

Streamlining Minnesota's environmental permitting process:

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Essential for economic growth

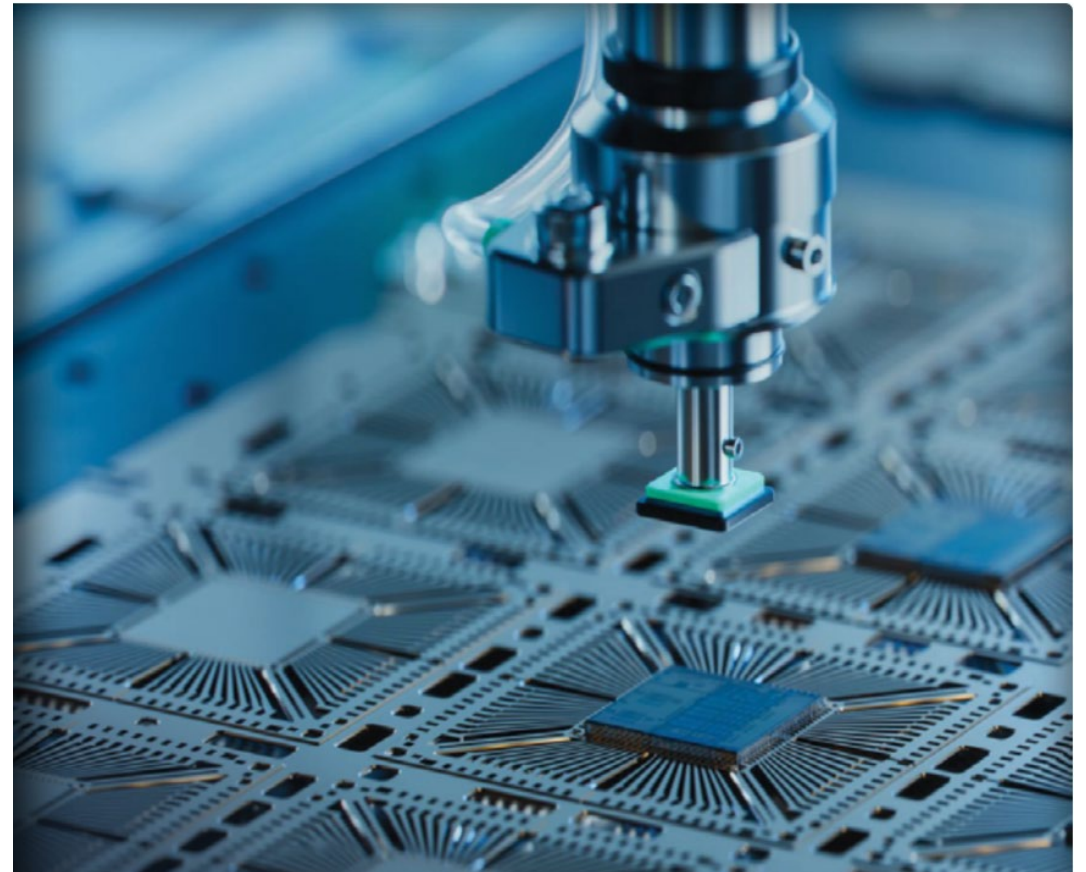
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Minnesota has an opportunity build on its diverse industry strengths this decade

- Manufacturing
- Food and agriculture
- Mining, energy and clean-tech
- Life sciences

