Mining Permits Joint Priority

October 1, 2016 – September 30, 2020
(FFY 2017 – 2020)

Objective: To address regulatory and communication issues and facilitate timely completion of NPDES permit actions for metallic mining projects in Minnesota that will address outstanding environmental issues, eliminate permit backlog, and issue permit decisions for existing and new mining operations.

Statement of Problem/Issue: Water quality permits for the metallic mining sector are critical to the protection of surface waters. These permits are often associated with economic development, are under increased public scrutiny, and involve complex permitting and water quality situations. As a result, NPDES permits for the metallic mining sector have a higher than average reissuance backlog and permit decisions for new or expending facilities are often delayed. EPA and MPCA had previously established a joint priority on metallic mining which was focused on reducing the permit backlog in the mining sector. MPCA reports that the current regulatory environment makes it difficult to propose new or renewed permit actions that will survive administrative procedures and become successful final actions. NPDES permit actions for metallic mining operations are affected by water quality standards and the need to address impacts to downstream waters regulated by other state/tribal governments.

Scope: Minnesota's Class 3 and Class 4 water quality standard revisions (including wild rice), numeric interpretation of aquatic life standard, and NPDES permits for new, expanding and existing metallic mining operations in Minnesota.

Strategy: The metallic mining joint priority will include a focused effort on development and review of Minnesota revised Class 3 and Class 4 water standards and an implementation strategy for a chloride water quality standard (including a discussion on use of a numeric interpretation of the narrative aquatic life standard). It will also include identification and prioritization of metallic mining permit issuance, and improvements to the permitting process to assure timely NPDES permit decisions consistent with CWA requirements and elimination of the permit backlog. EPA and MPCA agree to approach interactions constructively and well prepared, minimize surprises and focus on joint problem solving.

Actions to be accomplished or Progress Update:

1. Update Minnesota's Class 3 and Class 4 water quality standards.
    a. MPCA provides information to USEPA throughout the rulemaking process;
    b. MPCA completes state rulemaking process by January 1, 2018; and
    c. USEPA completes timely review and has a goal of providing a decision within 90 days of receiving the complete rule package, including the Attorney General certification, from the state.

    Responsible Staff: Catherine Neuschler, MPCA and Linda Holst, USEPA

2. Evaluate the need for a numeric interpretation of the narrative aquatic life standard (including a discussion on use of conductivity)
    a. MPCA and USEPA agree on an approach for developing the evaluation.
    b. MPCA prepares a draft evaluation and submits to USEPA for comment.
    c. USEPA provides timely comments.
    d. MPCA finalizes action plan, if needed, and begins implementing.

Responsible Staff: Catherine Neuschler, MPCA; and Linda Holst and Kevin Pierard, USEPA

3. Conduct tribal community consultations.
    a. USEPA will follow it existing Tribal Consultation SOP for work conducted under this joint priority.

4. Provide resources, as available, to complete permitting and certification analyses to assure timely decisions for the metallic mining sector, including copper/nickel mining proposals (e.g. Polymet).
   Responsible Staff: Ann Foss, Jeff Stollenwerk, MPCA and Kevin Pierard, Peter Swenson USEPA
    a. Use the MOA as a guiding document

5. Identify annual permit issuance/reissuance priorities and timelines by October 1 of each year.
   Responsible Staff: Jeff Stollenwerk, MPCA and Kevin Pierard, USEPA

6. In the event of adoption of new water quality standards MPCA will make necessary adjustments to permitting procedures and permit review checklists used in the State's permit issuance process.

Joint Priority Responsibilities:

1. MPCA and USEPA R5 participate in quarterly calls for updates, information exchanges and problem solving on all joint priority actions. EPA R5 will invite EPA HQ staff to participate in quarterly calls for updates.
   Staff Responsible to Schedule: Jeff Stollenwerk, MPCA; and Kevin Pierard and Linda Holst, USEPA
   Staff Responsible to Participate: All involved in Actions above.

2. As process impediments are identified EPA and MPCA agree to evaluate and resolve the impediment within a fixed period of time, which will be identified and agreed upon. If an impediment is not resolved in the established period it will be elevated to the Assistant Commissioner (MPCA) and Water Division Director (EPA) level for resolution.

3. Annually review metallic mining permit issuance/reissuance priorities and timelines to track progress in addressing the permit backlog.
   Responsible Staff: Jeff Stollenwerk, MPCA and Kevin Pierard, USEPA

Joint Priority Guiding Principles:

1. Approach each interaction focused on problem-solving
2. Constructive Communications - Advance discussions followed up by formal letters or emails outlining planned actions, including steps for issue resolution.
3. Come prepared for interactions

Additional information:

Contacts for both agencies (names, phone#s and e-mails)
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USEPA