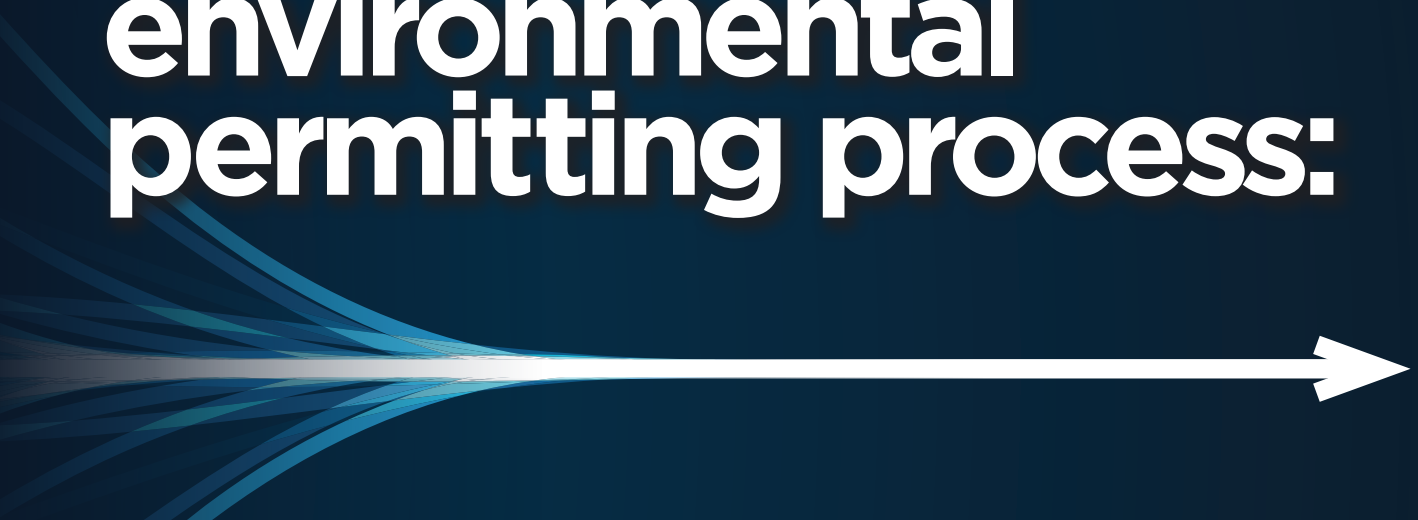
MINNESOTA CHAMBER FOUNDATION

GROWING MINNESOTA

# Streamlining Minnesota's environmental permitting process:



## Essential for economic growth

February 2024


Read the full report at
**mnchamber.com/permitting**

MINNESOTA CHAMBER FOUNDATION

GROWING MINNESOTA

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# Message from the Board Chair

In 2021, the Minnesota Chamber Foundation, a non-partisan research organization, produced its first analysis of Minnesota's economic performance, *Minnesota: 2030*. Minnesota's environmental permitting process was identified as a key barrier to economic growth in that report, but it is not the first time the issue has been highlighted. Minnesota's environmental permitting process has long-been the topic of concern among businesses. It has been the subject of multiple studies over the last three decades, and efforts to streamline the process are an annual occurrence at the legislature.

A recent report by the Minnesota Chamber's Grow Minnesota!® program noted that Minnesota-based

companies are expanding in other states at a higher rate than out-of-state companies are expanding in Minnesota. Addressing Minnesota's uncertain and lengthy permitting process is one solution to help reverse this trend and spur economic growth in our state.

The Minnesota Chamber Foundation's research on Minnesota's environmental permitting system is data-driven, matched by interviews with dozens of companies across the state. It does not focus on Minnesota's regulatory standards. The business community shares the state's strong commitment to protecting our natural resources. The Foundation relied on the expertise of Barr Engineering, along with their partners Policy Navigation Group (PNG) and Squire Patton Boggs to produce a thorough report – with both a scientific and economic analysis – containing more than 30 recommendations.

Addressing Minnesota's uncertain and lengthy permitting process is one solution to help reverse this trend and spur economic growth in our state.

We hope that this report will provide the data and solutions for the business community, labor leaders, agency officials and policymakers to work together to reshape our permitting process to one that can both protect the state's cherished natural resources and produce timely and reliable outcomes for businesses; achieving this goal is one important step to help Minnesota compete in the 21st century.

**Jeff DeYoung**
Chairman of the Board of Directors
Minnesota Chamber Foundation
Baker Tilly US, LLP

## The Minnesota Chamber Foundation

The Minnesota Chamber Foundation is the state's leading private-sector resource on the performance of Minnesota's economy. Its first economic research—*Minnesota: 2030* was released in 2021 as the state was emerging from the pandemic. This flagship report details the state's economic assets and challenges, and provides dozens of recommendations and strategies to accelerate Minnesota's growth leading to 2030.

Additional reports from the Foundation detail the benefits of immigrants to the state's economy; the state of entrepreneurship and consistent updates to our original *Minnesota: 2030* report. Looking ahead, the Foundation will produce a piece on migration trends in Minnesota. Domestic migration and immigration are critical factors that impact the growth of the economy, but are often misrepresented or misunderstood.

The Foundation's work has become a trusted resource for the media, policymakers and business leaders. The data and research help inform business decisions and policy solutions.

The Foundation is also home to a nation-leading workforce diversity, equity and inclusion initiative. Designed to be a practical approach to accommodate all dimensions of diversity across Minnesota, our efforts have gained tremendous momentum with small and mid-size businesses and those located in Greater Minnesota. These companies comprise the majority of Minnesota workers, and business leaders understand both the economic and moral imperative to creating inclusive work environments.

In addition, our partnership with local chambers of commerce through our Business Education Network continues to grow, connecting students to high demand careers in their communities.

To learn more about the Foundation's work, please contact the staff listed on the back of this report.

We welcome your engagement and your investment in our efforts.

# Introduction

Minnesota's renowned quality of life is a function of both its highly developed economy and abundant natural resources. This combination is a unique asset that every new generation of Minnesotans must learn to steward and further cultivate. Its natural amenities and innovative private-sector businesses have made Minnesota a leader across a diverse range of industries, from agriculture and mining to window and snowmobile manufacturing to innovations in energy and water technology.

Yet the state's economic future is at a crossroads. Minnesota's economy remains stable, but its growth has slowed in recent decades and expanded at just half the rate of the U.S. economy so far this decade. Companies continue to make important investments in Minnesota, but the recent national surge in manufacturing construction has largely concentrated in Minnesota's peer states in the Midwest and Southeast regions of the country. The push toward electric vehicles and clean energy has spurred demand for critical supply chains that can enable these transitions. However, mining projects that would supply the production of those goods have stalled amidst regulatory and legal hurdles.

As Minnesota looks at the opportunities and challenges that lie ahead, it must identify ways to spur new investments in its economy while protecting its natural environment. These goals are not mutually exclusive and can serve to reinforce one another.

As Minnesota looks at the opportunities and challenges that lie ahead, it must identify ways to spur new investments in its economy while protecting its natural environment. These goals are not mutually exclusive and can serve to reinforce one another.

Economic development can improve the natural environment through investments in new buildings and equipment that are more efficient than old ones. New or expanded businesses also create social benefits by adding new jobs and tax revenue that contribute to a high quality of life for local communities.

The imperative for policymakers and regulators is to create sound environmental regulations and administer the resulting programs in a way that achieves these dual priorities. This means applying rigorous scientific analysis and community engagement to new projects while providing a transparent and timely path forward for these investments.

The Minnesota Chamber Foundation set out to examine this critical topic, assessing the performance of the state's environmental permitting and review programs and identifying opportunities to increase timeliness and certainty for businesses. The Foundation partnered with Barr Engineering, the Policy Navigation Group (PNG) and Squire Patton Boggs to conduct an in-depth analysis of Minnesota's air, water, wetland and Environmental Review programs, benchmarking Minnesota against peer states in the region and around the U.S.

The following report summarizes the key findings and recommendations from Barr Engineering's full report, which can be viewed online at: mnchamber.com/permitting.

# The economic imperative for permitting reform in Minnesota

## Streamlining Minnesota's permitting programs can boost capital investments to grow the economy and meet future needs.

Economic change presents opportunities and challenges for Minnesota in the years ahead.

Federal priorities to boost domestic supply chains are creating new opportunities in critical minerals and materials, energy and information technologies. Global population growth and a rising middle class in the developing world will increase demand for consumer and industrial goods, from food and medicine to machinery and vehicles. Automation will shape the types of equipment and skill sets needed in the workplace. Rapid shifts in market conditions and consumer preferences are causing firms to pursue greater resiliency, flexibility and speed-to-market in their production.

**A common denominator for all these priorities is that they will require new investments in facilities, equipment and infrastructure to fully meet the opportunities and challenges that lie ahead.**

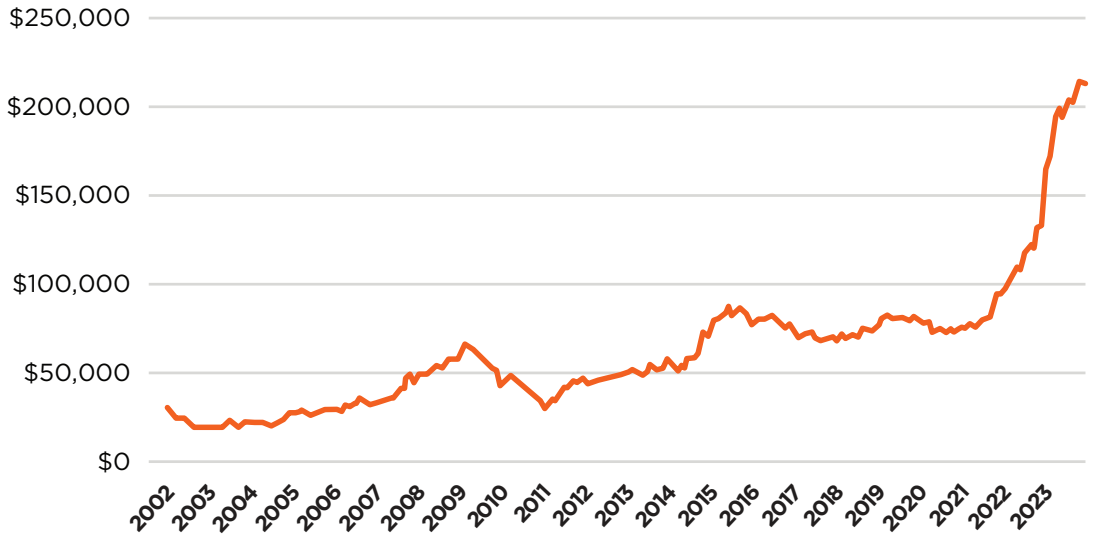
Spurring capital investment could provide a much-needed boost to Minnesota's economy by building and upgrading the physical assets used to produce goods and services. Economic growth in the state is expected to remain sluggish this decade – with real GDP projected to grow at just 1.4% annually through 2030 – as the size of the workforce plateaus. An aging population and slowing labor force growth will require greater productivity gains to grow the economy and help businesses meet consumer demand.

