

Environmental Permitting

Minnesota Pollution Control Agency's Semi-annual Permitting Efficiency Report



Legislative Charge

Minn. Stat. § 116.03, subd. 2b.

Report to Legislature

The commissioner shall prepare semi-annual permitting efficiency reports that include statistics on meeting the goal in paragraph (a). The reports are due February 1st and August 1st each year. For permit applications that have not met the goal, the report must state the reasons for not meeting the goal. In stating the reasons for not meeting the goal, the commissioner shall separately identify delays caused by the responsiveness of the proposer, lack of staff, scientific or technical disagreements, or the level of public engagement. The report must specify the number of days from initial submission of the application to the day of determination that the application is complete. The report for August 1 each year must aggregate the data for the year and assess whether program or system changes are necessary to achieve the goal. The report must be posted on the department's website and submitted to the governor and the chairs and ranking minority members of the House of Representatives and Senate committees having jurisdiction over natural resources policy and finance.

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Minnesota Pollution Control Agency

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Executive Summary

The mission of the Minnesota Pollution Control Agency (MPCA) is to protect and improve the environment and enhance human health. One of our most important jobs is to issue timely air, water, and land permits to Minnesota businesses, governmental units, and individuals. The requirements of these environmental permits are mandated by federal and/or state regulations and are subject to a rigorous public participation process.

The MPCA typically receives between 3,000 and 5,000 permit applications each year. To support jobs and economic development in the state and enhance overall environmental protection, the MPCA's policy is to work on applications for construction projects first. These "priority" projects typically require a new permit or significant modification of an existing permit. They are often the most technically complex and potentially controversial projects. The remaining projects are generally routine permit re-issuances that do not require substantive changes or involve construction and, therefore, are typically less time-sensitive to permittees. Permittees covered under these existing permits are allowed to continue to operate until such time as MPCA staff can be assigned to work on their permit reissuance.

Since the Permitting Efficiency Law went into effect on March 4, 2011, the MPCA has been collecting the specific permitting data required by the law for use in the semi-annual reports (due August 1st and February 1st of each year). Table 1 below summarizes permitting data only for the current review period, as required by law. Table 2 summarizes data going back to March 4, 2011, and is intended to provide a broader perspective. This is particularly important with the understanding that permits are typically issued for periods of at least five years – sometimes longer. As such, many of the process improvements implemented by the MPCA today may not be evident for several years. It is, therefore, challenging to draw conclusions about the overall improvement of the MPCA's permitting programs based on a short-term "snap shot." Shorter time periods are also more likely to be influenced by such factors as changing or unresolved federal regulations and the economy - making it difficult to compare one review period to the next. Working with Minnesotans, the MPCA continues to make day-to-day changes with the goal of providing measureable, consistent, long-term improvements.

Table 1: Summary for permit applications received July 1, 2013, through December 31, 2013

Permit Type	Apps Rcvd	Apps withdrawn	Apps Returned	Complete Apps	Total Issued	Issued <=150	Issued >150	Pending Apps	Pending <=150	Pending >150
Non-Priority	338	24	31	283	121	117	4	162	146	16
Priority	1049	3	2	1044	1008	1007	1	36	33	3
Total	1387	27	33	1327	1129	1124	5	198	179	19

Priority (i.e. construction) applications issued permits within 150 days – 99% (1007 out of 1011)
 Total applications (priority and non-priority) issued permits within 150 days – 98% (1124 out of 1148)

Table 2: Summary for permit applications received March 4, 2011, through December 31, 2013

Permit Type	Apps Rcvd	Apps Withdrawn	Apps Returned	Complete Apps	Total Issued	Issued <=150	Issued >150	Pending Apps	Pending <=150	Pending >150
Non-Priority	2732	171	305	2256	1625	1089	536	631	145	486
Priority	5996	42	66	5888	5799	5709	90	89	33	56
Total	8728	213	371	8144	7424	6798	626	720	178	542

Priority (i.e. construction) applications issued permits within 150 days – 97% (5709 out of 5855)
 Total applications (priority and non-priority) issued permits within 150 days – 85% (6798 out of 7966)

When calculating the percent issued within 150 days for this and future reports the number of pending permits not issued and in house for less than 150 days at the time of the report production are not included. In past years these pending permits have been included and counted as permits not meeting the 150 days goal, despite many of them eventually being completed within 150 days. We began using this methodology in the August 1, 2013 report.

