

# Environmental Permitting

## MPCA's Semiannual Permitting Efficiency Report



Minnesota Pollution Control Agency

February 1, 2013

## Legislative Charge

Minn. Stat. § 116.03, subd. 2b.

## Report to Legislature

*The commissioner shall prepare semiannual permitting efficiency reports that include statistics on meeting the goal in paragraph (a). The reports are due February 1 and August 1 each year. For permit applications that have not met the goal, the report must state the reasons for not meeting the goal, steps that will be taken to complete action on the application, and the expected timeline. 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 Web site 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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## Estimated cost of preparing this report

*(as required by Minn. Stat. § 3.197)*

|                            |              |
|----------------------------|--------------|
| Total staff time: 220 hrs. | \$8,821      |
| Production/duplication     | <u>\$100</u> |
| Total                      | \$8,921      |

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## Minnesota Pollution Control Agency

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Document number: lrp-gen-10sy13

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## Executive Summary

The mission of the Minnesota Pollution Control Agency (MPCA) is to work with Minnesotans to protect, conserve, and improve our environment and enhance our quality of life. 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 1<sup>st</sup> 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 agency 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, 2012, through December 31, 2012*

| Permit Type  | Apps Rcvd | Apps withdrawn | Apps Returned | Complete Apps | Total Issued | Issued <=150 | Issued >150 | Pending Apps | Pending <=150 | Pending >150 |
|--------------|-----------|----------------|---------------|---------------|--------------|--------------|-------------|--------------|---------------|--------------|
| Non-Priority | 402       | 35             | 45            | 322           | 130          | 130          | 0           | 192          | 152           | 40           |
| Priority     | 978       | 4              | 10            | 964           | 908          | 908          | 0           | 56           | 50            | 6            |
| Total        | 1380      | 39             | 55            | 1286          | 1038         | 1038         | 0           | 248          | 202           | 46*          |

- Priority (i.e. construction) applications issued permits within 150 days – 94%\*\* (908 out of 964)
- Total applications (priority and non-priority) issued permits within 150 days – 81% (1038 out of 1286)

\*Additional data analysis for this reporting period is found in the Summary Data and Graphs section.

\*\*For complete priority apps received during this review period, 99% have either been issued within, or have been in-house for < =150 days.

Table 2: Summary for permit applications received March 4, 2011, through December 31, 2012

| Permit Type  | Apps Rcvd | Apps Withdrawn | Apps Returned | Complete Apps | Total Issued | Issued <=150 | Issued >150 | Pending Apps | Pending <=150 | Pending >150 |
|--------------|-----------|----------------|---------------|---------------|--------------|--------------|-------------|--------------|---------------|--------------|
| Non-Priority | 1845      | 104            | 211           | 1530          | 1085         | 786          | 299         | 445          | 152           | 293          |
| Priority     | 3745      | 25             | 55            | 3665          | 3572         | 3531         | 41          | 93           | 50            | 43           |
| Total        | 5590      | 129            | 266           | 5195          | 4657         | 4317         | 340         | 538          | 202           | 336          |

- Priority (i.e. construction) applications issued permits within 150 days – 96%\*\* (3531 out of 3666)
- Total applications (priority and non-priority) issued permits within 150 days – 83% (4317 out of 5196)

\*\*For complete priority apps received since March 4, 2011, 98% have either been issued within, or have been in-house for <= 150 days.

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 Minnesota Pollution Control Agency, the Department of Natural Resources 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 executive order requires MPCA and DNR 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 MN Statute 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 DNR to submit semiannual reports to the Governor and the Legislature on August 1st and February 1st of each year.