As the Federal Reserve Bank of Dallas states, "The more productive a society is, the higher its standard of living. Two of the major forces behind increases in productivity are increases in the accumulation of capital goods and increases in the quality of human capital."

While this is true in any time and place, the changing economic, social and environmental conditions of the current era make investment in productivity growth more important than ever.

There is promising evidence that such investments are beginning to take shape at the national level. Manufacturing construction spending in the U.S. rose by 40% in 2022 and spiked another 70% in 2023, led in part by multibillion-dollar investments in semiconductor fabrication labs, electric vehicle and battery manufacturing, and energy-related products.

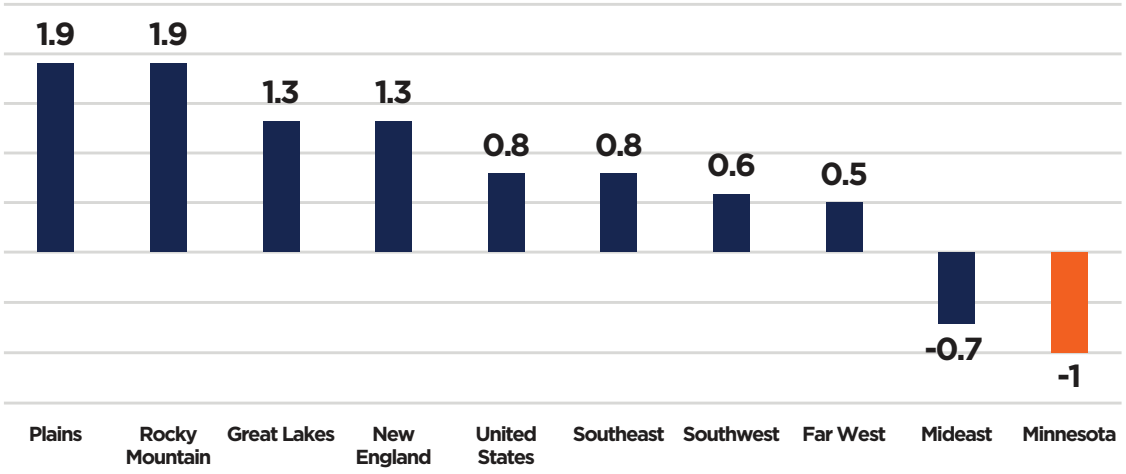
## Total construction spending: Manufacturing in the United States $ millions (seasonally adjusted)




Source: U.S. Census Bureau retrieved from FRED, Federal Reserve Bank of St. Louis

## Minnesota's manufacturing sector ranked 40th in GDP growth from 2019-2022

Change in Real GDP (CAGR): Manufacturing, Minnesota compared to U.S. BEA regions, 2019-2022




Source: Minnesota Chamber analysis of Bureau of Economic Analysis data

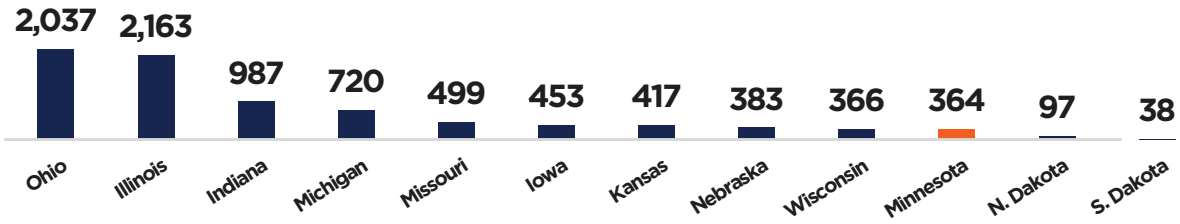
## More expansions are leaving than coming to Minnesota

| 2020-2022 | Expansions from Minnesota-based companies occuring in other states | Expansions from out-of-state companies coming to Minnesota | Projects coming to Minnesota (-) projects leaving Minnesota |
|---|---|---|---|
| **Total projects** | 155 | 101 | -54 |
| **Total jobs created** | 14,364 | 9,835 | -4,529 |
| **Total $ investment** | $10.6 billion | $4 billion | -$6.6 billion |

Source: fDi markets

## Minnesota lags Midwest states in new and expanion projects

Total new and expansion projects (2018-2022)




Source: Site Selection Magazine, Conway Projects Database

Note: Criteria for inclusion on the list is minimum investment of $1 million, creation of 20 or more new jobs or 20,000 square feet or more of new construction.

An interactive online map from the White House shows that private companies have announced $640 billion in new projects across the U.S. since 2021.

These trends pose an opportunity for states to secure investment in high-productivity industries, such as manufacturing, mining, agriculture, life sciences, utilities and other industrial activities.

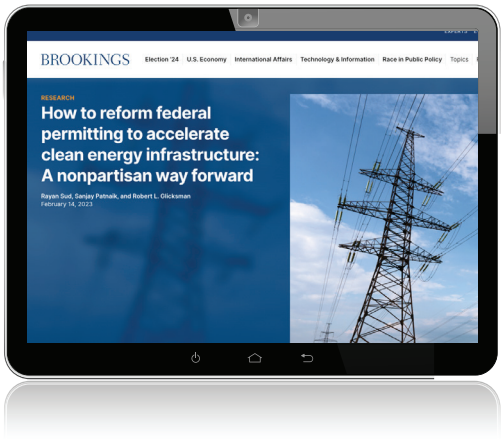
Yet, while Minnesota possesses competitive advantages in many of these industries, the state's recent track record in securing investments has been mixed. Analysis from the Minnesota Chamber's Grow Minnesota!® program shows that Minnesota trailed other midwestern states in new facilities and expansion projects this decade. The state's manufacturing sector ranked 40th in real GDP growth in the first three years of the decade and continued to lag in 2023. Likewise, Minnesota's mining sector ranked 43rd in GDP growth so far this decade, falling well behind other competing iron ore mining states like Michigan.

**There is growing recognition of the need for permitting reform at the national and state levels to free up capital investment in infrastructure, energy and economic development projects.**

As Minnesota looks to further develop its economy, it can start by making it easier for companies who already seek to build and expand in the state. This is where environmental permitting plays a critical role.

Fully capitalizing on the opportunity to spur new investments will require regulatory mechanisms that safeguard human health and the environment while

# Streamlining Minnesota's environmental permitting process:
## Essential for economic growth

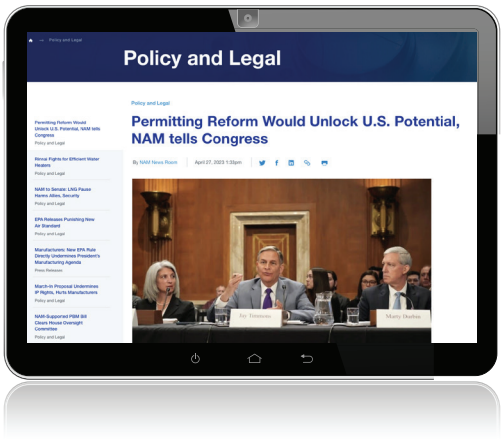



**"Congress should approach federal permitting reform in a way that maximizes efficiency in government decision-making through shorter timelines for regulatory approvals without sacrificing the value of the current process in protecting the environment and local stakeholders."**

— Brookings Institution

**"Ultimately, permitting reform effects every part of the American supply chain—from modernizing energy projects to building new manufacturing facilities."**

— National Association of Manufacturers




also creating a transparent and timely path for new projects to take place.

Local, state and federal governments increasingly recognize the need to streamline environmental permitting processes to balance these priorities.

Efforts to address permitting bottlenecks have taken shape across the country, often crossing partisan and ideological lines. Indeed, the dual commitment to environmental stewardship and economic development is the common ground on which many recent reform efforts have staked a claim.

As Michigan governor Gretchen Whitmer, a Democrat, states in the opening of her 2023 executive summary, "Permitting delays can increase costs and cause uncertainty for communities and businesses. Effective permitting should balance competing economic, environmental and public interest objectives, ensure that essential metrics are met and help projects get done with full confidence."

These core principles are reflected by proponents of national permitting reform efforts as well. Groups of varying interests and ideological stripes identify the need to increase speed and certainty in the permitting process while also applying rigorous scientific analysis and community engagement to projects.

Further, these commitments are clearly stated in Minnesota's permitting policies and past reform efforts. The Minnesota Pollution Control Agency (MPCA) describes its role to "develop innovative, community-centered approaches that protect our natural resources, improve human health and foster strong economic growth." Likewise, Governor Mark Dayton's 2011 executive order to increase permitting efficiency ends its opening list of recitals by stating, "Whereas our regulatory environment must ensure environmental protection and support economic development in the state."

While there is broad agreement on the principles that should guide environmental permitting programs, assessing the degree to which current programs meet these objectives is more difficult.

Businesses and environmental consultants continue

to report delays and uncertainty in the state's permitting process. Several high-profile economic development projects have pulled out of Minnesota in recent years, publicly citing permitting challenges as a primary reason for leaving.