While the MPCA is pleased with the overall results, especially the ability to continue issuing more than 90 percent of priority (construction) permits within the 150 day goal, there is certainly more to be done. Full implementation will take time and continued commitment by all parties involved. Working with our partners, including, permittees, consultants, citizens, and other local, state and federal agencies, we expect to improve on the timeliness of our permits while ensuring the continued protection of human health and the environment.

Background

This report is the result of concerns expressed about the overall length and uncertainty associated with regulatory processes, including both environmental review and permitting. In 2010, the Legislature directed the Office of the Legislative Auditor (OLA) to review the environmental review and permitting programs of the Environmental Quality Board, the MPCA, the Minnesota Department of Natural Resources (MDNR) and local units of government.* A range of businesses and elected officials suggested that the structure and process of permitting at that time was negatively impacting the business climate and economic growth in Minnesota. Permitting and environmental review process reform was identified by those raising concerns as an important step for Minnesota state government to facilitate job creation in the state.

To address these concerns, Governor Dayton issued Executive Order 11-4 (EO11-04) on January 24, 2011. The EO requires MPCA and MDNR to adopt a 150-day goal for reaching a permit decision following the determination by the appropriate agency that the permit application is complete. This same goal is reiterated in Session Laws 2011, Chapter 4, which was codified in Minn. Stat. § 116.03 except that the law requires that the 150-day goal begins upon the initial submission of an application instead of when the application is determined to be complete. This law is referred to as the Permitting Efficiency Law, and requires, among other things, the MPCA to determine, within 30 business days of receipt of a permit application, whether the application is substantially complete, and to inform the applicant of the deficiencies if the application is incomplete. The Permitting Efficiency Law also requires the MPCA and the MDNR to submit semi-annual reports to the Governor and the Legislature on August 1st and February 1st of each year.

*The OLA report, including findings and recommendations can be found at:

<http://www.auditor.leg.state.mn.us/ped/2011/envir.htm>.

MPCA's Environmental Permitting Programs

The MPCA manages more than 15,000 air, water, and land permits. These permits are typically issued for a period of five years and cover a wide range of facilities and activities. Permits are required for the construction and operation of facilities that discharge or emit (or have the potential to discharge or emit) specifically defined pollutants and for certain activities.

To manage this volume of permitting work successfully, the MPCA strives to balance our mission to protect, and improve the environment with our commitment to support jobs and economic development in the state. We strike this balance with a policy of working on applications for construction projects first. These priority projects typically require a new permit or the significant modification of an existing permit. As such, these are often the most technically complex and controversial projects. The remaining projects are generally routine permit re-issuances that do not require substantive changes or involve construction and, therefore, are typically less time-sensitive to permittees. Permittees covered under these existing permits are allowed to continue to operate until such time as MPCA staff can be assigned to work on their permit reissuance.

With few exceptions, the MPCA almost exclusively implements federal regulatory programs on behalf of the U.S. Environmental Protection Agency (EPA), as its delegated authority. Without this delegation, many of the current permittees we serve and new applicants would be required to seek necessary permits directly from the EPA, Region 5, based in Chicago. While many of the requirements of these environmental permits are mandated by federal regulations, state laws and the MPCA's permitting processes often allow for increased flexibility and customer assistance, which results in greater overall efficiency than what would otherwise be achieved by working directly with the EPA.

However, regardless of whether the permit is authorized under federal or state laws, most permits must undergo a rigorous public participation process to ensure that interested parties (from citizens to other governmental units) have an opportunity to provide input. This process requires a public notice of the draft permit – usually 30 days – and may include public meetings or hearings. The MPCA must review, consider and respond to all written comments received and revise draft permits, where appropriate. While this public participation process often provides valuable public insight to the final permit, it may also add time to the permit review and issuance process.

To reduce time when possible, the MPCA uses a variety of permits to provide flexibility as well as to meet the needs of the regulated community. The use of general and registration permits allows the MPCA to cover similar facilities under a standardized permit. For most general permits, there is only one state-wide public notice period and, therefore, applicants that qualify do not need a public notice for their specific facility. Facilities that qualify for a general permit typically receive their permit much faster than those needing an individual (facility-specific) permit.

