

401 Water Quality Certification for Line 3

Enbridge Energy Limited Partnership (Enbridge) is proposing to construct a new 36-inch-diameter underground oil pipeline and associated facilities across northern Minnesota, (known as the Line 3 replacement pipeline project, or Line 3 project), in order to replace operation of Enbridge's existing Line 3 pipeline. This fact sheet describes the 401 Certification process and draft 401 Certification for the project.

401 Certification process

Section 401 of the Clean Water Act (CWA) allows states to review certain federal permits or projects to determine if authorized activities will comply with applicable state water quality standards. These standards are set by states in order to identify and prescribe the conditions that must exist in order to protect beneficial uses, such as drinking water, healthy aquatic communities, or fishing and swimming, in state waters.

A federal agency cannot issue a permit or approve a project until the state has either certified that the project will comply with water quality standards or waived its review. In certifying a project, a state may impose certain conditions to protect water quality, which are then incorporated into the federal permit or authorization.

The MPCA follows the general process below for processing 401 Certification requests.



Draft 401 Certification for the Line 3 project

In 2018, Enbridge first submitted a request for CWA 401 Water Quality Certification of the project to the Minnesota Pollution Control Agency (MPCA). The MPCA denied Enbridge's initial request for 401 Certification in September 2019. In November 2019, Enbridge updated its request and supporting information.

Why does Enbridge need a 401 Certification?

To construct the new pipeline and associated facilities, Enbridge proposes to cross and discharge dredged and fill material into waters of the United States, including Minnesota wetlands and streams. The project will need a CWA Section 404 permit from the U.S. Army Corps of Engineers before any of these activities can occur. The 404 permit triggers the need for an MPCA-issued 401 Certification.

What's in the draft 401 Certification?

The MPCA's draft 401 Certification provides a brief description of the proposed Line 3 Project and location, and indicates the agency's decision to propose certification of the project, with a number of conditions. With the inclusion of these conditions, the MPCA provides its preliminary determination that the project will be conducted in a manner that will not violate state water quality standards.

Project information

The pipeline route extends from the Red River of the north near Mattson, Minnesota, to the Minnesota/Wisconsin border near Wrenshall, Minnesota. The pipeline will span approximately 355 miles and cross portions of the following Minnesota counties:

Kittson, Marshall, Pennington, Polk, Red Lake, Clearwater, Hubbard, Wadena, Cass, Crow Wing, Aitkin, St. Louis, and Carlton.

In constructing the pipeline and associated facilities, Enbridge proposes to cross 212 streams, temporarily impact 730.10 acres of wetland, permanently convert 212.37 acres of wetland to a different wetland type, and permanently fill 5.52 acres of wetland.

Draft 401 Certification conditions

The MPCA proposes to certify the project, with several conditions addressing:

Compliance with additional permits and final plans/specifications: Proposed conditions require compliance with the MPCA's construction stormwater and industrial wastewater permits for the project (if issued) and identify a number of plans which further specify construction and environmental protection activities and requirements. Compliance with these plans, final versions of which the MPCA must approve prior to project construction, is a requirement of the 401 Certification.

Construction and crossing methods: Proposed conditions specify the manner in which project construction must occur. They include conditions requiring identification/flagging of construction area limits to protect resources *not* authorized for impact; limits on the length of open trench work at any one time; limits on materials and chemicals that may be used during construction; crossing methodology plans for waterbodies affected by the project; and requirements for best management practices for work in wetlands.

Protections for impaired waters and seasonal restrictions: Conditions identify impaired waters along the project and specify crossing methodologies for each. Conditions also identify seasonal work restrictions to protect wild rice waters and wetlands, as well as to address horizontal directional drilling work in waters.

Compensatory mitigation: Proposed conditions require mitigation to compensate for the project's physical impacts to streams and wetlands, and identify the methodology for calculating mitigation requirements. Enbridge will mitigate for stream impacts via a monetary payment used to fund stream restoration work in watersheds impacted by the project. Enbridge will mitigate for wetland impacts through the use of wetland mitigation bank credits.

Post-construction requirements: Proposed conditions address monitoring to ensure successful restoration of temporary construction impacts to streams and wetlands, and include requirements addressing oil spill prevention and monitoring as well as a prohibition on discharge of oil into waters of the state.

General requirements: These include conditions regarding communication with and oversight of project contractors, project inspection access, as well as general requirements that the MPCA is required by rule to incorporate into a 401 Certification.

Line 3 project overview map