These individual anecdotes show the direct impact that permitting can have on new projects. But they only tell a partial story. A more comprehensive analysis is needed to assess the current performance of Minnesota's permitting system, identifying both the challenges that need to be addressed as well as the strengths that can be built upon.

The Minnesota Chamber Foundation partnered with Barr Engineering, the Policy Navigation Group (PNG) and Squire Patton Boggs to thoroughly examine Minnesota's permitting and environmental review programs. The report answers fundamental questions about how long it takes to get a permit in Minnesota, how Minnesota's programs compare to peer states, how permitting delays impact the economy and how various processes enable or hinder timeliness and certainty for project applicants. Most importantly, the report identifies actionable changes that could streamline Minnesota's environmental review and permitting programs, while maintaining a high standard of environmental stewardship.

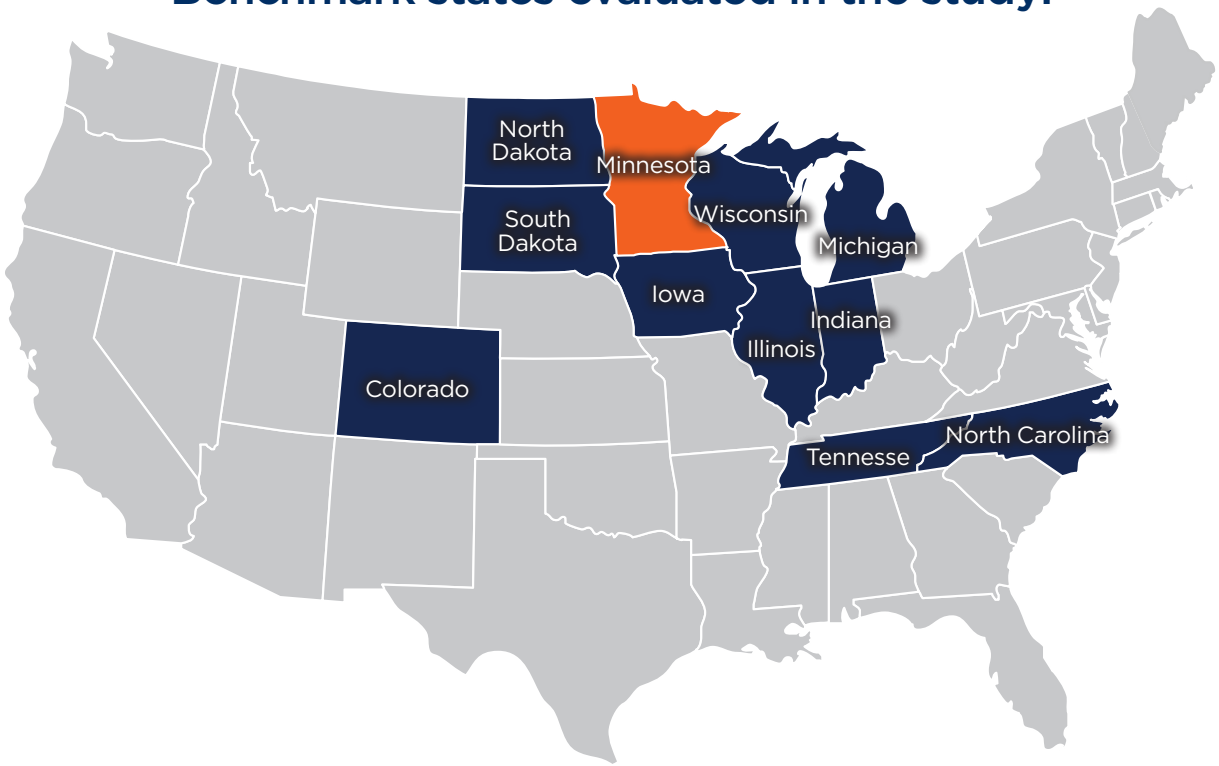
The full report contents include the following:

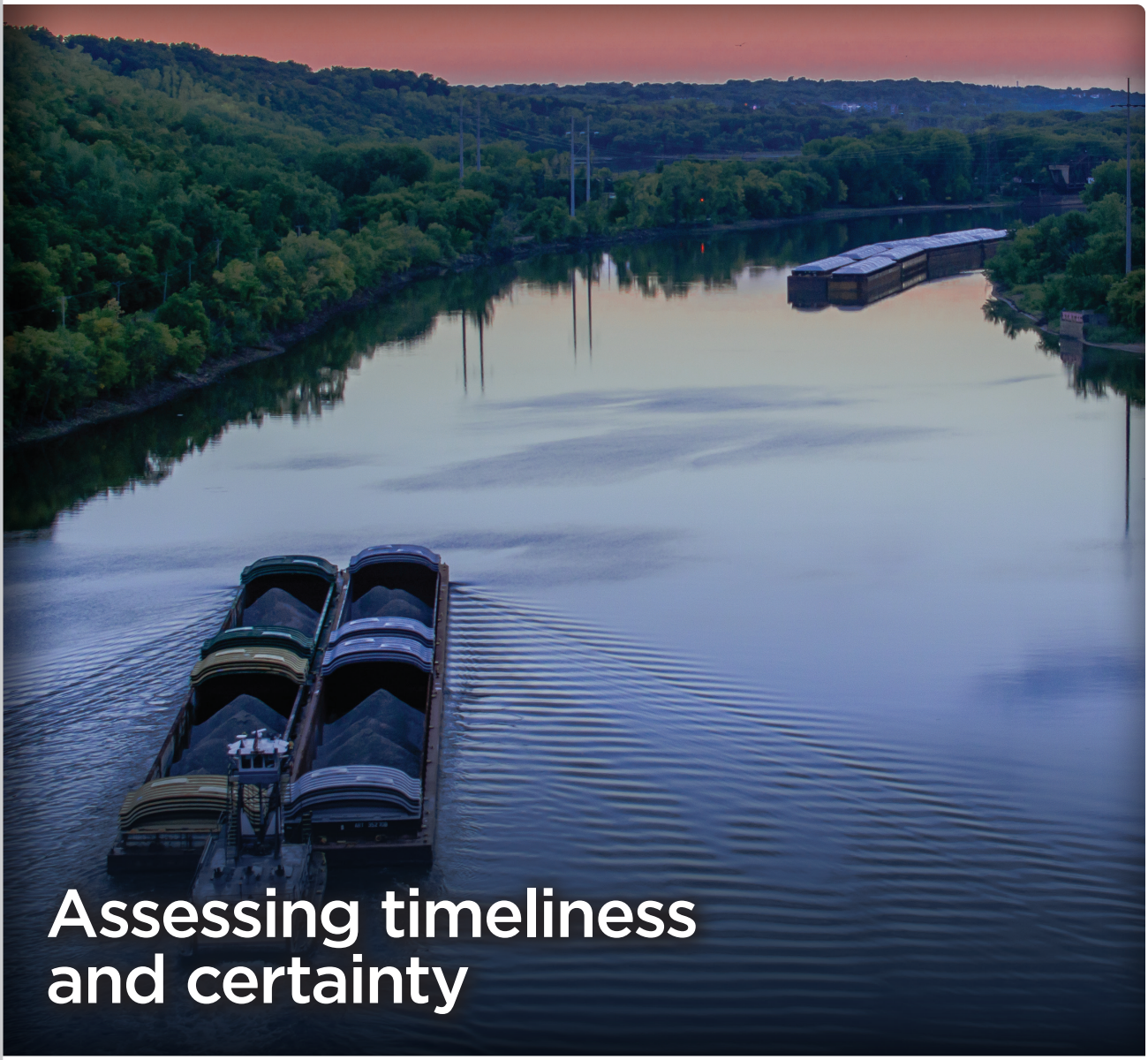
**Literature review** – Summary of prior reports on Minnesota permitting and a review what other states are doing to streamline environmental permitting processes.

**Economic analysis** – Benchmark analysis comparing average timeframes for issuing federal air permits in Minnesota and seven peer states of: Colorado, Illinois, Iowa, North Dakota, North Carolina, Tennessee and Wisconsin (data was unavailable of other benchmark states: Indiana, Michigan and South Dakota).

**Environmental permitting and environmental review programs** – Technical and procedural comparison of Minnesota's environmental processes to ten benchmark states. This section includes analysis of air, water, wetlands and Environmental Review programs.

## Benchmark states evaluated in the study:





# Assessing timeliness and certainty

**Time, cost and certainty matter for business investment.**

The decision to build a new facility or expand an existing one is influenced by a variety of strategic and situational factors. Common to most decisions is the total cost, time and certainty involved with a new capital investment. These three factors are interrelated.

Delaying a project by 6 -12 months not only pushes back production and hiring but also can lead to substantially higher construction and borrowing costs, impacting the total project budget. Additionally, facing an unknown and potentially long time horizon increases uncertainty, making it difficult for businesses to predict and plan their facility and equipment needs with precision. One business interviewed by the Minnesota Chamber Foundation described how lengthy timelines to modify their air permit can hinder flexibility in their operations, forcing them to plan a year ahead of time for what equipment changes they may need.

Alternatively, when companies can predict their project timeline and gain approval in a reasonable

timeframe, it can foster confidence in the firm's decision to invest in a particular location.

**How long does it take businesses to get an air or water permit or go through environmental review in Minnesota?**

Answering this question is complex due to the wide range of permitting programs in Minnesota and the stark differences in typical timeframes across those programs.

To accurately assess the timeliness of Minnesota's permitting programs, a few basic facts need to be acknowledged and understood.

**A wide variety of permit programs**

Minnesota agencies oversee and administer a variety of programs to regulate the potential impacts of facilities on the state's air, water and land. This report analyzes timelines only for air and water permits issued by the MPCA and wetland programs managed by the Department of Natural Resources (DNR) and local governmental units (LGUs) due to data availability and applicability to economic development projects. Additional analysis is provided on Minnesota's state-level environmental review program, which does not issue permits.

Each medium regulated by the MPCA also includes various permit types, ranging from simple registration and general permits to more complex permits that are written to cover the specific activities of an individual facility. In air permitting alone, there are twelve different permits that may apply depending on the facility's emission types and levels.