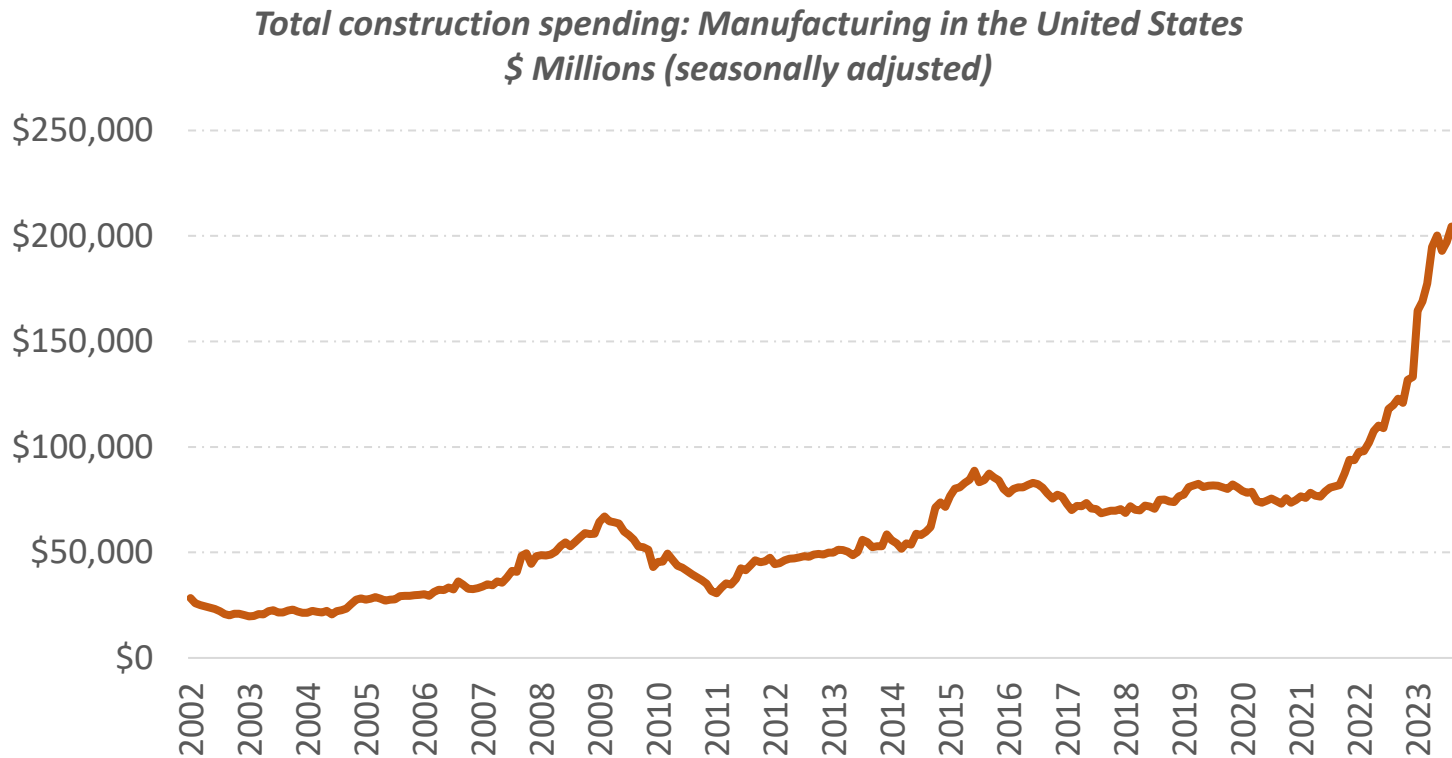


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U.S. manufacturing construction surged by 70% in 2023



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

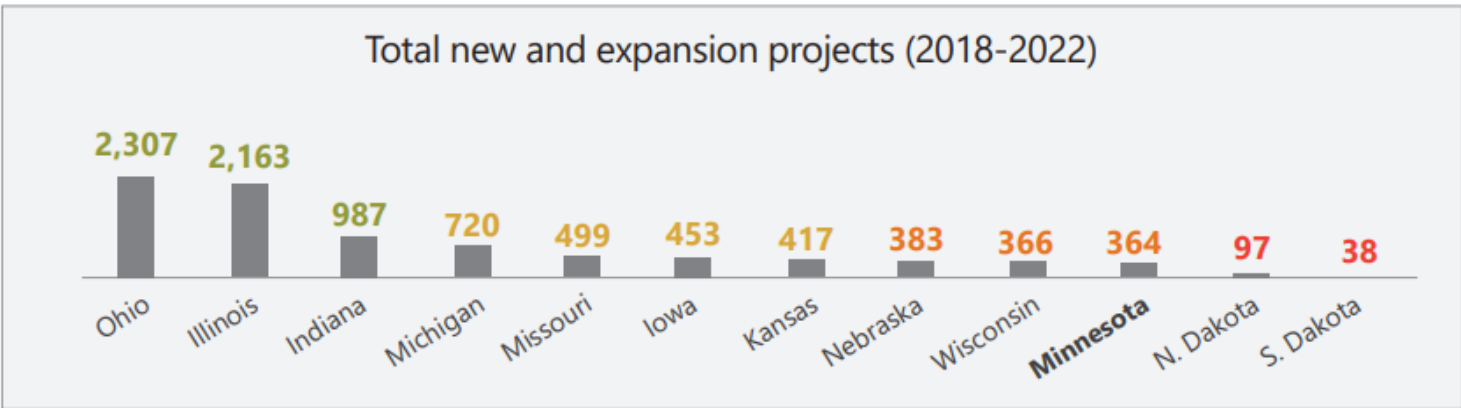
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More expansions are leaving than coming to Minnesota

