

Minnesota Pollution Control Agency

Municipal Division

Notice of Availability and Request for Comments on Draft Section 401 Water Quality Certification for the Proposed Re-issuance of GP-001-MN by the St. Paul District of the U.S. Army Corps of Engineers

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA), pursuant to *Minnesota Rules* 7001.1440, requests comments on its draft Clean Water Act (CWA) Section 401 Water Quality Certification (401 Certification) for the proposed re-issuance of GP-001-MN by the St. Paul District of the United States Army Corps of Engineers (USACE). The MPCA is proposing to issue a 401 Certification to the applicant, the St. Paul District of the United States Army Corps of Engineers, 180 East Fifth Street, Suite 700, St. Paul, Minnesota 55101, for projects within the State of Minnesota that qualify for coverage under GP-001-MN.

The proposed GP-001-MN would be valid for five years and would replace the existing GP-001-MN, which was issued on May 15, 2007, and expired on May 15, 2012. As further identified within it, the proposed GP-001-MN would authorize certain activities in waters and wetlands regulated by the Minnesota Department of Natural Resources that are considered similar in nature and those that are anticipated to have minimal adverse environmental effects, individually or cumulatively, on the aquatic environment. Before the USACE can re-issue GP-001-MN, a 401 Certification is required from the State of Minnesota to ensure that projects that qualify for GP-001-MN will comply with applicable state water quality standards. The USACE Regulatory Office has furnished the MPCA with a copy of the draft GP-001-MN, which the USACE included in their Public Notice on April 5, 2012.

Interested persons are invited to submit written comments upon the MPCA's Draft 401 Certification for the project. **The public comment period begins on Monday, June 11, 2012, and ends at 4:30 p.m. on Tuesday July 10, 2012.**

Preliminary Determination on the Draft CWA Section 401 Water Quality Certification

The MPCA Commissioner has made a preliminary determination to issue a 401 Certification for GP-001-MN, a draft of which has been prepared, to the USACE. A copy of the draft 401 Certification is available for review and copying at the MPCA office at the St. Paul address listed below and on-line at <http://www.pca.state.mn.us/news/data/index.cfm?PN=1>.

Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155

A copy of the draft 401 Certification will be mailed to you if the MPCA receives your written or oral request at this office. If you have questions about this draft 401 Certification or the Commissioner's preliminary determination, please contact Judy Mader at 651-757-2544 or by e-mail at judy.mader@state.mn.us.

Written Comment

You may submit written comments on the conditions of the draft 401 Certification or on the Commissioner's preliminary determination. Written comments must include the following:

1. A statement of your interest in the MPCA's draft 401 Certification for the USACE's re-issuance of its GP-001-MN
2. A statement of the action you wish the MPCA to take, including specific references to sections of the draft Certification that you believe should be changed
3. The reasons supporting your position, stated with sufficient specificity as to allow the Commissioner to investigate the merits of your position

Petition for Public Informational Meeting

You also may request that the MPCA Commissioner hold a public informational meeting. A public informational meeting is an informal meeting that the MPCA may hold to solicit public comment and statements on matters before the MPCA, and to help clarify and resolve issues.

A petition requesting a public informational meeting must include the following information:

1. A statement identifying the matter of concern
2. The information required under items 1 through 3 of "Written Comments," identified above
3. A statement of the reasons the MPCA should hold a public informational meeting
4. The issues that you would like the MPCA to address at the public informational meeting

Petition for Contested Case Hearing

You also may submit a petition for a contested case hearing. A contested case hearing is a formal evidentiary hearing before an administrative law judge. In accordance with *Minnesota Rules* 7000.1900, 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 Certification; (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 Certification. 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 *Minnesota Rule* 7000.1900, as discussed above
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

In addition and to the extent known, a petition for a contested case hearing should also include the following information:

1. A proposed list of prospective witnesses to be called, including experts, with a brief description of proposed testimony or summary of evidence to be presented at a contested case hearing
2. A proposed list of publications, references, or studies to be introduced and relied upon at a contested case hearing
3. An estimate of time required for you to present the matter at a contested case hearing

MPCA Decision

You may submit a petition to the Commissioner requesting that the MPCA Citizens' Board (Board) consider the 401 Certification. To be considered timely, the petition must be received by the MPCA by 4:30 p.m. on the date the public comment period ends. Under the provisions of *Minnesota Statute* 116.02, subd. 6(4), the decision whether to issue the Certification and, if so, under what terms will be presented to the Board for decision if: (1) the Commissioner grants the petition requesting the matter be presented to the Board; (2) one or more Board members request to hear the matter before the time the Commissioner makes a final decision on the Certification; or (3) a timely request for a contested case hearing is pending. You may participate in the activities of the Board as provided in *Minnesota Rule* 7000.0650.


The written comments, requests, and petitions submitted on or before the last day of the comment period will be considered in the final decision on this Certification. If the MPCA does not receive written comments, requests, or petitions during the public comment period, MPCA staff, as authorized by the Board, will make the final decision on the draft Certification.

Comments, requests and petitions should be submitted in writing to: Judy Mader, SP-4, Municipal Division, Minnesota Pollution Control Agency, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194; Fax: 651-297-8683 and e-mail: judy.mader@state.mn.us.

If you have questions regarding this Notice, please contact Judy Mader at 651 757-2544 or by e-mail at judy.mader@state.mn.us.

Dated

6/4/2012



John Linc Stine
Commissioner