Types of permits that the MPCA issues include:

Air permits – Individual, general, and registration permits for facilities that emit defined air pollutants such as particulate matter, sulfur and nitrogen compounds, and carbon monoxide. Permitted facilities include power plants, refineries, manufacturing plants, and dry cleaners.

Water permits – Individual and general permits for facilities that discharge pollutants such as treated sewage, sediment, residual chlorine, and phosphorus to surface and groundwaters of the state. Permitted facilities include animal feedlots, municipal and industrial wastewater treatment facilities, stormwater conveyance systems from construction projects, industrial sites and municipalities, and extensions of sewer systems.

Land permits – Individual and general permits for facility operation to prevent or minimize the release of pollutants such as landfill leachate, oil, gas, and other hazardous materials. Permitted facilities include municipal and industrial waste transfer stations and landfills, facilities that have below and above-ground storage tanks, and hazardous waste storage and treatment facilities.

Improvement Efforts

The MPCA is in an important phase of developing data management systems that:

- Improve business operation efficiency by lessening the need for paper transactions.
- Create flexibility to more readily allow the integration of new technologies.
- Improve access to quality data for partners and citizens.

The major effort — the Transformation Project — focuses on the information management systems that support the MPCA's environmental programs.

As the MPCA moves to a new information management system, there is an opportunity to increase the number of online services offered from about nine to more than 20. The first set of nine new services should be available for use in the winter of 2014. A second set of five services will go online in the summer of 2015.

The MPCA is also using this as an opportunity to standardize its business functions. For example, the MPCA currently has 13 permitting programs, each with its own process for obtaining a permit. By mapping out each of the processes, staff members are seeking ways to standardize the process to improve efficiency and provide more transparent service delivery to applicants. By standardizing business practices and providing more online services, the MPCA hopes be able to provide faster and more efficient service to the parties it permits, regulates and partners with.

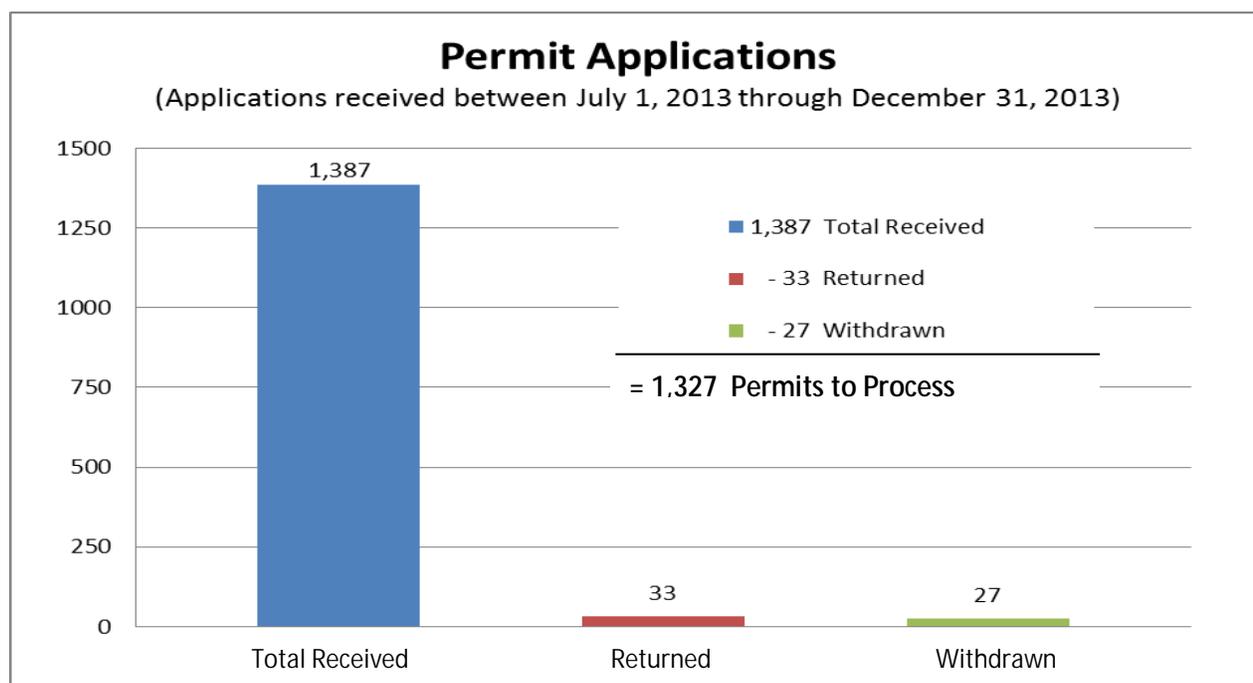
In addition, the MPCA's updated system will allow the MPCA to combine information currently stored in several databases. This will reduce the staff time needed to maintain these various databases, as well as allow staff to get a more complete picture of all the activities occurring at a site or facility.