2020-2022	Expansions from MN-based companies occurring in other states 	Expansions from out-of-state companies coming to MN 	Projects coming to MN (-) projects leaving MN
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 expansion projects



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.

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Minnesota is 43rd in manufacturing GDP growth this decade

MN GDP growth in selected sectors (Q4 2019 – Q2 2024):

Manufacturing:

-0.6%; Ranked 43rd

Construction:

-1.0%; Ranked 35th

Mining, quarrying and oil and gas extraction:

-1.5%; Ranked 25th

Utilities:

-2.2%; Ranked 39th

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Make it easier to invest for companies who want to build and expand in Minnesota

- Time, cost and certainty matter for capital investment projects
- High-profile economic development projects have left in Minnesota due to permitting challenges
- Businesses, site selectors and environmental consultants report delays and challenges
- Minnesota's environmental regulations aim to protect the environment and human health, while also enabling economic development

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Growing interest in federal and state permitting reforms

“Permitting delays can increase costs and uncertainty for communities and businesses. That’s why today, I am signing an executive order aimed at speeding up state permitting and refunding permit application fees for missed deadlines whenever possible.

Those applying for a state permit must know how long the process will take and that when the state commits to a deadline, we will meet it.”

– Governor Whitmer of Michigan



“Congress should approach federal permitting reform in a way that maximizes efficiency in government decisionmaking 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

Policy and Legal Permitting Reform Would Unlock U.S. Potential, NAM tells Congress

By NAM News Room | April 27, 2023 1:30pm



Reforming the permitting process for infrastructure projects could raise standards of living in America, unlock the full potential of ambitious recent legislation and make us less dependent on hostile foreign nations—all while making manufacturing in the U.S. more competitive, NAM President and CEO Jay Timmons

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How is Minnesota balancing these priorities?

- How long does it take to get an air or water permit in Minnesota?
- How does permitting timeframes compare to other states?
- What is the economic cost of permitting delays?
- What factors influence delays and transparency issues?
- What can be done to streamline our permitting and environmental review programs and make them more transparent?

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Full report contents

- **Literature review** –summary of prior reports on Minnesota permitting and review what other states are doing to streamline
- **Economic analysis** – economic assessment of Minnesota's environmental processes
- **Environmental permitting and review** –technical and procedural comparison of Minnesota's environmental processes to select benchmark states (Air, Water, Wetlands and Environmental Review)



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Breaking down MPCA permitting programs

Air, Water and Land Permits



Priority or non-priority

- **Priority** = “Defined as 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.”