**Distinguishing between Tier 1 and Tier 2 permits**

Permits issued by the MPCA are split into two tiers, with Tier 1 permits relating to less complex/lower emission facilities and Tier 2 permits relating to more complex and/or higher emission facilities. The standards and process are substantially more rigorous for Tier 2 permits.

The MPCA has a goal to issue Tier 1 permits within 90 days and to issue Tier 2 permits within 150 days.

**Priority and non-priority permits**

The MPCA prioritizes permit applications based on whether the permit is needed for construction to take place at the site. Projects involving construction are deemed "priority" and those not involving construction are deemed "non-priority." This is intended to ensure that projects with the most direct impact on economic development and job creation are issued faster.

**Most permits issued are Tier 1 water permits, skewing aggregate data**

A large majority of permits issued by the MPCA are Tier 1 water permits, such as construction stormwater permits, that are usually issued within days. This means that aggregate measures of all MPCA permits will be overwhelmingly represented by these types and lower the overall statistics on timeliness. The MPCA

## Overview of Minnesota environmental review and permitting programs

"Environmental review and permitting programs exist to contain impacts within reasonable and agreed-on bounds. Before development, the project's overall impact is considered and weighed against its economic and social benefits. As the project is developed, the owners and operators receive permission to emit into the air or discharge into the water at levels informed by federal and local regulations. Those permissions take the form of permits to construct and operate a facility or project. If owners and operators exceed authorized emissions, they are subject to enforcement action and fines. This review, permitting and enforcement process is the backbone of environmental regulation and is consistent across the United States."

**– Barr Engineering**

## How does MPCA prioritize permits?

Air, water and land permits

### Priority or non-priority

- Priority = needing some sort of construction at the site.
- Non-priority = generally routine permit re-issuances that do not require substantive changes or involve construction and, therefore, are typically less time-sensitive to permittees.

### Tier 1 or Tier 2

- **Tier 1 =** Permits that do not require individualized actions or public comment periods; 90-day issuance goal.
- **Tier 2 =** Permits that require individualized actions and public comment periods; 150-day issuance goal.

issues an *Annual Permitting Efficiency Report* that documents timeframes for issuance of air, water and land permits received in the past fiscal year. While useful, this report has limitations that prevent a more complete and accurate assessment of permitting timeframes in Minnesota. These limitations – and some recommended changes to remedy them – are explained further in the full report prepared by Barr Engineering.

**Minnesota typically issues Tier 1 air and water permits in a consistent and timely manner**

An analysis of MPCA data show that the agency routinely issues Tier 1 air and water permits in a timely manner, consistently coming in well under the agency's 90-day goal. This is especially true for "priority" Tier 1 permits that involve construction at the proposed site.

From 2018-2023, the median timeframe to issue priority Tier 1 permits was 29 days. In 2022, the MPCA issued 90% of all Tier 1 permits under its 90-day goal

The efficiency of these permit types provides clear benefits to low-emitting businesses who seek to expand or build a new facility. For example, one Minnesota business that proposed a new light manufacturing facility near the Twin Cities metro submitted its application and was issued a permit to construct and operate its new facility within 20 days. However, these types of permits are often not eligible for larger facilities and expansions.

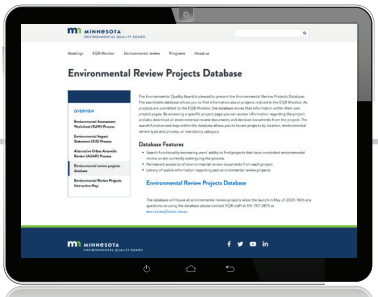
**Larger projects requiring a Tier 2 permit face substantial and persistent delays**

Each year around 20-40 companies require a Tier 2 air permit to authorize a new project at or modification of their current facility. These often represent larger economic development projects, as the size of the project (i.e., facility size, number or size of equipment, production volumes, etc.) tends to result in higher emissions levels that trigger the need for one of the state's Tier 2 permit types. The types of businesses that may need a Tier 2 permit range from pharmaceutical manufacturers and commercial bakeries to ethanol plants and large consumer goods manufacturers.

An analysis of air permits issued by the MPCA since 2018 shows that issuance of Tier 2 permits experience substantial and persistent delays.

The MPCA has a goal of issuing priority Tier 2 permits within 150 days of the agency deeming the application complete. But the average timeframe to issue priority Tier 2 air permits from 2018 to September 2023 was 586 days (nearly four times the agency goal), with the median being 351 days (over two times the agency goal). Further, businesses experienced a wide variance in timeframes, with some permits being issued in as little as 29 days and the longest priority Tier 2 permit taking 3,451 days to issue. This significant variation presents uncertainty to businesses, as the expected timeline to gain approval can range from less than a month to several years.

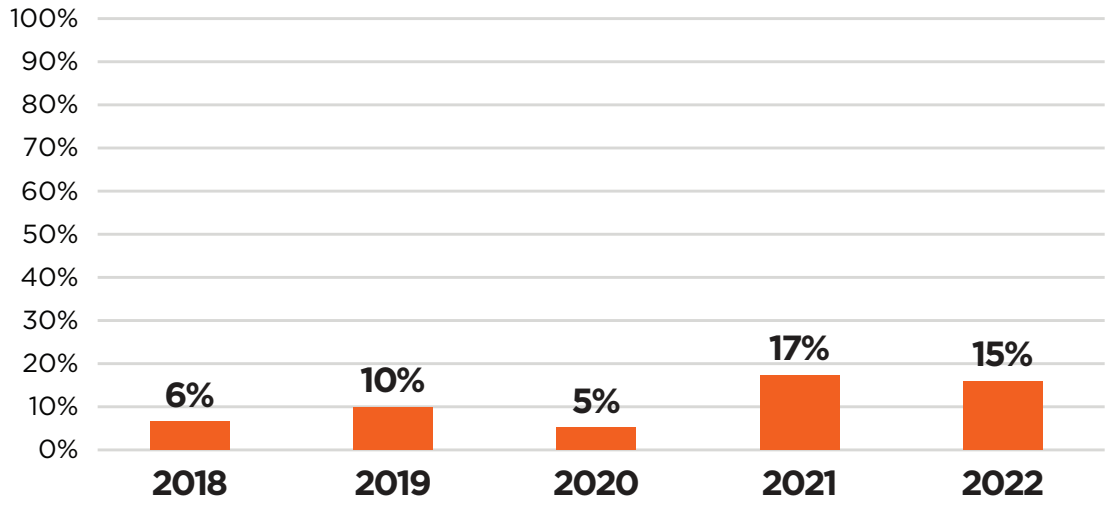
While less frequently requested, Tier 2 industrial water permits face similar delays as Tier 2 air permits. Barr Engineering found that the MPCA issued only 15 industrial National Pollutant Discharge Elimination System (NPDES) and State Disposal System (SDS) water permits since 2018. But of those 15, only three were issued in less than 150 days and those three that met the goal were for minor permit amendments. Issuance of new permits took an average of 476 days and major amendments took an average of 377 days.




**There is no central, publicly available repository for environmental review documents occurring prior to May 2023.** Minnesota's Environmental Quality Board (EQB) launched their Environmental Review Projects Database on its website that allows users to obtain environmental review documents for projects from May 2023 onward. The database does not provide summary statistics regarding timelines for projects to complete environmental review; however, statistics could be generated by manually extracting the information from each individual project listed when there is a more sizable dataset available. In addition, it appears that the EQB and other responsible governmental units (RGUs) do not maintain publicly available data that summarizes the timeline for the RGU to deem an environmental assessment worksheet (EAW) complete. This is an important step in the approval process and timeliness for approval can vary greatly.

## Delays in priority Tier 2 air permits are significant and persistent

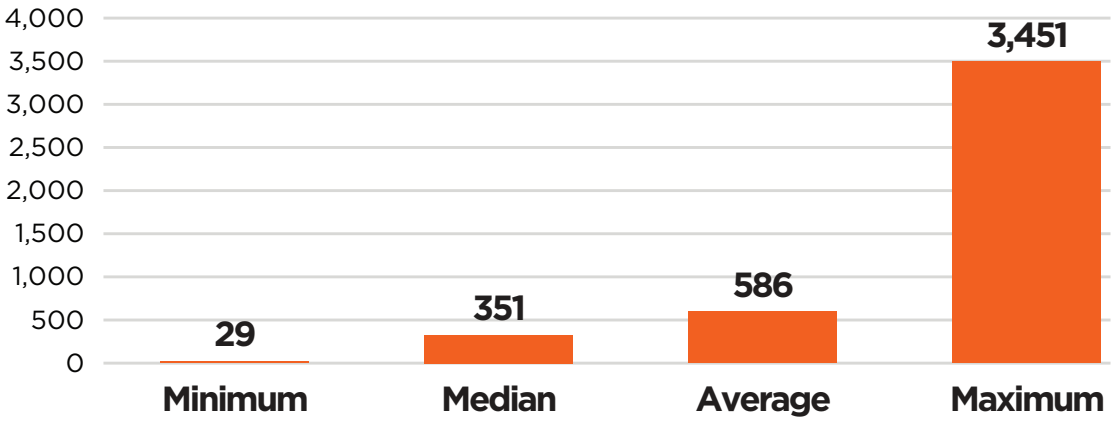
% of priority Tier 2 permits that met the MPCA's 150-day goal




Source: Minnesota Chamber analysis of Minnesota Pollution Control Agency data

## Median timeline to issue priority Tier 2 air permits is 351 days, with the average being 586 days

Number of days to Issue priority Tier 2 air permits in Minnesota: January 2018-September 2023




Source: Minnesota Chamber Foundation analysis of Minnesota Pollution Control Agency data

**"Non-priority" Tier 2 permits can face years-long backlogs**

While permitting timeframes can be significant for companies building or expanding facilities, the typical timelines for projects not involving construction are substantially longer, often taking years for companies to receive a permit renewal or modification.

The MPCA issued 339 non-priority Tier 2 air permits for Minnesota facilities from 2018 to September 2023. The average time frame to issue these permits was 1,295 days, with the median being 887 days. Timelines for Title V permit renewals were among the longest, averaging 1,476 days to issue.

But the average timeframe to issue priority Tier 2 air permits from 2018-2023 was 586 days (nearly 4x the agency goal), with the median being 351 days (over 2x the agency goal).

