

New York State Department of Environmental Conservation
Division of Environmental Permits, Region 8
6274 East Avon-Lima Road, Avon, New York 14414-9519
Phone: (585) 226-2466 - FAX: (585) 226-2830
Website: www.dec.state.ny.us



NYSDEC Memorandum

Re: Meeting Summary
RG&E Ginna Facility 401 Certification Requirements for NRC Renewal
Meeting Date: September 12, 2002

To: Attendees
NYSDEC RG&E Ginna Group (by email)

From: Kim Merchant *KAMerchant*

Date: September 17, 2002

Discussion:

Department staff discussed the 401 Water Quality Certification regulatory requirement as it related to the NRC License Renewal. The 401 Certification authority was provided to the States under a congressional action which is the Clean Water Act. The 401 Certification is tied to the federal license. The NRC's GEIS considers the NPDES delegated permit to be a De Facto 401 Certification (or incorporated into the NPDES permit), however, New York State does not. Although an applicant can apply for a 401 Certification and another permit at the same time, using the Joint Application for Permit Form, the two approvals are different in jurisdiction and scope. The Department does not consider the application process for the SPDES permit and the 401 Certification to be redundant. Nor does the Department wish to relinquish Congressionally granted statutory authority to contribute a water quality certificate to the NRC license renewal process. A 401 Certification Permit Profile is attached for additional information pertaining to this regulatory requirement.

RG&E asked whether the 401 Certification would be a Type I, unlisted or TII action under SEQR. Staff indicated that the NEPA process will be controlling in this instance, not SEQRA.

RG&E said that the current SPDES permit could be considered an up to date 401 Certification and asked what would be different between the two items. In this case, the 401 Certification would state that the renewal of the Ginna license by the NRC for 20 years would not contravene the state's water quality standards. Therefore, the Department is required to look at the NRC License application and determine if the facility, over the next 20 years, would contravene standards. The Department must take into account any proposed changes to the facility such as refurbishments or changes in fuel type over this time period. In the case of Ginna, the facility is not proposing any changes to the facility. Therefore, in Ginna's case, the 401 Certification may not have any additional requirements than the SPDES permit.

The Department indicated that the 401 Certification application should consist of 1) a Joint Application for Permit Form, 2) the application to the NRC for renewal, 3) a brief status report and update on the 401

Certification issued in 1974 as it relates to the current SPDES permit and water quality standards. The status report should also include new items of relevance which were not included in the 1974 Certification such as zebra mussel control and Best Management Practices (BMPs) including storm water. Following receipt and review of the application, staff may require clarification or additional information on the NRC application, in order to process the 401 Certification. Staff have received the NRC application but have not completed a review or developed comments. We plan to do so in the near future.

Staff asked whether it would be helpful to add future maintenance activities to the 401 Certification to achieve efficiencies later on. RG&E indicated that this might add confusion and preferred to handle future activities on an as needed basis. Future activities requiring activity-specific 401 Certification would likely require other DEC permits as well. Therefore, efficiencies would not be gained by adding these activities to the pending 401 Certification.

Staff indicated that we would have up to a year to make a decision on the 401 Certification. Therefore, the receipt of the Joint Application for Permit Form would begin the time clock. Staff indicated that the Department will notify NRC of the receipt of the 401 Certification application and of the regulatory schedule (K. Merchant agreed to send a date stamped copy of the application to the NRC). This submittal to NRC will also suggest Department/NRC staff meeting attendees and times associated with the upcoming public scoping sessions on November 6, 2002.

Department staff indicated that the issuance of the 401 Certification would likely be consistent with the NRC license schedule. DEC indicated it will coordinate with the NRC on information requests, inquiries and public notices to the extent consistent with DEC regulations and policies.

Staff indicated that a public notice of the proposed 401 Certification would likely be required. Staff agreed to craft the public notice such that the public would not be confused by the different notices, including the SPDES permit modification notice and the NRC public scoping meeting notices.

Staff asked RG&E if NRC would provide a draft license prior to final issuance. RG&E staff did not think so. They thought the draft Safety Evaluation Report (SER) would be the basis for the renewal issuance.

RG&E staff will provide an estimated schedule for the relicense of the Ginna facility. RG&E agreed to provide the Joint Application for Permit form and a brief status report and update on the 1974 401 Certification as discussed.

Follow-Up:

Please contact Kim Merchant if you have any questions or comments on this meeting summary.

Attendees:

Bob Bergen, Corporate Counsel, RG&E
Paul Sawyko, RG&E
Dennis Money, RG&E
George Wrobel, RG&E
John Prill, RG&E
Carla Logan, CNS
Kim Merchant, Permits
Lenore Kuwik, Permits
Bill Little, Legal
David Persson, DOW

Enclosure: 401 Certification Profile