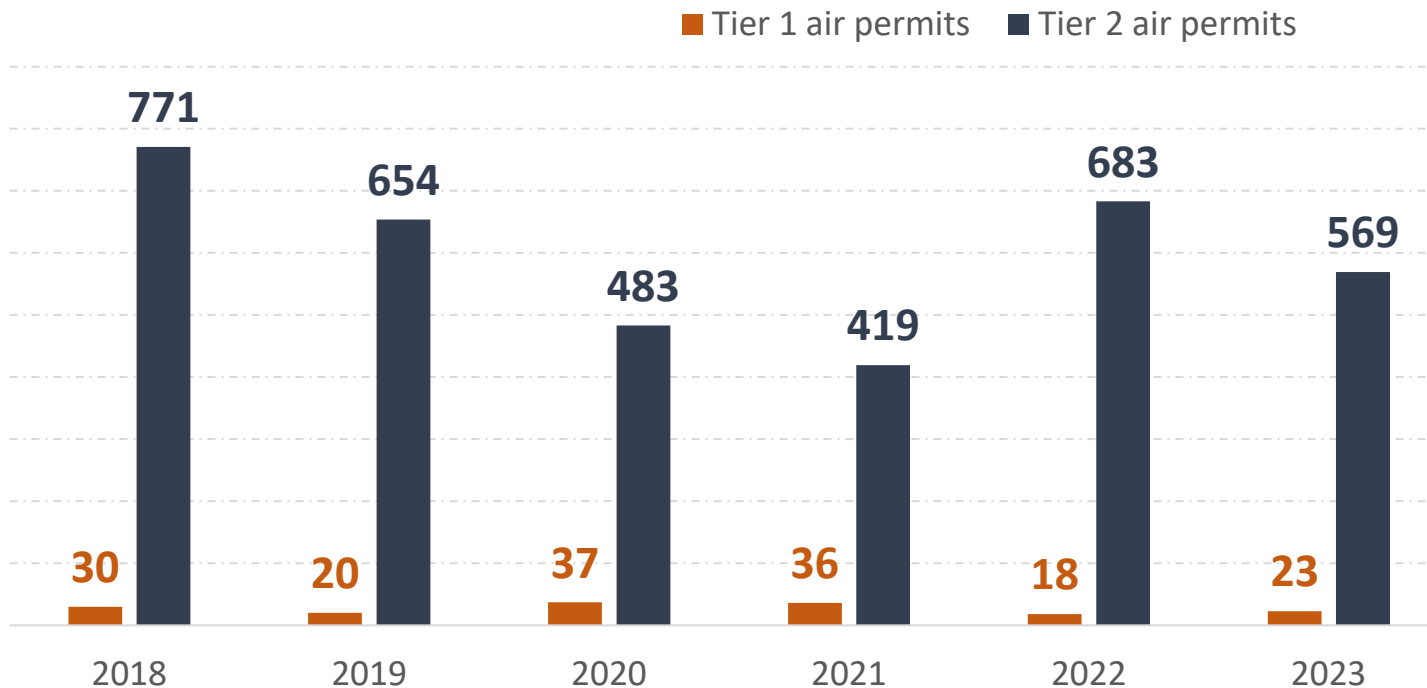
Tier 1 or Tier 2

- **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

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**Tier 1 air permits are typically issued in around 1 month;
Tier 2 permits are typically issued in 1.5 – 2 years**

Median number of days to issue air permit by Tier level



Tier 1 air permits (90-day goal)