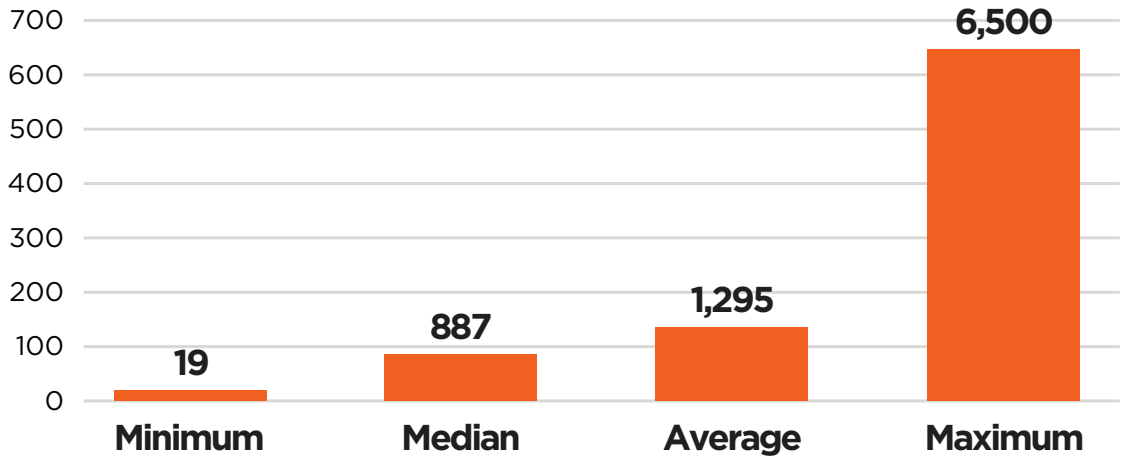
Since non-priority permits don't involve construction activities, they are typically less time-sensitive than priority projects. Additionally, current rules allow businesses to continue operating while they wait for a renewed permit to be issued, which lessens the impact of waiting times. However, excessive delays in non-priority permits can still be problematic for companies who want the assurance of operating under the full compliance of an active and up-to-date permit.

**Projects requiring environmental review face months or years to complete, but lack of data prevents full analysis**

Minnesota is one of twenty states or local jurisdictions that operate their own state-level environmental review programs. Like the National Environmental Policy Act (NEPA), Minnesota's state environmental review program requires a designated governmental unit to gather information on proposed development projects that have the potential for significant environmental effects, and to provide information about the project to the public. These reviews typically occur through an EAW or Environmental Impact Statement (EIS), with the EIS process being reserved for projects with greater potential impacts. These reviews must be completed before the permitting processes begin for environmental permits, adding to project timelines.

## Tier 2 permits that don't involve construction can face years-long backlogs

Number of days to issue non-priority Tier 2 air permits in Minnesota: January 2018-September 2022




Source: Minnesota Chamber analysis of Minnesota Pollution Control Agency data
N = 339

Unfortunately, local and state agencies do not publicly report the time it takes for individual projects to complete these important environmental review processes. This prevents external stakeholders – including policymakers and the public – from tracking the timeliness and performance of these programs.

The MPCA website states that EAW's can take four to six months to complete and an EIS can take one to two years. However, regulatory agencies do not provide public data to confirm how often these timelines are met. Anecdotal evidence and past research from the Office of the Legislative Auditor (OLA) indicates that actual review times are often far longer than current guidelines suggest.

A 2011 report by the OLA, which reviewed a sample of environmental reviews from 2007-2010 found that EAW's took anywhere from 39 days to nearly 800 days to complete. EIS reviews took even longer, with four of six private development projects analyzed in the OLA report exceeding two years. Environmental consultants interviewed by the Minnesota Chamber Foundation noted that timelines for EAW and EIS reviews continue to regularly exceed the agency guidelines, often taking multiple years to complete.

## How do Minnesota's permitting timelines compare to peer states? What is the economic impact of these differences?

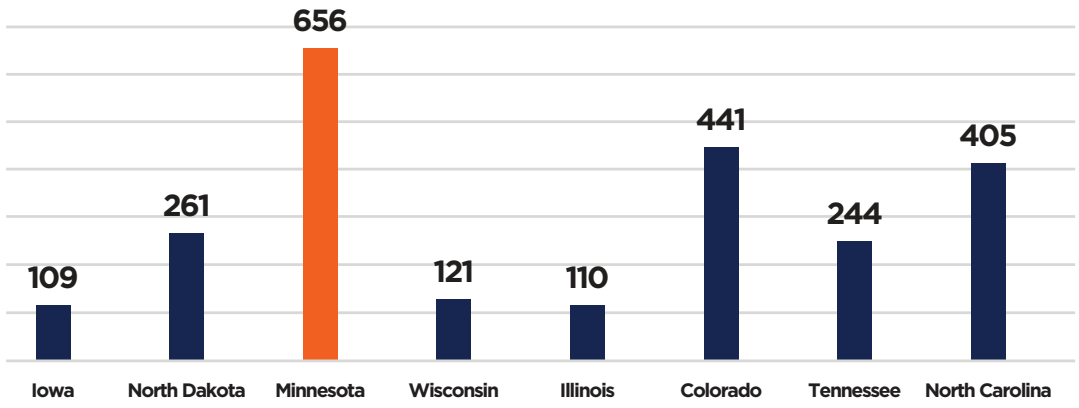
To answer these questions, Policy Navigation Group (PNG) constructed a sample of air permits issued across seven states from 2017-2022, assessing how timelines differ between Minnesota and peer states. The permits included in the analysis were limited to federal air permits — rules for these permits are set by the federal Environmental Protection Agency but administered by state agencies — to provide an "apples-to-apples" comparison since the permit requirements are the same no matter where the facility is located. The only difference is in how each state reviews and processes the permits.

The sample includes only permits "triggered by new facility construction, new capital investments at existing facilities, and other significant changes" and is limited to facilities within certain manufacturing, agriculture and mining industries where Minnesota has a meaningful presence of activity (see full report for a complete methodology).

**Minnesota's air permitting review times are 1.5 to 6 times longer than other states evaluated in this study.** The findings from this analysis provided clear

## Minnesota's review times are 1.5 to 6 times longer than other states evaluated in this study

Average number of days to issue air permit: 2017-2022




Source: Policy Navigation Group

evidence that permit review times in Minnesota far exceeded surrounding states and peer states. Air permits issued in Minnesota took an average 656 days to review, compared to 109 days in Iowa (the state with the lowest average) and 441 days in Colorado (the state with the second-highest average after Minnesota). As summarized by PNG.

Data gathered from Barr Engineering indicate that agency staffing levels are not a likely explanation for differences in review times across states. Other states in this sample issue more permits per year at a faster rate than Minnesota despite having similar or fewer air permitting employees (see full report, sections 5.2.2. and 5.2.3.).

While this analysis includes a limited snapshot of permits issued in selected states, it provides meaningful evidence to understand how other states issue similar permits for large economic development projects.

**Minnesota could achieve meaningful economic gains by reducing air permitting timelines.** Permitting delays have clear economic costs. When a new facility or expansion is delayed, it means fewer days of operation where businesses can produce goods, hire employees, purchase local supplies and services, and add revenue to the local tax base. The accumulation of "missed" days of operation across facilities and over time can add up to impact the state's overall economic output, job creation and wages paid. PNG estimates that Minnesota could gain anywhere between $260 million to $910 million in annual economic output and 960 to 3,400 annual full-time jobs created if the state matched other peers in its air permitting review times for new and expansion projects.

PNG estimates that Minnesota could gain anywhere between $260 million and $910 million in annual economic output and 960 to 3,400 annual full time jobs created if the state matched other peers in air permitting review time.

Notably, this does not include the economic impact of projects that leave Minnesota or never come here at all because of real or perceived permitting challenges. For example, three projects – Huber, Talon Metals and Epitome Energy – which pulled out of Minnesota for other states due to reported permitting challenges – would have resulted in $1.3 billion in capital investments and over 300 jobs created. The PNG analysis, therefore, likely underestimates the total economic impact of the state's current permitting performance.

## What factors influence timelines and certainty in Minnesota's permitting and environmental review processes?

Time matters to businesses in permitting decisions. However, transparency and certainty may be more critical to helping businesses plan new investments. Companies benefit from having clear expectations of what is required of them in the permitting or environmental review process, how long various steps of the process may take and how they can get guidance and updates from agency staff along the way. Findings from Barr Engineering – along with additional insights gleaned by the Minnesota Chamber Foundation in interviews with businesses and environmental consultants – identified numerous areas of Minnesota's permitting process that can create bottlenecks and reduce certainty for capital investment projects.

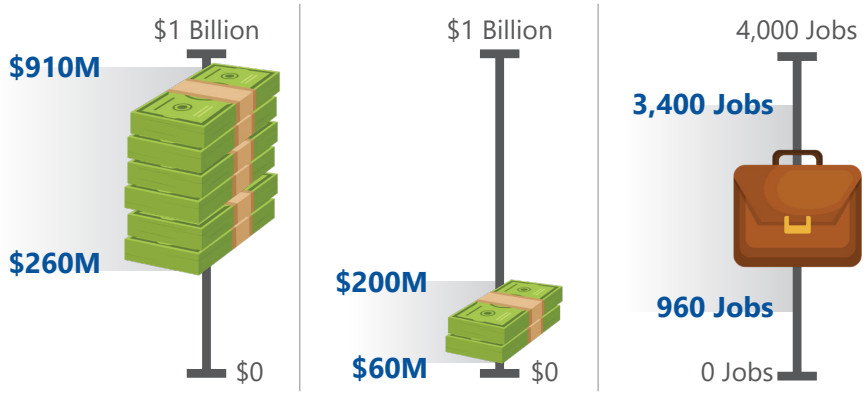
### Issues impacting time and certainty in Minnesota's permitting process

#### Air permitting

**Challenges in the initial application process:** Before work begins on an air permit, the MPCA completes a thorough examination of the company's permit application to determine if it contains all necessary elements for the agency's technical review. Feedback from companies and consultants revealed frustration regarding this process, noting that simple application errors (such as missing information in a field) can cause the agency to reject the entire application, sending the applicant to the back of the queue to start over again. Notably, the agency's 150-day goal for issuing Tier 2 permits does not start until after it deems an application complete. This initial step can add weeks or months to the permitting process, which is not reflected in permitting timeframe data. Other states in the region avoid this problem by either setting a time limit on the administrative review (Wisconsin and Iowa), assigning this task to non-technical staff to check for basic completeness (Michigan) or skipping the step altogether (North Dakota).

