will host a **public information meeting** to discuss the draft MS4 permit. The meeting will be held on **Thursday, June 21, 2012**, at the MPCA St. Paul office located at 520 Lafayette Road North, St. Paul, Minnesota 55155. The meeting will be held from 1:00 p.m. to 4:00 p.m. or until all attendees have had an opportunity participate, whichever occurs first.

Access to the MPCA St. Paul office is controlled and to attend a meeting you will be asked to sign in at the security desk and provide photo identification, such as a Minnesota driver’s license. The public information meeting will also be webcast; the link to the webcast will be provided on the MPCA webpage at: <http://www.pca.state.mn.us/mvri3cd>. Please note that the webcast is not interactive; you will be able to view the meeting only. The meeting will not be rescheduled in the event that the webcast video and/or audio stream fails.

This public notice is for issuance of a revised draft NPDES/SDS General Permit for small MS4s (MNR040000). The MPCA first published a request for comments on the draft MS4 General Permit in the *State Register* on May 31, 2011. The MPCA received multiple requests to extend the public comment period on the draft permit, and subsequently extended the public notice comment period until August 29, 2011. The MPCA reviewed and considered all comments received, and held four large group stakeholder meetings to discuss proposed concepts for revisions to the draft permit to address key permit issues identified in the comments. Because substantial changes were made to the draft MS4 General Permit, the MPCA decided to re-publish the MS4 General Permit for additional public comment.

The MPCA has revised the MS4 General Permit to meet federal and state requirements for impaired waters, including new requirements for impaired waters covered by a U.S. Environmental Protection Agency (USEPA) approved Total Maximum Daily Load (or TMDL). The draft MS4 General Permit also includes revised requirements for MS4 mapping, illicit discharge detection and elimination, construction stormwater erosion and sediment control, and post-construction stormwater management. Stakeholder input received at the four large group meetings referenced above also resulted in changes.

Persons who submitted comments under the prior public notice and comment period are not required to re-comment on this revised permit but may do so if they desire. The MPCA will consider all comments submitted to be part of the public record. The MPCA received a contested case hearing request during the prior public comment period. The MPCA will consider that contested case hearing request following the close of this public comment period, to the extent that the requestor does not modify or withdraw that request as the result of changes made to the MS4 General Permit as published today.

NOTICE IS ALSO HEREBY GIVEN that the MPCA intends to establish an e-mail list for the purpose of providing notification to persons interested in receiving notice of Stormwater Pollution Prevention Programs (SWPPPs) documents submitted pursuant to the MS4 General Permit. Persons on this e-mail list will have an opportunity to request a contested case hearing on the individual SWPPPs proposed by persons seeking coverage under the MS4 General Permit. Persons who would like to receive notice of the MS4 SWPPP documents should submit their name and a contact e-mail address in accordance with the provisions of this public notice.

Persons on the e-mail list will be notified via e-mail of the specific dates when each MS4 General Permit SWPPP document or group of SWPPP documents is public noticed. The MS4 General Permit SWPPP documents on public notice will appear on the MPCA website listed below. NOTE: All MS4 permittees will automatically receive e-mail notification of all MS4 public notice dates for MS4 SWPPP documents.

To request to be placed on the e-mail list for public notice of the MS4 General Permit SWPPP documents, please send an e-mail with your name, complete e-mailing address, and telephone number to: MS4PermitProgram.PCA@state.mn.us. If you wish to be notified by U.S. Mail of the SWPPP public notice please submit a letter with your name, complete mailing address, and telephone number to:

Minnesota Pollution Control Agency
Municipal Division – 4th Floor
MS4 Stormwater Permit Program
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

A list of the public notice dates, and the locations where paper copies of the proposed SWPPP document will be available for public review, will be posted on the MPCA website at: <http://www.pca.state.mn.us/bkzqa7d>. This website also contains additional information about the process for public notice of the SWPPP document including requirements for MS4s.

Public Comment

In addition to the June 21, 2012, public informational meeting, there are three formal procedures for public participation in the MPCA's consideration of the permit reissuance. Interested persons may: (1) submit written comments on the draft permit; (2) request that the MPCA hold a contested case hearing; and/or (3) submit a petition to the Commissioner requesting that the MPCA Citizens' Board (Board) consider the permit matter.

The public comment period begins: May 21, 2012

The public comment period ends: July 23, 2012

Interested persons are invited to submit written comments on the draft permit. Any comments received before 4:30 p.m. on the last day of the comment period (see above) will be considered before the draft permit is finalized.

Comments on the draft permit should include the following information, pursuant to Minn. R. 7001.0110:

1. A statement of the person's interest in the draft permit.
2. A statement of the action the person would like the MPCA to take, including specific references to sections in the draft permit; and
3. The reasons supporting the person's position, stated with sufficient specificity as to allow the Commissioner to investigate the merits of the person's position.