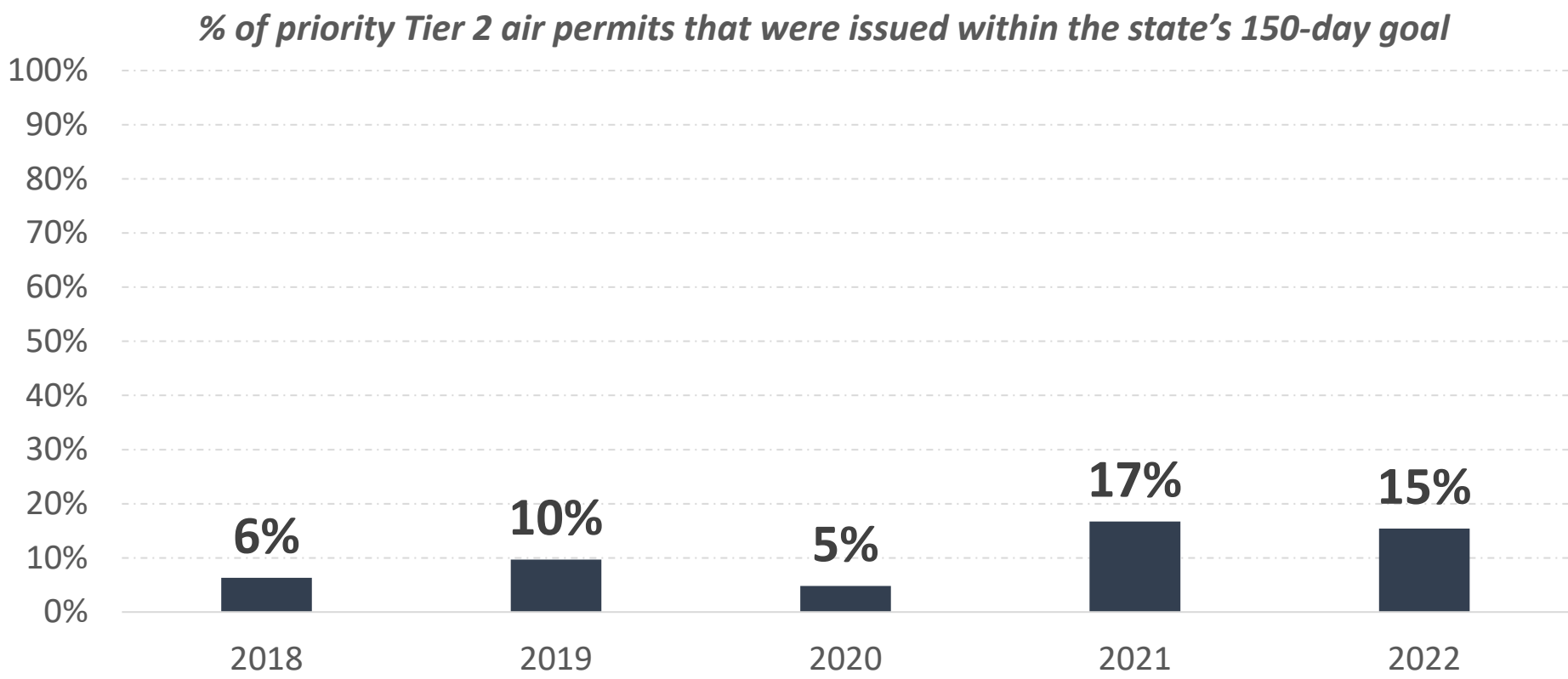
- Capped Permit
- Registration Permit
- Part 70 General Permit
- State General Permit

Tier 2 air permits (150-day goal)

- Individual Part 70 Operating Permit
- Individual State Operating Permit
- Reissuance of expiring individual Part 70 or State Operating permit
- Amendment (administrative, minor, moderate, or major) to an individual permit
- Applicability determination