# Economic impact of reduced air permit review times (2017-2022)

| Gains if Minnesota's permitting process was similar to: | Economic activity ($ millions/yr) | Household income ($ millions/yr) | Full-time jobs |
|---|---|---|---|
| Colorado | 260 | 60 | 960 |
| Illinois | 910 | 200 | 3,400 |
| Iowa | 800 | 170 | 3,000 |
| North Carolina | 630 | 140 | 2,330 |
| North Dakota | 760 | 160 | 2,800 |
| Tennessee | 540 | 120 | 2,010 |
| Wisconsin | 910 | 200 | 3,400 |




**Delays in assigning a permit writer:** Once the agency deems an application complete, it is assigned to a permit engineer who then begins the technical review process. Data from the MPCA's "Air Permit Applications Received" dashboard shows that the time between the application being deemed complete and getting assigned to a permit engineer can often be more than 150 days. Many Tier 2 air permits exceed the agency's 150-day goal before work even begins on the technical review of the permit. In 2022, the median timeframe that permits awaited assignment was 176 days. In 2023, the median time in the queue was 387 days.

**Lack of a schedule to document permit review milestones and time expectations:** One of the most important factors for businesses is being able to plan and predict what the permitting process will involve and how long the various steps will take. Feedback from permittees and consultants indicated that businesses typically do not receive a schedule at the beginning of the process, leaving them without the ability to plan accordingly.

However, this does not appear to be universal. One business interviewed by the Minnesota Chamber Foundation explained that their permit application was assigned to a permit engineer in less than one month after being received by the MPCA, and agency staff then provided a well-documented timeline and set of steps to help them plan accordingly. The business reported that this up-front knowledge improved their confidence in the process as they moved forward with an expansion at their facility. Programs like Minnesota Business First Stop have also

sought to provide greater support and transparency by facilitating inter-agency meetings and direct communication to the business throughout the process.

**Combining construction and operating permit programs may slow down the process:** Many states issue construction air permits separately from operating permits, allowing the business to move forward with construction before their plans for operating the facility are approved. Minnesota, on the other hand, combines its construction and operating permits into one review process. There is some evidence that separating these permits could prevent delays for projects involving new or expanded facilities.

**Air modeling and toxics review processes can create bottlenecks and lead to uncertainty:** Barr Engineering notes that neighboring states avoid delays in National Ambient Air Quality Standards (NAAQS) air modeling and air toxic reviews, while Minnesota's modeling can add time to the process. States like Iowa and Illinois (two states with the lowest permitting review times, according to the PNG analysis) allow work on the permit application to continue in tandem to modeling. Minnesota, however, requires modeling to be completed before work on the application can take place. Permittees in Minnesota also cited concerns about a lack of clarity during the air modeling process, noting that agency staff have the discretion to ask for further modeling without any defined limit on what will satisfy their analysis.

**Minnesota's permit structure and length can add complexity**: The format and length of air permits in Minnesota can add complexity and impact businesses' ability to understand compliance obligations. For example, Barr Engineering compared two similar facilities with Title V operating permits in Minnesota and North Dakota. These facilities are subject to the same federal regulations, yet there were large differences in how each state formatted and structured their operating permit. The Minnesota facility's permit was 1,401 total pages compared to just 148 total pages for the North Dakota facility. Further, the North Dakota permit was more straight-forward, with clearly defined sections, making it easier for the business to understand compliance obligations. The Minnesota permit, by contrast, had overly homogeneous sections that created more complexity to navigate relevant information and compliance actions from the permit.

**Companies often go through an intensive permit modification process to make minor or environmentally beneficial facility and equipment changes:** Modifying an existing permit to upgrade equipment or make facility changes can add time and complexity for businesses. Over the past five years, major modifications for priority Tier 2 permits took an average of 493 days to issue. Minor amendments for priority permits took an average of 316 days. Timelines for non-priority permit changes were much longer, averaging over 1,000 days for major and minor changes. These lengthy processes can occur even for beneficial upgrades, such as replacing an older control device with a state-of-the-art new device. Some businesses described ambiguity regarding how the agency interprets requirements for permit amendments. One business noted an example where their permit was changed from a minor to a major amendment due to differing interpretations between their original permit engineer and the new one to whom they were assigned.

Over the past five years, major modifications for priority Tier 2 permits took an average of 493 days to issue. Minor amendments for priority permits took an average of 316 days. Timelines for non-priority permit changes were much longer, averaging over 1,000 days for major and minor changes.

**Stakeholder interviews revealed a perceived culture of risk aversion, which inhibits agency decision-making:** Stakeholders described that state regulatory agencies face a variety of pressures that may inhibit efficient decision-making, including the (real or perceived) threat of lawsuits from project opponents, criticism from community members about permit decisions or potential concerns over environmental impacts that went unevaluated during the permitting process.

## Water permitting

**Antidegradation review can add time to the permitting process without a clear set of expectations for the business:** Minnesota adopted new antidegradation rules in 2016. As discussed in Section 5.2.1.2 of the full report, there is an indication that few permittees have navigated these antidegradation procedures successfully. It would be beneficial for the MPCA to consider opportunities to clarify and streamline antidegradation procedures such that the process can be less of a hurdle. Further review of the well-established procedures in Iowa, Michigan, North Dakota and similar states may help the MPCA identify more opportunities to clarify and streamline its antidegradation procedures.

**Minnesota's extensive list of water quality standards and impaired waters can be challenging to navigate:** Compared to benchmark states evaluated in this study, Minnesota has far more individual water quality criteria than peers (1,355 compared to an average of 413) and lists nearly twice as many impaired bodies of water (though the state has a lower percentage of impaired waters as a share of its total waters). This extensive list of water quality criteria and impaired waters can create complexity for permittees and may require additional support to help businesses successfully navigate these requirements.

## Wetlands

**Overlapping authorizations:** As described in the full report: "Minnesota has been exploring the potential to submit a request to the EPA to assume administration of Section 404 authorizations. Overall, this would reduce the number of overlapping authorizations required for wetlands except where the U.S. Army Corp of Engineers (USACE) retains jurisdiction. Only state agencies can be permitting authorities for an assumed Section 404 program; therefore, changes to state statutes and rules are necessary to gain approval from the EPA."

**No limit on time extensions by the LGU:** While Minnesota typically processes wetland applications in a timely manner, there is a simple, commonly used procedure available to the LGU for extending the decision timeframe by an additional 60 days. There does not appear to be a limit on how many times the LGU can extend the decision timeframe.

## Environmental Review

**Minnesota has more extensive environmental review requirements than peer states:** Minnesota is one of 20 states and local jurisdictions that have a NEPA-like environmental review program. Of the six peer states evaluated in this study, only Wisconsin and North Carolina have comparable programs. However, North Carolina's program is used less frequently for private development projects, and neither state extends responsibility to local authorities or allows the public to petition an agency to require environmental review.

Minnesota is one of 20 states and local jurisdictions that have a NEPA-like environmental review program.

**Current rules add redundant and unnecessary steps:** Barr Engineering notes that in some cases, the EAW requires information on the project components that are covered more thoroughly in permitting documents, adding a step that will be duplicated if the project moves to the permitting phase. Additionally, project proposers are required to go through a prescribed scoping EAW even if the project is subject to a mandatory EIS. Since the scoping EAW, is intended to determine the need for an EIS, there may be alternative processes that could more efficiently handle these cases.


# Recommendations for improvement

Streamlining Minnesota's permitting and environmental programs could unlock critical investments to build on the state's diverse economic strengths while maintaining rigorous protection of the natural environment. Achieving this is an opportunity and imperative for the state's economy in the years ahead.

Any meaningful changes will require a sustained commitment by leadership among Minnesota's regulatory agencies, policymakers, communities and businesses. Collaboration across these groups is also needed to achieve long-lasting improvements in the way the state supports economic development and protects its cherished natural resources.

This report identifies a menu of actionable changes that could improve timeliness and reduce uncertainty in Minnesota's environmental permitting and review programs. These recommendations are not an exhaustive list of improvements. Yet they represent win-win opportunities that could allow greater efficiency and quality in the state's regulatory system.

The report's recommendations aim at three key issues that need to be addressed in Minnesota's permitting system.

**Minnesota must reduce the time it takes to issue priority Tier 2 air and water permits, bringing average and median timeframes closer to the agency's 150-day goal.**

The data reveal a stark divide in how Minnesota processes Tier 1 and Tier 2 air and water permits. Tier 1 permits, which regulate lower-impact facilities and do not involve public comment periods, are often issued to applicants within a matter of days or weeks. The MPCA issued 90% of all Tier 1 air permits within its 90-day goal in 2022.

However, only 9% were issued within the agency's 150-day goal for Tier 2 air permits. Larger or more complex facilities requiring a Tier 2 air or water permit – which are written for the individual facility and involve public comment periods – routinely wait over a year before gaining authorization to start construction to build or expand. Over the past five years, the average duration to issue a priority Tier 2 air permit was 586 days, and the average duration to issue a new priority Tier 2 industrial water permit was 476 days. Some projects take much longer, exceeding 1,000 days to issue or modify a permit.

Excessive delays put Minnesota at a steep disadvantage when competing with other states for large economic development projects.

This has a cost to Minnesota's economy. PNG estimates that Minnesota could improve its annual economic output by up to $960 million by issuing air permits in a similar timeframe to its regional peers like Wisconsin and Illinois. Businesses interviewed by the Minnesota Chamber Foundation affirmed the impact that permitting delays have on their ability to add equipment, expand or build new facilities.

Large facilities understandably must face robust permitting standards, allowing regulators to assess potential impacts and communities to express input on projects that directly impact them. These are essential processes that protect the environment and build trust between communities and industry.