The report must:

- Include statistics on meeting the 150-day permit decision goal
- Address permits that have not met the goal, and outline:
  - Reasons for not meeting the goal
  - Steps to be taken to complete permit action
  - An expected timeline
  - The number of days from initial submission to determination of application completeness
- Aggregate data for the fiscal year (August 1 report)
- Assess whether program or system changes are needed to achieve the goal (August 1 report)

\*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

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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, conserve, 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. 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 U.S. 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 U.S. 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 agency 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 ground waters 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

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Since 2003, the MPCA has been progressively focused on systematically reviewing, improving, and designing more efficient and effective processes. The MPCA has integrated process improvement tools such as Six Sigma and Lean into our culture, resulting in agency-wide improvements. The MPCA's permitting programs, in particular, have gone through significant evaluation and improvement. Those efforts continue as part of our day-to-day operations.

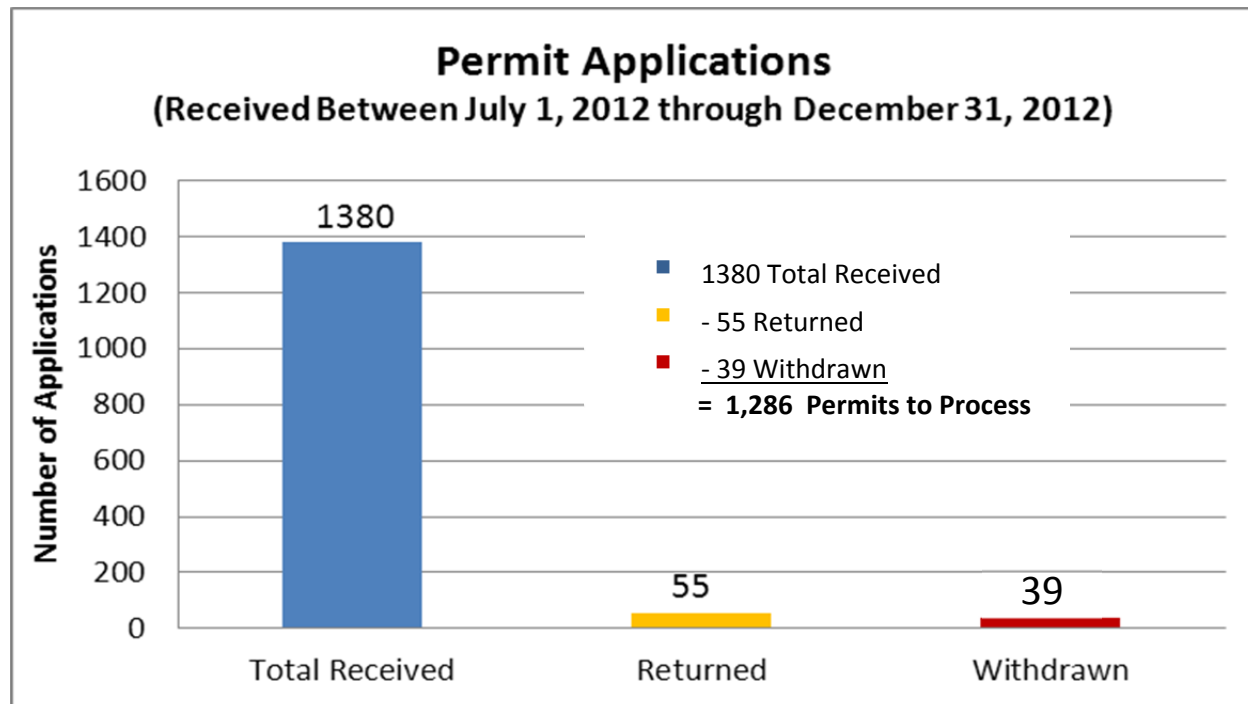
Since the issuance of EO11-04, and enactment of the Permitting Efficiency Law of 2011, the MPCA has initiated a number of additional improvement efforts. The Six Sigma efforts provide an avenue of continuous improvement for permitting processes. In addition, the agency is undergoing some longer-term improvement endeavors:

- Improving communication around permitting metrics through the Agency electronic dashboard. The intent of this effort is to work towards the goal of providing real-time data about permit process status, performance metrics, and environmental outcomes.
- Standardizing permitting processes across media and programs to minimize business and technology system duplication and establish a unified agency-approach, where possible, to permit delivery. This initiative is to expand on previous standardization and customer engagement efforts.
- Developing new technology tools to improve data integration and utilization of data, and system efficiency. The MPCA is currently in an RFP process for purposes of beginning a holistic redesign of the enterprise information management system. The permitting program is preparing for this effort by doing some futuristic planning to determine how technology like online services and mobile and collaboration devices can improve the efficiency and effectiveness of the permitting process.