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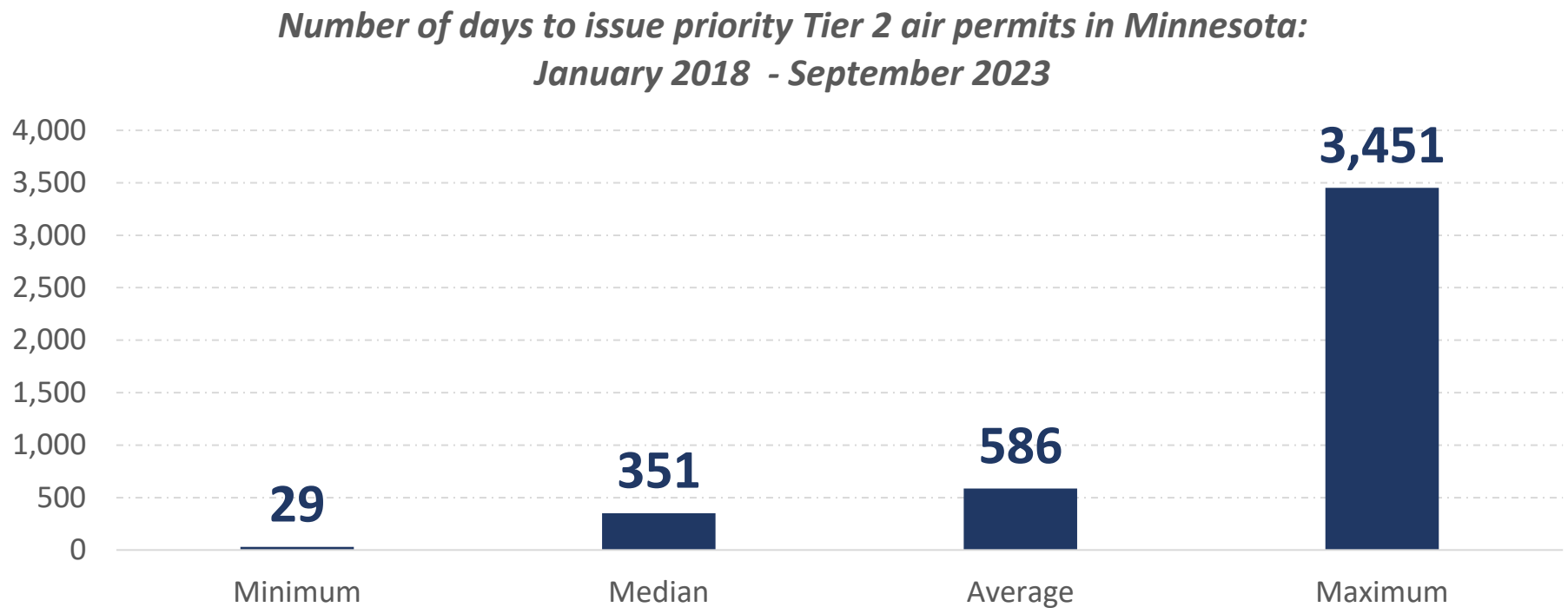
Between 5% - 17% of priority Tier 2 air permits met 150-day goal



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

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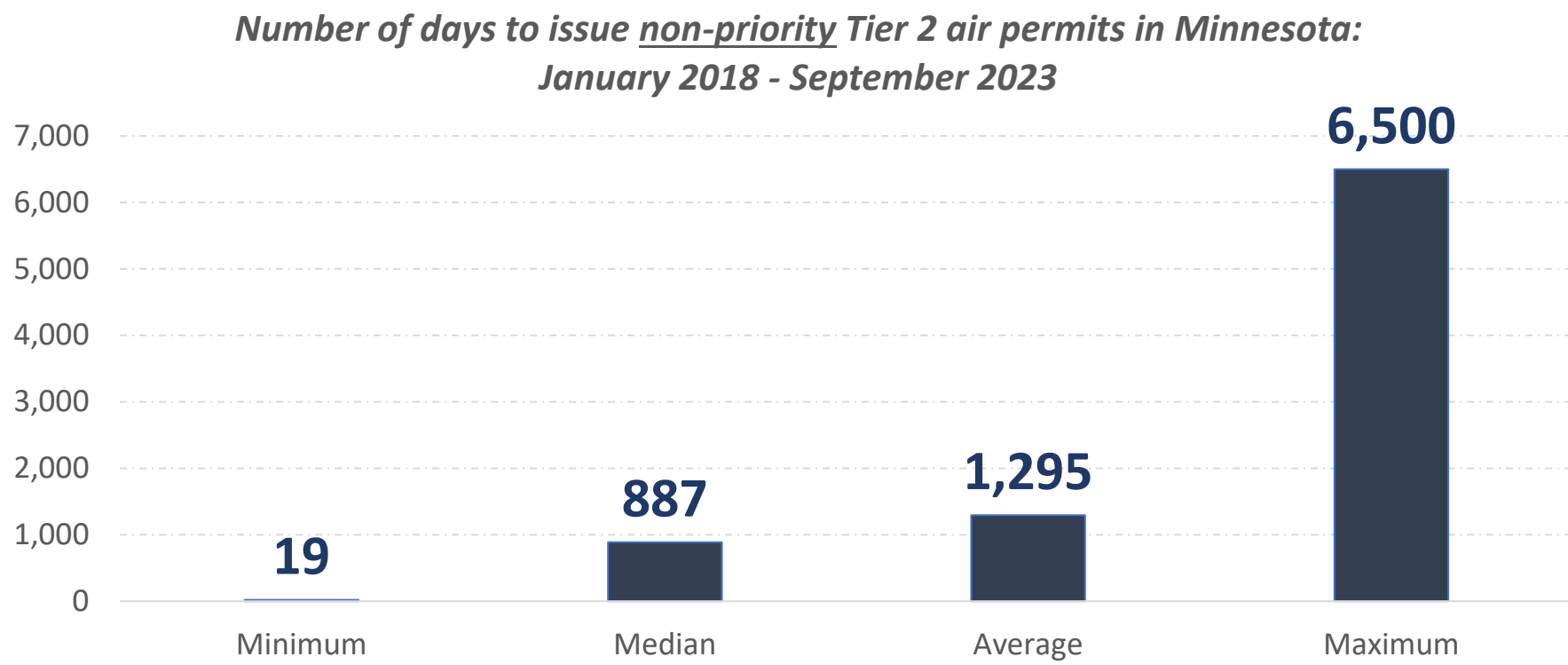
Median timeline to issue priority Tier 2 air permits
is 351 days, with the average being 586 days