Yet other states have proven that high environmental standards and efficient decision-making are not mutually exclusive. Illinois – a state with similar commitments to environmental protection as Minnesota – averaged just 110 days to issue federal air permits for new capital investment projects over the past five years, compared to 656 days to issue the same kind of permits in Minnesota.

Over the past five years, the average duration to issue a priority Tier 2 air permit was **586 days and the average duration to issue a new priority Tier 2 industrial water permit was 476 days.**

In many cases, faster permit review times could result in direct environmental benefits as well. One business we interviewed described a scenario where they sought to install new equipment that would reduce their emissions at the facility. Yet modifying their air permit to gain authorization for this project took over a year, delaying their ability to upgrade the equipment at their plant.

Leadership within Minnesota's regulatory agencies should prioritize reducing the time it takes to issue Tier 2 air and water permits, bringing average and median timeframes closer to the MPCA's 150-day goal. Doing so could improve economic development outcomes without compromising the high environmental standards that regulate facility activities.

For example, the MPCA could enhance its expedited permit review program intended to fast-track permitting reviews for time-sensitive or economically impactful projects. Some states, like Wyoming, utilize external capacity from third-party permit professionals to assist in gathering and drafting information on applications, freeing up agency staff time for decision-making. While such an approach is authorized under current Minnesota statutes, it does not appear to be actively used for expedited reviews.

Minnesota could seek ways to help more companies utilize Tier 1 permits, which have a track record of

being issued efficiently and offer greater flexibility to permittees. This could be particularly effective for companies making environmentally beneficial changes to their facility, rather than going through the complex amendment process.

These are just two examples of win-win strategies that could streamline permitting activities while ensuring regulators are fully equipped to exercise authority over decision-making.

**State regulators should address backlogs of permit renewals and minor facility changes for air and water permits.**

In addition to fast-tracking priority economic development projects, the MPCA should seek to address the backlog of permit renewals and other non-priority applications that can keep companies waiting years to receive an updated permit. This could allow hundreds of facilities in Minnesota to operate with an up-to-date air or water permit, providing greater assurance to businesses and communities.

Findings from this report show that non-priority Tier 2 air permits take an average of 1,295 days to be issued, with Title V permit renewals averaging nearly 1,500 days. Individual industrial water permits (NPDES/SDS permits) face deep backlogs as well. Of the 226 NPDES/SDS permits currently administered by the MPCA, 152 are administratively continued (i.e. past the expiration date, but still in effect) as of the end of Q3 2023. The average amount of time these permits are administratively continued is 6.5 years, with the longest being 23 years.

Reducing these backlogs does not deliver as much economic impact to the state as does reducing timelines for priority capital investment projects. But it would improve the overall administration of Minnesota's permitting system and reduce ambiguity and frustration for permit holders who often wait years to renew expired permits or make minor modifications to existing ones.

**Minnesota should improve transparency, certainty and collaboration throughout Minnesota's permitting and environmental review programs.**

State regulatory agencies should identify and implement reforms that make Minnesota's permitting and environmental review programs more transparent and certain. Doing so would improve businesses' ability to predict and plan capital investment projects and better understand their regulatory compliance obligations. Businesses must know where the finish line is and reasonably predict the path to cross it. Greater transparency would also benefit policymakers and the public, helping them better track and understand how Minnesota's environmental programs are performing and where further adjustments are needed.

This report identifies numerous opportunities across the state's air, water, wetland and environmental review programs that could reduce complexity and improve transparency in the process.

For example, the MPCA could provide businesses with a basic schedule at the outset of a proposed project that outlines the various steps and timelines they can expect as the agency reviews their application, performs modeling and other analyses, drafts a permit and sends it out for public comment. Input from consultants and businesses indicate that such a schedule is not typically provided to applicants in Minnesota. In cases where a schedule is provided, however, it can greatly aid the business's ability to move forward with confidence in a capital investment.

Findings from this report show that non-priority Tier 2 air permits take an average of 1,263 days to be issued, with Title V permit renewals averaging nearly 1,500 days.

Another opportunity is to expand support services that provide guidance to businesses for permit applications or compliance questions. The MPCA currently has a Small Business Ombudsman program that assists small businesses with fewer than 100 employees. Expanding a service like this to businesses of any size – or enhancing programs like Minnesota Business First Stop – could offer greater opportunities for dialogue and collaboration for companies trying to navigate complex permitting processes.

Improvements in transparency and certainty could be particularly impactful to Minnesota's environmental review program. Environmental review requires agencies to assess potential impacts of proposed projects subject to their jurisdiction and informs the public about their decision-making. This program – which can involve one or more levels of review through an EAW, EIS or Alternative Urban Areawide Review (AUAR) – is reserved for some of the state's largest

projects and has an outsized impact on economic development.

Despite the importance of this program, there is little public data on key performance metrics, including timeframes for project proponents to complete the review requirements. Past research from the OLA and feedback from businesses and consultants indicates that reviews often take years to complete. A first step in addressing these concerns should be to create detailed and reliable reporting tools to better track project outcomes. Further reforms could streamline the program by eliminating redundant steps that slow down the process without providing additional information about the project.

# Actionable strategies to improve timeliness and certainty

## Air permitting

### 1. Review and revise the approach to completeness evaluations.

**GOAL: This could help reduce the overall perceived duration of the air permitting approval process and help get air permits assigned to MPCA staff in a time-efficient manner.**

A common perception among permitting consultants and applicants is that the MPCA staff conducting completeness reviews are exceedingly strict, and frequently the "deficiencies" identified are minor issues that could easily be resolved with a brief conversation. The MPCA could encourage these staff to contact applicants before deeming an application incomplete, and potentially reduce rework for both the applicant and MPCA staff. Permitting consultants and applicants theorize that there is more incentive for these MPCA staff to deem an application incomplete than to reach out and clarify potential misunderstandings. It is not clear whether this is intentional, but this report recommends that the MPCA investigate this further. The MPCA could also relax the criteria that trigger an incomplete application.

### 2. Provide additional support for permit applicants

**GOAL: This could provide support and additional transparency to businesses and industries with questions regarding air permitting in Minnesota. It could also help support further transparency and accountability in the air permitting process for the MPCA.**

The MPCA could provide more support for the regulated community and permit applicants by expanding the scope of existing small business

ombudsman (supports businesses with less than 100 employees), or establishing a separate permitting ombudsman to support permit applicants from businesses of all sizes.

### 3. Use a separate construction and operating permit program.

**GOAL: This could help reduce the time it takes the MPCA to review and act on projects associated with construction or modification at a facility.**

Illinois has one of the shortest average permitting issuance durations, and used to have a combined permitting program like Minnesota but now issues separate construction and operating permits. Many other states reviewed for this assessment were also identified as having separate construction and operating permit approvals. Permitting issuance durations could be shorter if the MPCA issued separate construction and operating permits. A standalone construction permit could focus only on the new or modified equipment and could be a streamlined document compared to the combined (construction and operating) permits the MPCA currently issues. A shorter, more focused document may provide benefits to the general public, applicant and the MPCA. This approach could improve the general public's understanding of air permits and enable more meaningful public engagement, allow permit holders to review and understand permit requirements more readily, and support more timely permit processing by the MPCA.

### 4. Review and revise expedited permitting options.

**GOAL: This would help improve permitting timeliness for time-sensitive projects that may have a positive economic impact on Minnesota.**

MPCA could review how well their expedited permitting program is working by tracking data and analyzing it along with other data in the *Annual Permitting Efficiency Report*. The perception among permitting consultants and applicants is that the expedited permitting option is typically not available, and there is uncertainty regarding how quickly the application might be processed. A possible revision may include the MPCA utilizing qualified third-party consultants to support the review and evaluation of permit applications, prepare drafts and other supporting steps, while the MPCA retains the responsibility to approve and issue final permits. This approach, which is currently authorized under current state statutes, could result in an expediting mechanism that is consistently available to applicants and reduces the application review time.

### 5. Encourage applicants to use Tier 1 permitting options when possible or consider expanding the existing registration and capped permitting programs.

**GOAL: The MPCA processes Tier 1 air permit applications in a timely and efficient manner. While not all facilities or projects can meet the eligibility requirements of these Tier 1 program, expanded use of the permitting mechanisms could improve the efficiency of air permit issuances.**

Over the last ten years, the MPCA has issued ~70-90% of Tier 1 applications within the 90-day goal, based on data from the MPCA's "Air Permit Applications Received" dashboard. However, in the last ten years, the MPCA has only issued ~2-18% of Tier 2 applications within the 150-day goal, based on data from the MPCA's "Air Permit Applications Received" dashboard. MPCA could consider developing a streamlined permitting option to allow changes that are environmentally beneficial to proceed more quickly. Replacing an older control device with a state-of-the-art new device often requires a major permit amendment. In addition to the existing registration and capped permit programs, the MPCA could also evaluate implementing a permit by rule process for small, uniform sources to provide an efficient authorization mechanism as observed in other states.

### 6. Continue to expand online air permitting services while soliciting and acting upon user feedback to improve user experience and reliability.

**GOAL: To increase efficiency in the electronic submittal process if developed and executed in a way that provides flexibility to applicants while**

**ensuring the MPCA gets the information required to review an application.**

Electronic permit application submittals could help streamline administrative and completeness reviews. However, the expansion of electronic application submittals should be investigated in partnership with industry to ensure that any new processes do not increase undue complexity of application preparation. Applicants and permitting consultants assisting with online applications for Title V renewals through Tempo – the agency's permitting data management system – have experienced technical challenges, particularly for "larger" facilities with many emission units or control equipment.

### 7. Review and potentially address the permitting queue of "old" air permit applications (applications that have not been assigned but were received more than 365 days ago).

**GOAL: To help the MPCA prioritize current and future applications in a timely and efficient manner.**

According to the MPCA permitting dashboard, as of November 6, 2023: MPCA had approximately 371 applications awaiting assignment; approximately 25% (91 of 371) were received less than 365 days ago; the remainder (280 of 371) have been awaiting assignment for anywhere from 1-30 years. Approximately 134 applications are 1-5 years old, 87 are 5-10 years old, and 59 are greater than 10 years old.