Any person may submit a petition for a contested case hearing before the end of the public comment period. A contested case hearing is a formal evidentiary hearing before an administrative law judge. In accordance with Minn. R. 7001.1900, the MPCA will grant a petition to hold a contested case hearing if it finds that: (1) there is a material issue of fact in dispute concerning the draft permit; (2) the MPCA has the jurisdiction to make a determination on the disputed material issue of fact; and (3) there is a reasonable basis underlying the disputed material issue of fact or facts such that the holding of the contested case hearing would allow the introduction of information that would aid the MPCA in resolving the disputed facts in making a final decision on the draft permit. A material issue of fact means a fact question, as distinguished from a policy question, whose resolution could have a direct bearing on a final MPCA decision. A petition for a contested case hearing must include the following information: (1) a statement of reasons or proposed findings supporting the MPCA decision to hold a contested case hearing according to the criteria in Minn. R. 7000.1900, as discussed above; and (2) a statement of the issues proposed to be addressed by a contested case hearing and the specific relief requested or resolution of the matter.

Any person may request that the permit be considered by the MPCA Board prior to final permit action, in accordance with Minn. Stat. § 116.02, subd. 6, and Minn. R. 7000.0650. The public is entitled, and welcome, to participate in the activities of the MPCA Board and MPCA staff.

The decision whether to issue the permit and, if so, under what terms, will be presented to the MPCA Board for a decision if: (1) the Commissioner grants the petition requesting the matter

be presented to the MPCA Board: (2) an MPCA Board member requests to hear the matter prior to the time the Commissioner makes a final decision on the permit: or (3) a request for a contested case is received. Because there is a pending contested case hearing, this matter will likely be heard at the MPCA Board unless the request is withdrawn before the MPCA Board meeting at which the matter will be heard.

The draft permit and permit fact sheet are available for review at the MPCA St. Paul office located at 520 Lafayette Road North, St. Paul, Minnesota 55155, during regular business hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, and at the MPCA regional offices. Location information for the regional offices is available on the MPCA webpage at: <http://www.pca.state.mn.us/iryp3e4>. You may also view a copy of the draft permit and fact sheet at the MPCA website at: <http://www.pca.state.mn.us/aj0ra7a>.

A free copy of the draft permit and permit fact sheet is also available upon request by calling Wendy Gardner-Pritchard at 651-757-2090 or 1-800-657-3864, or for users of Telecommunications Device for the Deaf, call 651-282-5332. Only one copy will be sent per request.

Comments on the draft permit must be received in writing during the public comment period identified above. Comments, petitions, and/or requests should be mailed or e-mailed to:

Duane Duncanson
Minnesota Pollution Control Agency
Municipal Division
Stormwater Policy and Technical Assistance Unit
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

Mr. Duncanson may be contacted concerning comments or questions regarding the draft permit at 651-757-2323 or 1-800-657-3864, or by e-mail at: duane.duncanson@state.mn.us

The following constitutes additional information on the NPDES/SDS General Permit for Small Municipal Separate Storm Sewer Systems (or MS4s)

This notice and permit are issued under the following authorities: Section 402, Clean Water Act, as amended, Minn. Stat. Chapters 115 and 116, as amended, and Minn. R. chs. 7001 and 7090.

The authority to develop and issue a general permit is based on the 1979 USEPA revisions to the NPDES Program regulations 40 CFR § 122.28 which created a class of permits called general permits. General permits are issued by the MPCA in the State under Minn. Stat. 115 and Minn. R. 7001.0210. General permits can be issued in states with NPDES authority if the state program includes general permit authority from the USEPA. MPCA's general permit program was approved by the USEPA on December 15, 1987. This general permit is based in part on

federal requirements in 40 CFR § 122.26, and state requirements in Minn. R. 7001.0210 and Minn. R. ch. 7090.

The previous/existing NPDES/SDS General Permit for small MS4s was issued in 2006 for the period June 1, 2006, to May 31, 2011. This general permit is proposed to replace the existing NPDES/SDS General Permit (MN040000) and provides a mechanism to regulate discharges of stormwater from small MS4s. Like the previous permit, this general permit will require the permittee to develop and implement a SWPPP that, if properly designed, reduces the discharge of pollutants from their storm sewer system to the maximum extent practicable, protects water quality, and satisfies the appropriate water quality requirements of the Clean Water Act. The SWPPP must include best management practices for six minimum control measures that are set forth in the NPDES Program regulations 40 CFR. § 122.34 (a) and (b).

This general permit will provide coverage for approximately 235 regulated small MS4s in the State, and additional small MS4s which may be designated in the future by the MPCA under Minn. R. ch. 7090. To obtain coverage under the proposed permit all current regulated small MS4s are required to submit a complete application in accordance with the schedule identified in the reissued NPDES/SDS General Permit (MN040000). Any additional designated small MS4s will be required to submit an application by the date specified in the MPCA Commissioner's designation determination.