Source: Minnesota Chamber Foundation analysis of Minnesota Pollution Control Agency data
N = 151

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



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

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How does Minnesota compare to peer states?

Policy Navigation Group conducted a quantitative comparison of the air permitting review times for new facility construction or modification projects for Minnesota and for other states. The analysis has two objectives:

- Explore differences between Minnesota's air permitting review times and those of other selected states; and,
- Estimate the economic gains and economic impacts if Minnesota reduces permitting times to those of other selected states.

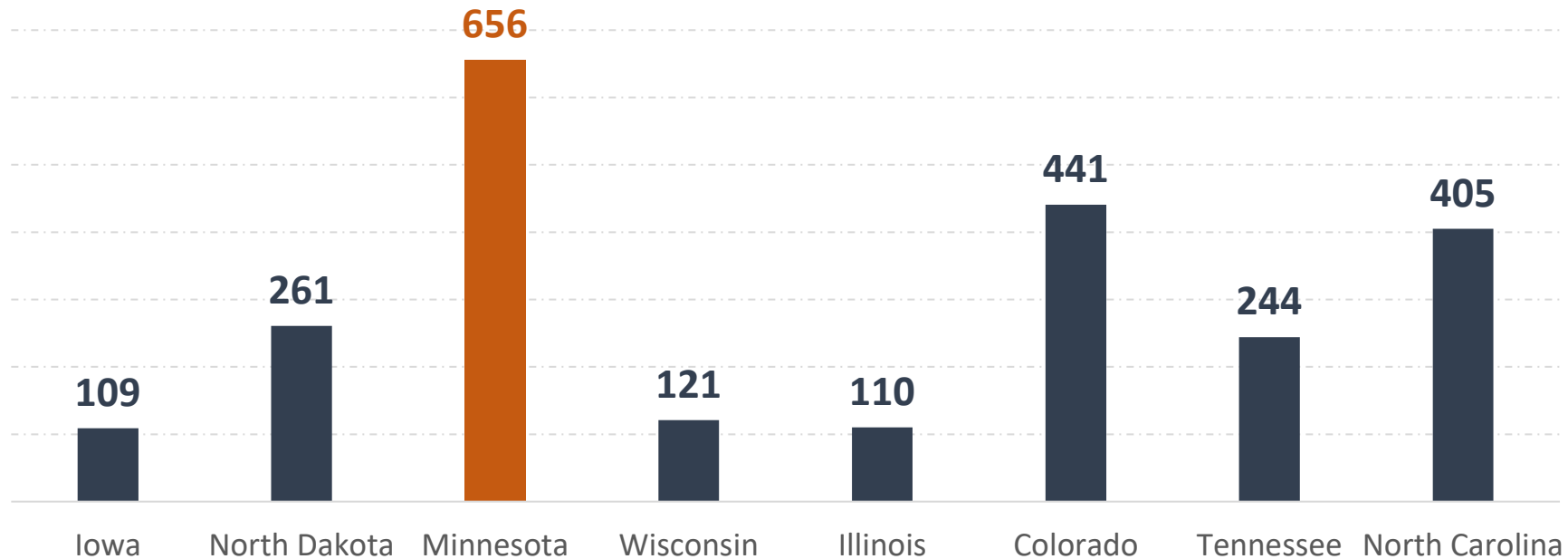
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Minnesota's review times are 1.5 to 6 times longer than other states evaluated in this study