Data and Graphs

This section highlights the major findings for the reporting period from July 1, 2013, through December 31, 2013:

Permit applications

During this reporting period, the MPCA received 1,387 permit applications. Of these, 27 were withdrawn at the applicant's requests, and 33 were returned to the applicant due to administrative incompleteness or technical deficiencies. This resulted in a pool of 1,327 viable permit applications to process.

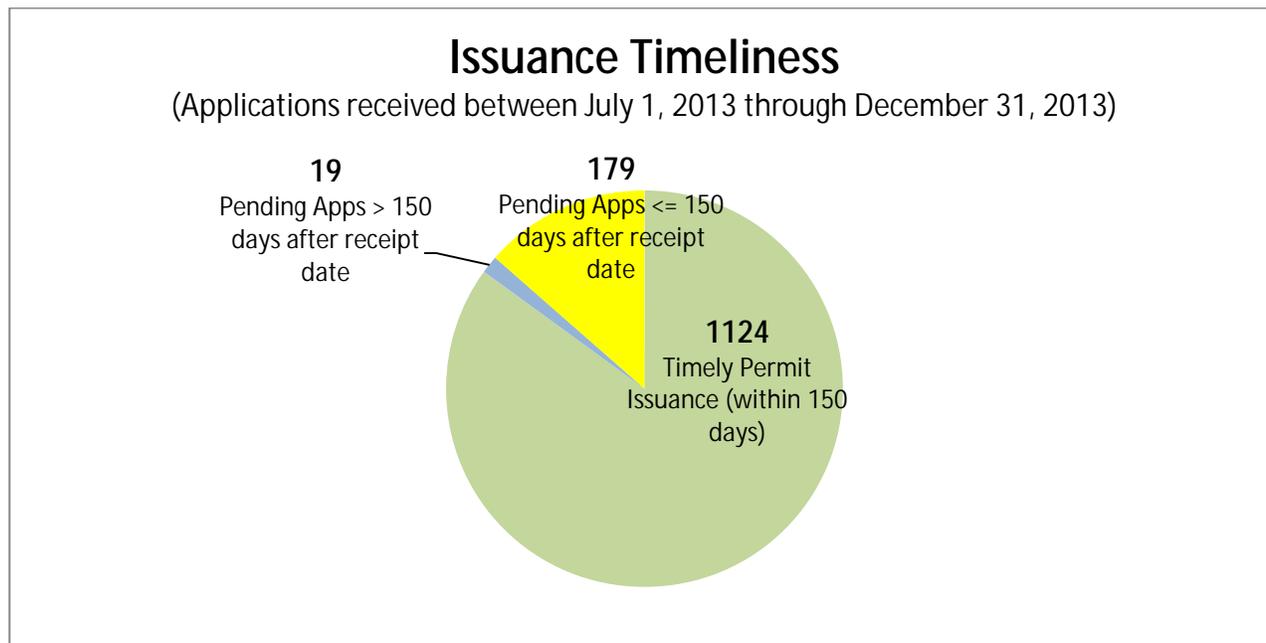


Media	Priority	Non-Priority	Combined
Total (All Media)	1049	338	1387
Water	1030	224	1254
Air	17	91	108
Land	2	23	25

Note: Priority applications are construction-focused, and typically represent new or expanded projects. Non-priority applications do not involve construction and typically include routine reissuances.

Report Period End Application Status

After accounting for the withdrawn and returned applications, the MPCA had 1,327 permit applications to process during this reporting period. Of these applications, 1,129 applications were issued a permit – 1,124 of these were issued within 150 days of application receipt. The remaining pending applications fall within the timeliness categories as follows: 150 days or less = 179 applications, More than 150 days = 19.