MPCA could take a screening approach and attempt to contact the applicants to determine whether any of the applications are no longer needed or relevant. Similarly, the MPCA should consider setting time limits for non-priority permit renewals to ensure that companies can operate with the assurance of operating within an active and up-to-date air permit.

### 8. Make air permitting data more accessible to permittees and the public.

**GOAL: This would improve transparency and efficiency insights for all included environmental permitting programs.**

**Air permitting dashboard:** This resource provides certain details important to air permit applicants and the public—however, additional information could be collected to provide a more comprehensive representation of the permitting process. Examples of additional details to include are: a summary of statistics of applications awaiting assignment and issued permits; identification of priority and non-priority applications; schedules and deadlines, among others as outlined in this report. (See the full report for a complete set of recommended changes to "Air Permit Applications Received" dashboard.)

***Annual Permitting Efficiency Report:*** This report does not fully portray the status of air permit application processing in Minnesota. It could be improved to show how well permit application review is going for each group or division that issues permits. The MPCA receives far more Tier 1-priority-water permit applications than any other type; as a result, the MPCA's *Annual Permitting Efficiency Report* is driven by the data from this category of permit applications. This makes it difficult to discern how efficiently other types of permit applications are processed. This report should also assess all permits issued in the fiscal year, not just those received in the current fiscal year to better highlight timeliness. (See the full report for a complete set of recommended changes to *Annual Permitting Efficiency Report*.)

## Water permitting

### 1. Further prioritize commitment to permit issuance timelines.

**GOAL: These changes could result in more timely permitting (shorter permitting timelines) with benefits including permittees able to start projects or new activities sooner, increased schedule certainty for permittees and current permits with up-to-date requirements that are more straightforward to modify for future projects.**

Of the 15 priority individual industrial NPDES/SDS permit applications received by the MPCA in fiscal years 2018 through 2023, only the requests for minor permit modifications were completed during the MPCA's 150-day goal timeframe. Permitting timeframes for completed priority permit issuances, reissuances and major modifications were an average

of 476, 667 and 377 days, respectively.

Addressing this issue will require leadership support for timely issuance and reissuance of permits, while also preserving the ability to modify schedules as appropriate to work through complicated issues with permittees. This would provide increased schedule certainty for permittees, especially for those that need a permit action prior to new or expanded activities.

Some examples that could aid this process are:

- Requiring permit writers to consistently provide regulatory-required notifications to permittees (e.g., notification within 30 business days of application related to application completeness and whether a permit can be issued within the 150-day goal).
- Developing a plan to work through the significant backlog of administratively continued permits.
- Focusing additional agency staff on timely permitting through hiring of additional individuals and/or reprioritizing existing staff time.

### 2. Find opportunities for the MPCA to improve process efficiency.

**GOAL: More timely permitting (shorter permitting timelines) with benefits as previously discussed.**

Opportunities such as evaluating the number of agency staff involved in the permitting process for an individual permit based on the complexity of the permit and aligning department leadership and staff involved in the permitting process would clarify oversight and decision rights. Experience indicates that the MPCA may involve more internal parties in the development of individual industrial NPDES permits than other states.

### 3. Develop an online resource for water permitting data.

**GOAL: Implementing a similar online resource would improve transparency and increase understanding of schedule and progress.**

Develop an online resource for tracking the status of NPDES permit applications within the permitting process. The MPCA has a dashboard for tracking air permit application statuses and several benchmark states have online resources for tracking NPDES permit application statuses.

### 4. Reduce regulatory complexity.

**GOAL: More options for streamlined and efficient permitting. Increased ease of navigating permitting process.**

Examples include:

- Developing additional general permits for similar operations and types of discharges.
- Clarifying and streamlining antidegradation procedures to remove barriers for potential and existing permittees (review well-established procedures in states such as Iowa, Michigan and North Dakota to identify potential opportunities).
- Developing guidance and tools to assist both agency staff and permittees with ways to efficiently and effectively navigate Minnesota's permitting process, complex water quality criteria and significant number of impaired waters.

General permits are typically a more streamlined and standardized permitting option than individual permits. Minnesota has 11 general permits available for permittees to apply for coverage under compared to the benchmark state average of 16 general permits. The NPDES permitting process steps are relatively similar across states; however, the details of how steps are conducted, who is involved, timelines, and prioritization may vary from state to state. The most noticeable process differences are associated with antidegradation procedures, which are a more substantial procedural hurdle to navigate in Minnesota than in states with well-established procedures. There are generally more water quality considerations (e.g., water quality criteria, impaired waters) to be navigated by permittees and the agency in Minnesota than there are in other states.

## Wetlands

### 1. Complete the 404 assumption process.

**GOAL: Reduce duplication between Water Conservation Area (WCA) and the USACE.**

Michigan assumed authority to implement Section 404 of the Clean Water Act. Therefore, separate authorization from USACE is not required for wetland

impacts unless they are adjacent to Section 10 waters (the Great Lakes and typically larger rivers discharging to the Great Lakes).

### 2. Expand the Minnesota Board of Water and Soil Resources (BWSR) annual LGU report to include timing on completeness review and decisions.

**GOAL: Further evaluation of effectiveness of specifically administering WCA to understand the actual decision timeframes and to help identify areas for improvement.**

The BWSR annual report does not currently specify timing of completeness review or decisions.

### 3. Revise Minnesota Statute 15.99 Subdivision 3(f) to be clear about the maximum number of times a RGU can extend the initial 60-day decision timeframe for WCA determinations.

**GOAL: Improve timeliness for WCA determinations and provide project proponents more certainty regarding the time it takes to complete the process.**

Minnesota Statute 15.99 Subdivision 3(f) does not specify how many times an RGU can extend their decision timeframe.

## Environmental Review

### 1. Improve transparency of Environmental Review timelines and outcomes.

**GOAL: To allow for more detailed evaluation of potential opportunities for improvements to the process, better understanding of timelines for specific project types, as well as improved ability to measure the performance of RGUs**.

The 2011 OLA report supports this recommendation and notes such data are critical to an objective assessment of the amount of time these processes take and identification of systemic issues that may need improvement (reference). The Environmental Quality Board (EQB) should be responsible for compiling this data rather than relying on each individual local and state agency RGU to publish its own information.

Update the EQB's Environmental Review Projects Database to include additional statistics that would provide transparency regarding the actual timelines to complete an environmental review. The statistics should include each step of the process for an EAW or EIS, following the flow charts presented in Section 5.4.1.1. At a minimum: date when an RGU first receives an EAW or AUAR from a project proponent, date when an RGU deems the EAW or AUAR complete for publication, date of EIS need determination, date of EIS preparation notice and date of EIS adequacy decision.

The database should include the ability to export and summarize the data by project type and RGU. Furthermore, Minnesota could consider development of a program like FAST-41 administered by the EQB for complex projects. The EQB could coordinate with local, state, and federal entities/agencies to identify authorizations required, establish a timetable for environmental review/permitting, and track progress via a publicly available website. This would provide greater transparency for the public and project proponents regarding the processes and timeframes. EQB could incorporate this concept within its database in addition to the items noted above. The EQB database does not provide summary statistics regarding timelines for projects to complete environmental review. Such summary statistics could be generated by manually extracting the information from each individual project listed when there is a more sizable dataset available. In addition, it does not appear that the EQB or other RGUs maintain publicly available data that summarizes the timeline for the RGU to deem an EAW complete, which is an important step in the process and can vary. Therefore, there is not a readily available public data set that provides the entire timeframe for projects starting and completing environmental review.

### 2. Narrow the focus on the required EAW content.

**GOAL: Reduce duplication between environmental review and permitting that could improve timeliness.**

Narrow the required EAW content to only those questions where the impacts would not require permits (i.e., subject to the mitigation of an ongoing authority

or the impacts are subject to permits that do not have public comment/engagement as part of the process). Permit applications often require more detailed information and analysis than an EAW for specific resource areas such as air (Section 5.1.1) and water (Section 5.2.1).

### 3. Align the mandatory EIS Process with NEPA.

**GOAL: To provide project proponents more certainty regarding the time it takes to complete the environmental review process.**

If a mandatory EIS is necessary, eliminate the scoping EAW, and instead, align the scoping process with NEPA (40 CFR 1501.9 currently, 1502.4 in the pending regulations) where an EAW is not a necessary precursor to an EIS. In addition, amend Minnesota Rules Chapter 4410.2100 to set a maximum time limit for the RGU to complete the scoping process like the requirement for determination of a final EIS within 280 days of the publication of the preparation notice.

The RGU has 280 days from publication of the preparation notice to make an adequacy determination on the final EIS unless the project proponent agrees to an extension, or the governor allows for more time (Minnesota Administrative Rules Chapter 4410.2800, Subpart 3); however, there is no maximum time limit to complete the scoping process.

## Actionable strategies:

### Air permitting

1. Review and revise approach to completeness evaluations.
2. Provide additional support for permit applicants.
3. Use a separate construction and operating permit program.
4. Review and revise expedited permitting options.
5. Encourage applicants to use Tier 1 permitting options when possible or consider expanding the existing registration and capped permitting programs.
6. Continue to expand online air permitting services, while soliciting and acting upon user feedback to improve user experience and reliability.
7. Review and potentially address the permitting queue of "old" air permit applications (applications that have not been assigned but were received more than 365 days ago).
8. Make air permitting data more accessible to permittees and the public.

### Water permitting

1. Further prioritize commitment to permit issuance timelines.
2. Find opportunities for the MPCA to improve process efficiency.
3. Develop an online resource for water permitting data.
4. Reduce regulatory complexity.

### Wetlands

1. Complete the 404 assumption process.
2. Expand the BWSR annual LGU report to include timing on completeness review and decisions.
3. Revise Minnesota Statute 15.99 Subdivision 3(f) to be clear about the maximum number of times a RGU can extend the initial 60-day decision timeframe for WCA determinations.

### Environmental Review

1. Improve transparency of Environmental Review timelines and outcomes.
2. Narrow the focus on the required EAW content.
3. Align the mandatory EIS Process with NEPA.

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