This section highlights the major findings for the reporting period from July 1, 2012, through December 31, 2012:

**Permit Applications**

During this reporting period, the MPCA received 1,380 permit applications. Of these, 39 were withdrawn at the applicant's requests, and 55 were returned to the applicant due to administrative incompleteness or technical deficiencies. This resulted in a pool of 1,286 viable permit applications to process.



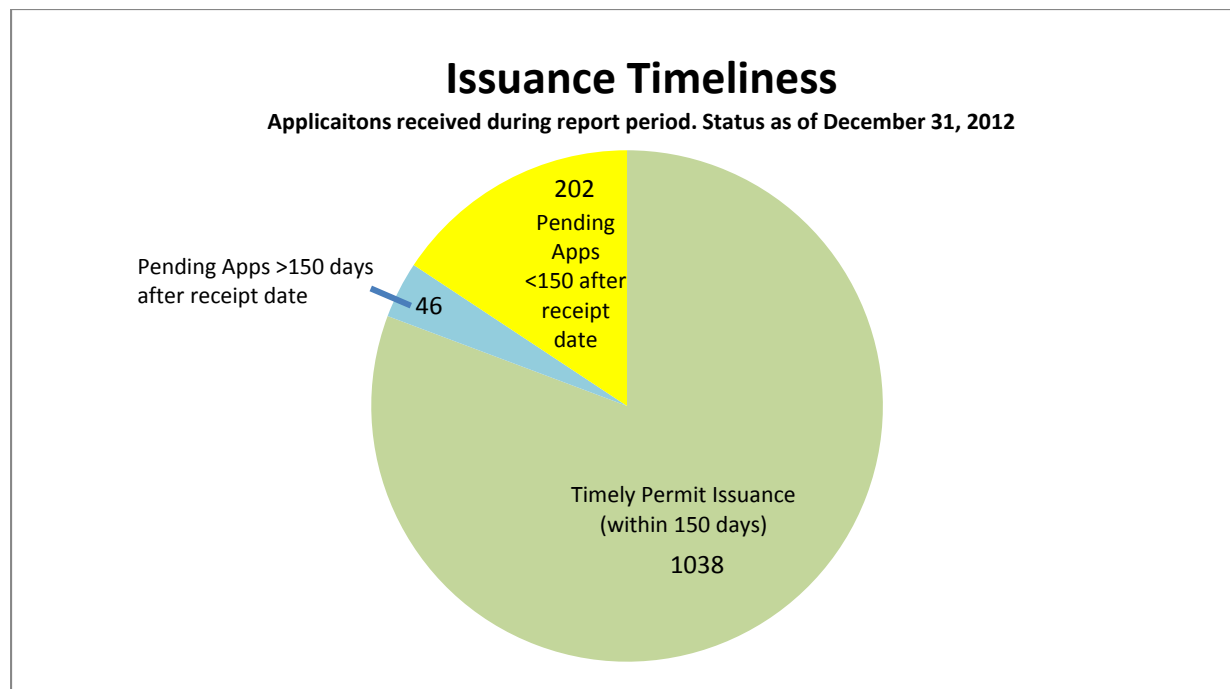
| Applications Received (Between July 1, 2012, and December 31, 2012) |          |              |          |
|---|----------|--------------|----------|
| Media   | Priority | Non-Priority | Combined |
| Total (All Media)   | 978      | 402          | 1380     |
| Water   | 944      | 255          | 1199     |
| Air   | 31       | 119          | 150      |
| Land  | 3        | 28           | 31       |

