

Minnesota Pollution Control Agency

Municipal Division

Notice and Request for Comments on the Certification of General permit (RGP-003-MN)

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) requests comments on the existing certification of United State Army Corps of Engineers (USACE) general permit RGP-003-MN. On January 30, 2012, the MPCA certified additional state conditions in general permit RGP-003-MN. A number of parties have asked the MPCA to amend the 401 Certification. The MPCA has agreed to consider public comment and make amendments as appropriate.

Interested persons are invited to submit written comments on the MPCA's existing certification of general permit RGP-003-MN. **The public comment period begins on Monday, June 18, 2012, and ends at 4:30 p.m. on Thursday, August 2, 2012.** If the comments received by the MPCA are significant, the MPCA will consider amending the permit to reflect the comments.

Preliminary determination on the existing certification of general permit RGP-003-MN

The MPCA Commissioner has made a determination to amend based on public comment on the existing certification of general permit RGP-003-MN USACE. A copy of the existing 401 Certification and 404 permit is available for review on the USACE website:

<http://www.mvp.usace.army.mil/docs/regulatory/special%20notices/RGP-003-MN%202011002988PN1.pdf> or at the MPCA St. Paul office located at 520 Lafayette Road North, St. Paul, Minnesota 55155.

A copy of the existing certification of general permit RGP-003-MN including the state 401 Certification will be mailed to you if the MPCA receives your written or oral request. If you have questions about this draft existing certification of general permit RGP-003-MN, please contact Jim Brist at 651-757-2245 or jim.brist@state.mn.us.

Written Comment

You may submit written comments on the existing certification of general permit RGP-003-MN. Written comments must include the following:

1. A statement of your interest in the MPCA's existing certification of general permit RGP-003-MN
2. A statement of the action you wish the MPCA to take, including specific references to sections existing certification of general permit RGP-003-MN 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 may also 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 Rule 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 existing certification of general permit RGP-003-MN; (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 existing certification of general permit RGP-003-MN. 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 401 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 401 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 existing certification of general permit RGP-003-MN.

Comments, requests, and petitions should be submitted in writing to:

Jim Brist
Municipal Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-4194
Fax: 651-297-8676
e-mail: jim.brist@state.mn.us

If you have questions regarding this notice, please contact Jim Brist.

Dated: _____

John Linc Stine, Commissioner
Minnesota Pollution Control Agency