



# Environmental Review / Permitting reforms 2013

## Continuing improvement in timeliness

### Overview

In 2011, the Permitting Efficiency Law directed the MPCA to improve the timeliness of permit issuance by setting a 150-day goal for the issuance of permits. The MPCA divides permits into two categories – priority permits, for construction-focused permits that involve new growth, and non-priority permits, for routine reissuances. Since the law's passage, the MPCA has issued 96% of priority permits, and 83% of all permits, within the 150-day goal.

Building on the Agency's success in achieving the goals, the MPCA's Environmental Review and Permitting Reforms bill sets new goals and makes other changes to further improve permitting efficiency; while maintaining strong environmental protection.

### Permitting Changes

#### New permitting goals

Although the MPCA issues many types of permits, they can be divided into two tiers based on the level of complexity and corresponding amount of work required to review and issue the permits. The MPCA proposes to modify the permit issuance goal as follows:

- Tier 1 Permits – Set a 90-day goal for issuance of less complex permits, including priority and non-priority projects. Tier 1 permits would include general permits, where one permit covers multiple facilities with similar operations and there are no requirements for individual notice of plans, and registration permits, where only certain basic conditions are required for environmental protection.
- Tier 2 Permits – Retain the 150-day goal for issuance of the more complex permits. This includes permits that require individual site or project-specific conditions, and any permits, including general permits, requiring public comment periods.

#### Lengthening permit term

For state (non-federal) disposal system water permits and solid waste transfer station permits, the MPCA permits would have a 10-year term rather than a five-year term. This would reduce workload for both the MPCA and permit holders for reissuance of permits. One cycle of permit application fees would be avoided by the applicant by extending the permit life. This will impact about 600 of the MPCA's 18,000 permits.

Laws passed in previous legislative sessions extended permit terms for solid waste land disposal facility and feedlot state disposal system permits. This bill adds the extension for water state disposal system and solid waste transfer station permits. Any changes to a facility during the 10-year permit term would still require a permit modification, ensuring adequate oversight and ongoing environmental protection.

This bill only applies to non-federal permits, which tend to be those for activities with no discharge and/or considered low risk to human health and the environment. Federal laws mandate five-year terms for many permits.

## **Flexibility in expedited permitting**

Currently, the MPCA offers an expedited permitting process that allows project proposers to pay for expedited service by paying for MPCA staff to work overtime hours on the permit project or for MPCA to contract with private consultants. However, it can be difficult for projects – especially the most complex ones – to be completed using only overtime or consultants, as considerable coordination among staff and other agencies is required for these permits. The bill would reform the process to give the MPCA flexibility to combine the use of existing permitting processes (including overtime and private consultants) to provide additional options for project proposers. This would provide greater flexibility and use of appropriate staffing for the most complex permits or projects; while allowing other staff to support traditional permits and project requests.

## **Business Early Assistance Program**

The MPCA has found that the key to timely permit issuance is often the discussion and information sharing that occurs before a permit application is filed. This portion of the bill creates a model, similar to the expedited permit process, to provide pre-regulatory assistance in the earliest stages of project development to proposers and their consultants. The MPCA and other state agencies propose to use the Minnesota Business First Stop program to offer advice on the applicability of regulations, including permitting and environmental review. The state agencies would work with proposers to assist the development of design or location options that would achieve the proposer's end goals and implement pollution prevention techniques to improve efficiency and competitiveness, save money, and reduce the overall complexity of environmental review and permitting. Currently, some proposers reach out to regulatory agencies prior to filing applications, but most times their plans have already been finalized. At this point, the discussion revolves around getting the project, as is, through the regulatory system and possible changes that would benefit the proposer, public health, and the environment are not realized.