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 1,286 permit applications to process during this reporting period. Of these applications, 1,038 applications were issued a permit, all completed within 150 days of application receipt. The remaining pending applications fall within the timeliness categories as follows: 150 days or less = 202 applications, More than 150 days = 46.



| Timely Permit Issuance (Applications Issued a permit In 150 Days or Less) |          |              |          |
|---|----------|--------------|----------|
|   | Priority | Non-Priority | Combined |
| Total (All Media)   | 908      | 130          | 1038     |
| Water   | 905      | 108          | 1013     |
| Air   | 0        | 18           | 18       |
| Land  | 3        | 4            | 7        |

| Pending Applications 150 or Less Days After MPCA Receipt Date |          |              |          |
|---|----------|--------------|----------|
|   | Priority | Non-Priority | Combined |
| Total (All Media)   | 50       | 152          | 202      |
| Water   | 32       | 78           | 110      |
| Air   | 18       | 57           | 75       |
| Land  | 0        | 17           | 17       |

| Pending Applications Over 150 Days After MPCA Receipt Date |          |              |          |
|--|----------|--------------|----------|
|  | Priority | Non-Priority | Combined |
| Total (All Media)  | 6        | 40           | 46       |
| Water  | 2        | 25           | 27       |
| Air  | 4        | 11           | 15       |
| Land   | 0        | 4            | 4        |

## Appendix A

(Pending Permit Applications Over 150 Days and Reasons for Delay)

| Media | Division   | Permit Type           | Permit ID | Facility Name                            | Priority | County     | City          | Date Received | Date Issued | Reason for Delay |
|-------|------------|-----------------------|-----------|--|----------|------------|---------------|---------------|-------------|------------------|
| Air   | Industrial | Air stationary source | 08500049  | 3M - Hutchinson Tape Manufacturing Plant | N        | McLeod     | Hutchinson    | 7/6/2012      | Not Issued  | 2                |
| Air   | Industrial | Air stationary source | 15100026  | Chippewa Valley Ethanol Co LLLP          | N        | Swift      | Benson        | 8/2/2012      | Not Issued  | 3                |
| Air   | Industrial | Air stationary source | 14300014  | Heartland Corn Products                  | N        | Sibley     | Winthrop      | 7/12/2012     | Not Issued  | 3                |
| Air   | Industrial | Air stationary source | 07500019  | Louisiana-Pacific Corp - Two Harbors     | N        | Lake       | Two Harbors   | 7/12/2012     | Not Issued  | 3                |
| Air   | Industrial | Air stationary source | 04700034  | Magellan Pipeline Co LP - Albert Lea     | N        | Freeborn   | Glenville     | 7/23/2012     | Not Issued  | 4                |
| Air   | Industrial | Air stationary source | 13100015  | Magellan Pipeline Co LP - Faribault      | N        | Rice       | Faribault     | 7/23/2012     | Not Issued  | 4                |
| Air   | Industrial | Air stationary source | 08300007  | Magellan Pipeline Co LP - Marshall       | N        | Lyon       | Marshall      | 7/23/2012     | Not Issued  | 4                |
| Air   | Industrial | Air stationary source | 16900013  | Malteurop North America Inc - Winona     | N        | Winona     | Winona        | 8/2/2012      | Not Issued  | 3                |
| Air   | Industrial | Air stationary source | 05300860  | Millwood Inc                             | Y        | Hennepin   | New Hope      | 7/30/2012     | Not Issued  | 3                |
| Air   | Industrial | Air stationary source | 11100002  | Otter Tail Power Co - Hoot Lake Plant    | N        | Otter Tail | Fergus Falls  | 7/16/2012     | Not Issued  | 3                |
| Air   | Industrial | Air stationary source | 04500049  | POET Biorefining - Preston               | N        | Fillmore   | Preston       | 7/12/2012     | Not Issued  | 3                |
| Air   | Industrial | Air stationary source | 03700368  | Recovery Technology Solutions            | Y        | Dakota     | Randolph      | 8/2/2012      | Not Issued  | 3                |
| Air   | Industrial | Air stationary source | 14500026  | St Cloud State University                | N        | Stearns    | St. Cloud     | 7/19/2012     | Not Issued  | 3                |
| Air   | Industrial | Air stationary source | 13700005  | US Steel Corp - Minntac                  | Y        | St. Louis  | Mountain Iron | 8/1/2012      | Not Issued  | 3                |

