



US Army Corps
of Engineers
St Paul District

Public Notice

ISSUED: September 3, 2015

EXPIRES: October 5, 2015

PROPOSAL TO MODIFY REGIONAL GENERAL PERMIT RGP-003-MN

REFER TO: MVP-2011-02988

1. PURPOSE AND BACKGROUND

The purpose of this notice is to request public comments on the St. Paul District's (District) proposal to make three modifications to RGP-003-MN.

In light of the pending issuance of the District's RGP-004-MN, a general permit that would authorize certain activities associated with public road projects in Minnesota, modifications to two transportation related categories in RGP-003-MN would eliminate unnecessary redundancy for certain types of activities, improve clarity with respect to the appropriate permit vehicle for authorization, and simplify the eligibility criteria for road authorities. The 30-day public notice period for RGP-004-MN ended on May 13, 2015.

If a decision is made to issue RGP-004-MN, the District proposes to modify two transportation related categories in RGP-003-MN. If a decision is made to not issue RGP-004-MN, the proposed modifications to RGP-003-MN would be abandoned. The proposed modifications to RGP-003-MN are as follows:

- 1) Activity L. Linear Transportation Activities. The first paragraph of this category would be revised to read:

“Discharges of dredged or fill material in waters of the United States or work in Section 10 waters required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, and taxiways). The discharge into waters of the United States cannot exceed 0.5 acre of total permanent impacts or 500 linear feet of permanent impacts to a tributary at a single location. The width of the crossing must be limited to the minimum necessary for the actual crossing and shall be culverted, bridged, or otherwise designed to prevent the restriction of and withstand the expected high flows, prevent the restriction of low flows, provide for the movement of organisms, and the natural transport of sediment. This RGP category cannot be used to authorize non-linear features that may be associated with transportation projects, such as maintenance buildings, parking lots, or aircraft hangars. This RGP category also cannot be used to authorize discharges associated with the maintenance, reconstruction, expansion, modification, or improvement of existing public road systems undertaken by public road authorities (such discharges will be evaluated pursuant to RGP-004-MN).”

The second paragraph of Activity L would remain unchanged. The main change in the first paragraph of Activity L is to exclude activities that would be more comprehensively authorized under RGP-004-MN, namely the maintenance, reconstruction, expansion, modification or improvement of existing public roads by public road authorities. Restricting the use of Activity L for public road authorities would eliminate redundancy with RGP-004-MN, which will provide more expansive authorization for the maintenance, reconstruction, expansion, modification, or improvement of existing public roads. Public road authorities would still be eligible to use RGP-003-MN to authorize the construction of new roads.

- 2) Activity P. Maintenance of Existing Public Roads. This category would be revoked in its entirety. The purpose of revoking this category is to eliminate redundancy and reduce confusion since discharges associated with the maintenance of existing public roads would be authorized under RGP-004-MN or existing RGP-003-MN, Activity A (Maintenance Activities).

The District also proposes the following change to RGP-003-MN:

- 3) On Page 1 of RGP-003-MN under the heading “Activities Specifically Excluded From RGP-003-MN”, there is an exclusion for projects that would permanently alter more than 500 linear feet of a natural watercourse in a single location. The District proposes to remove this exclusion for projects eligible for authorization under Activity I and Activity Q. The language would be modified as follows:

“Would permanently alter over 500 linear feet of a natural watercourse in a single location through channelization, diversion, or filling. Note: This exclusion does not apply to projects where the permanent alteration would have an overall beneficial effect on the aquatic ecosystem associated with discharges proposed under Activities I (Stream and Wetland Restoration, Enhancement or Establishment Activities) or Q (Compensatory Mitigation Bank Construction).”

The change would allow impacts that would be beneficial to the aquatic ecosystem to be authorized under RGP-003-MN rather than requiring an individual permit review for such projects.

2. REPLIES/COMMENTS

Interested parties are invited to submit to this office written facts, arguments, or objections within 30 days of the date of this notice. These statements should bear upon the suitability and adequacy of the proposal and should, if appropriate, suggest any changes believed to be desirable.

Replies may be addressed to Regulatory Branch, ATTN: Sarah Wingert, St. Paul District, Corps of Engineers, 180 Fifth Street East, Suite 700, Saint Paul, MN 55101-1678.

Or, if you have questions about this project, contact Sarah Wingert in the St. Paul District office via email at Sarah.E.Wingert@usace.army.mil.

To receive Public Notices by e-mail, go to the St. Paul District web page at http://mvp-extstp.mvp.usace.army.mil/list_server/ and sign up by clicking on “Email Notification of Public Notices” on the left side of the website under “Notices”.

3. FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT

This proposal is being coordinated with the U.S. Fish and Wildlife Service (FWS). Any comments FWS may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

4. JURISDICTION

The proposed general permit would authorize the discharge of dredged and fill material in waters of the U.S. under Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act (RHA).

5. STATE SECTION 401 WATER QUALITY CERTIFICATION

Valid Section 404 permits cannot be issued for any activity unless state water quality certification (WQC) is granted or waived pursuant to Section 401 of the CWA. The state Section 401 authority in Minnesota is the Minnesota Pollution Control Agency (MPCA). The MPCA has issued 401 WQC for RGP-003-MN. The District does not anticipate that changes to the existing 401 WQC are required since the proposed modifications result only in either limiting activities eligible for authorization, or expanding activities eligible for authorization that would have overall beneficial effects on the aquatic environment. This public notice serves as the MPCA's public notice of the application for Section 401 WQC under Minnesota Rules Part 7001 if any changes are required. Any comments relative to MPCA's 401 WQC of RGP described in this public notice may be sent to: Minnesota Pollution Control Agency, Regional Environmental Management Division, Attention: Catherine Neuschler, 520 Lafayette Road North, 3rd Floor, St. Paul, Minnesota 55155-41946. If you have questions about the Section 401 water quality certification for this regional general permit, contact Catherine Neuschler of the MPCA via email at catherine.neuschler@state.mn.us.

6. HISTORICAL/ARCHAEOLOGICAL

This public notice is being sent to the National Park Service, the State Archaeologist, and the State Historic Preservation Officer for comment. Implementation of this proposal would not affect the Districts' responsibility to ensure that all Section 404 and Section 10 authorizations comply with Section 106 of the National Historic Preservation Act. Unknown archaeological, scientific, or historical data could be lost or destroyed by the work authorized by RGP-003-MN. However, the general permit does not authorize any work that would affect known resources, and projects are individually reviewed to minimize any potential for adverse impacts to resources.

7. PUBLIC HEARING REQUESTS

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this proposal. Requests for public hearings shall state, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

8. PUBLIC INTEREST REVIEW

The decision whether to issue this permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.

FOR THE DISTRICT ENGINEER:

Chad Konickson
Chief, Regulatory Branch (Acting)