Timely Permit Issuance (Applications Issued a Permit in 150 days or less)			
Media	Non-Priority	Priority	Total
Total	117	1007	1124
Air	21	1	22
Land	3	1	4
Water	93	1005	1098
Pending Applications 150 days or less after MPCA Receipt Date			
Media	Non-Priority	Priority	Total
Total	146	33	179
Air	36	9	45
Land	15	1	16
Water	95	23	118
Pending Applications over 150 days after MPCA Receipt Date			
Media	Non-Priority	Priority	Total
Total	16	3	19
Air	5	1	6
Land	5		5
Water	6	2	8

Appendix A

(Projects over 150 days and reason for delay)

Media	Permit Type	Preferred ID	Priority	Facility Name	County	City	Date Received	Date Issued	DayCount_Cal	Reason for Delay
Air	Air stationary source	13900007	N	Cargill Inc - Port Cargill	Scott	Savage	8/1/2013		152	3
Air	Air stationary source	99000229	N	Central Specialties Inc - Plant 3	Douglas	Alexandria	7/2/2013		182	2
Air	Air stationary source	99000269	N	Central Specialties Inc - Plant 4	Douglas	Alexandria	7/2/2013		182	2
Air	Air stationary source	99000288	N	Central Specialties Inc - Plant 5	Douglas	Alexandria	7/2/2013		182	2
Air	Air stationary source	11100036	N	Perham Resource Recovery Facility	Otter Tail	Perham	7/11/2013		173	2
Air	Air stationary source	03700066	Y	Spectro Alloys Corp	Dakota	Rosemount	7/26/2013		158	2
Air	Air stationary source	04500037	Y	Strongwell - Chatfield Division	Fillmore	Chatfield	7/22/2013	12/31/2013	162	4
Land	Permitted SW Facility	SW-478	N	Boise White Paper LLC - Remote Site 17	Koochiching	Ray	7/18/2013		166	2
Land	Permitted SW Facility	SW-440	N	Crow Wing County Demo Debris Landfill	Crow Wing	Brainerd	8/1/2013		152	4
Land	Permitted SW Facility	SW-337	N	Mahnomen County Demolition Landfill	Mahnomen	Mahnomen	7/19/2013		165	2
Land	Permitted SW Facility	SW-405	N	Saint Louis County Regional Landfill	St. Louis	Virginia	7/8/2013		176	4
Land	Permitted SW Facility	SW-665	N	Scott's Dumpster dba Freedom Tire Recycling	Rock	Luverne	7/10/2013		174	4
Water	General Permit	MNG300386	N	Baie Comeau	St. Louis	Duluth	7/19/2013	12/31/2013	165	6
Water	General Permit	MNG300387	N	Thunder Bay	St. Louis	Duluth	7/19/2013	12/31/2013	165	6
Water	General Permit	MNG300385	N	Whitefish Bay	St. Louis	Duluth	7/19/2013	12/31/2013	165	6
Water	Individual Permit	MN0001929	N	American Crystal Sugar - Crookston	Polk	Crookston	7/17/2013		167	3
Water	Individual Permit	MN0059960	N	Calco of Minneapolis	Hennepin	Minneapolis	7/16/2013		168	4
Water	Individual Permit	MN0052612	N	Erie Pier Processing & Reuse Facility	St. Louis	Duluth	7/30/2013		154	3
Water	Individual Permit	MN0066940	N	Hammond WWTP	Wabasha	Hammond	7/16/2013		168	3
Water	Individual Permit	MN0000809	N	Minneapolis Grain Exchange	Hennepin	Minneapolis	8/2/2013		151	3
Water	Individual Permit	MN0044377	N	MNDOT High Forest Rest Area	Mower	Racine	7/31/2013		153	3
Water	Individual Permit	MN0069183	Y	RV Resort Village at the Preserve	Crow Wing	Pequot Lakes	7/24/2013		160	3
Water	Individual Permit	MN0066354	N	Woods at Eagle Lake WWTP	Sherburne	Big Lake	7/2/2013	12/9/2013	160	3
Water	Sewer Extension Permit	MN0029815	Y	Roseville	Ramsey	St. Paul	7/1/2013		183	4

<u>Delay Code</u>	<u>Delay Description</u>
1*	Unresolved compliance issues
2	Lack of staff
3	No significant external reasons for delay
4*	Waiting for information from permittee
5	Significant public engagement process
6*	Changes in Federal/State regulations or policies
7	Federal/EPA review

*Note: Delay reasons 1, 4 and 6 may involve scientific and technical disagreements.