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(Pending Permit Applications Over 150 Days and Reasons for Delay)

| Media | Division                         | Permit Type           | Permit ID | Facility Name                                  | Priority | County     | City                | Date Received | Date Issued | Reason for Delay |
|-------|----------------------------------|-----------------------|-----------|--|----------|------------|---------------------|---------------|-------------|------------------|
| Air   | Industrial                       | Air stationary source | 14100004  | Xcel Energy - Sherburne Generating Plant       | Y        | Sherburne  | Becker              | 7/12/2012     | Not Issued  | 3                |
| Land  | Resource Management & Assistance | Permitted SW Facility | SW-408    | Glenwood Demolition Disposal LLC               | N        | Pope       | Glenwood            | 7/16/2012     | Not Issued  | 2                |
| Land  | Resource Management & Assistance | Permitted SW Facility | SW-87     | Ponderosa Sanitary Landfill                    | N        | Blue Earth | Mankato             | 7/31/2012     | Not Issued  | 4                |
| Land  | Resource Management & Assistance | Permitted SW Facility | SW-343    | SKB Rich Valley Demolition Waste Mgmt Facility | N        | Dakota     | Inver Grove Heights | 7/20/2012     | Not Issued  | 4                |
| Land  | Resource Management & Assistance | Permitted SW Facility | SW-663    | Walters Recycling & Refuse Transfer Station    | N        | Anoka      | Blaine              | 7/31/2012     | Not Issued  | 4                |
| Water | Industrial                       | General Permit        | MNG255077 | Cargill Value Added Meats                      | N        | Freeborn   | Albert Lea          | 7/24/2012     | Not Issued  | 6                |
| Water | Industrial                       | General Permit        | MNG255029 | Cummins Power Generation                       | N        | Anoka      | Fridley             | 7/19/2012     | Not Issued  | 6                |
| Water | Industrial                       | General Permit        | MNG255084 | DeZURIK Inc                                    | N        | Stearns    | Sartell             | 7/6/2012      | Not Issued  | 6                |
| Water | Industrial                       | General Permit        | MNG250084 | Eden Prairie Well House 6 & 7                  | N        | Hennepin   | Eden Prairie        | 7/12/2012     | Not Issued  | 6                |
| Water | Industrial                       | General Permit        | MNG255038 | International Paper - Fridley                  | N        | Anoka      | Fridley             | 7/2/2012      | Not Issued  | 6                |
| Water | Industrial                       | General Permit        | MNG490253 | Irvine Sand & Gravel                           | N        | Blue Earth | Amboy               | 7/16/2012     | Not Issued  | 6                |
| Water | Industrial                       | General Permit        | MNG250109 | Kemps Culture Facility                         | N        | Dakota     | Farmington          | 7/23/2012     | Not Issued  | 6                |
| Water | Industrial                       | General Permit        | MNG250047 | Kerry Ingredients & Flavours Inc               | N        | Olmsted    | Rochester           | 7/2/2012      | Not Issued  | 6                |
| Water | Industrial                       | General Permit        | MNG250043 | Otter Tail Power Co - General Office           | N        | Otter Tail | Fergus Falls        | 7/2/2012      | Not Issued  | 6                |

## Appendix A

(Pending Permit Applications Over 150 Days and Reasons for Delay)

| Water | Industrial | General Permit    | MNG250048 | Robinson Rubber Products Co Inc            | N        | Hennepin  | New Hope     | 7/17/2012     | Not Issued  | 6                |
|-------|------------|-------------------|-----------|--|----------|-----------|--------------|---------------|-------------|------------------|
| Water | Industrial | General Permit    | MNG250090 | Waterfront Plaza Condominium Association   | N        | St. Louis | Duluth       | 7/2/2012      | Not Issued  | 6                |
| Water | Industrial | General Permit    | MNG490283 | Wells Concrete Products Co                 | N        | Faribault | Wells        | 7/12/2012     | Not Issued  | 6                |
| Media | Division   | Permit Type       | Permit ID | Facility Name                              | Priority | County    | City         | Date Received | Date Issued | Reason for Delay |
| Water | Industrial | General Permit    | MNG255043 | Winco Inc                                  | N        | Le Sueur  | Le Center    | 7/2/2012      | Not Issued  | 6                |
| Water | Industrial | Individual Permit | MN0069108 | Central Bi-Products - Long Prairie Type IV | N        | Todd      | Long Prairie | 7/23/2012     | Not Issued  | 3                |
| Water | Municipal  | Individual Permit | MN0020788 | Elk River WWTP                             | N        | Sherburne | Elk River    | 7/9/2012      | Not Issued  | 3                |
| Water | Municipal  | Individual Permit | MN0068802 | Hope - Somerset Township WWTP              | N        | Steele    | Hope         | 7/27/2012     | Not Issued  | 4                |
| Water | Industrial | Individual Permit | MN0050911 | Hormel Foods Corp - Austin Plant           | N        | Mower     | Austin       | 7/5/2012      | Not Issued  | 3                |
| Water | Municipal  | Individual Permit | MN0023973 | Litchfield WWTP                            | N        | Meeker    | Litchfield   | 8/2/2012      | Not Issued  | 4                |
| Water | Industrial | Individual Permit | MN0063304 | Magellan Pipeline Co LP - Hydrostatic      | Y        | Ramsey    | Roseville    | 7/17/2012     | Not Issued  | 3                |
| Water | Industrial | Individual Permit | MN0061638 | New Ulm Quartzite Quarry                   | N        | Nicollet  | New Ulm      | 7/6/2012      | Not Issued  | 3                |
| Water | Municipal  | Individual Permit | MN0021784 | Pine City WWTP                             | N        | Pine      | Pine City    | 7/20/2012     | Not Issued  | 3                |
| Water | Municipal  | Individual Permit | MN0054801 | Pipestone WWTP                             | N        | Pipestone | Pipestone    | 8/2/2012      | Not Issued  | 6                |
| Water | Industrial | Individual Permit | MN0070262 | Recovery Technology Solutions              | Y        | Dakota    | Randolph     | 7/31/2012     | Not Issued  | 4                |
| Water | Municipal  | Individual Permit | MN0020681 | Stewartville WWTP                          | N        | Olmsted   | Stewartville | 7/27/2012     | Not Issued  | 3                |

## Appendix A

(Pending Permit Applications Over 150 Days and Reasons for Delay)

|       |            |                   |           |                            |   |          |          |           |            |   |
|-------|------------|-------------------|-----------|----------------------------|---|----------|----------|-----------|------------|---|
| Water | Industrial | Individual Permit | MN0053082 | Unimin Corp - Kasota Plant | N | Le Sueur | Kasota   | 7/31/2012 | Not Issued | 3 |
| Water | Industrial | Individual Permit | MN0001716 | Unimin Corp - Ottawa Plant | N | Le Sueur | Le Sueur | 7/31/2012 | Not Issued | 3 |
| Water | Industrial | Individual Permit | MN0048984 | Waldorf Corp dba RockTenn  | N | Ramsey   | St. Paul | 7/11/2012 | Not Issued | 3 |

### Delay Codes and Reasons

1 - Unresolved permit violations, 2 - Lack of staff, 3 - No significant reasons for delay, 4 - Waiting for information from permittee, 5 - Significant public engagement process, 6 - Changes in Federal/State regulations or policies, 7 - Government shutdown

**Note:** Reasons 2, 4, and 6 may include scientific and technical disagreements.