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



Source: Policy Navigation Group

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Minnesota would achieve meaningful economic gains if permit issuance timeframes were similar to peer states

Gains if MN'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

Source: Policy Navigation Group

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Individual industrial water permits are needed less frequently, but face similar timelines as Tier 2 air permits

PRIORITY PERMIT APPLICATIONS

MPCA received **15** priority applications (issuance, reissuance, and modification) associated with individual industrial NPDES/SDS permits in fiscal years 2018 through 2023.

- Only **3** requests, for minor permit modifications, were completed during the MPCA's 150-day goal timeframe.

New individual industrial
NPDES/SDS permit = **476 days**

Major modification to individual
industrial permit = **377 days**

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High share of individual industrial NPDES/SDS permits are administratively continued in Minnesota

- MPCA currently administers **~226** individual industrial NPDES/SDS permits:
 - » ~74 are current (i.e., within the five-year term)
 - » ~ 152 are administratively continued (i.e., past the expiration date, but still in effect) as of the end of Q3 2023

Average
amount of time
permits are
administratively
continued is
~6.5 years

Longest amount
of time a permit
has been
administratively
continued is
>23 years

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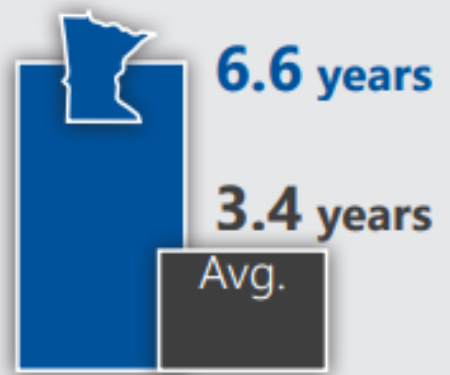
Minnesota compared to other states

MPCA has a **higher than average** number of administratively continued (i.e., extended beyond the permit term) individual industrial NPDES permits.



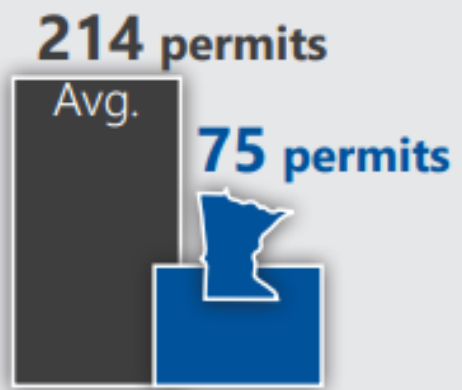
As of Q3 2023 end

MPCA has a **longer than average** time that individual industrial NPDES permits have been administratively continued.



As of Q3 2023 end

MPCA has **issued fewer than average** individual industrial NPDES permits in the last five years.



As of Q3 2023 end

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Priorities for permitting improvements

Reduce the length of time it takes to issue Tier 2 air and water permits.

- The state's goal is to issue priority permits within 150 days. But the median for priority Tier 2 air permits is 351 days and the average is 586 days. Similar timeframes exist for Tier 2 industrial water permits.

Address backlogs of permit renewals and minor facility changes for air and water permits

- Average timeframe to issue non-priority Tier 2 air permits is 1,263 days, with renewals for Title V permits taking an average of nearly 1,500 days. 280 permit applications have been awaiting assignment for over year.
- 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.

Increase transparency, certainty and collaboration

- Reduce the variability in timeframes and provide more support to help companies understand the process and expected milestones.
- Continue making improvements to permit and environmental review dashboards and reports to increase transparency.

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Considerations for improvement: Air permitting

- | | | |
|---|---|---|
| Separate construction and operating permits | ➡ | <i>This has the potential to help improve permit issuance times. Nearly all states included in this study have separate construction and operating permits.</i> |
| Revise approach to completeness evaluations | ➡ | <i>Could get permits assigned to engineers in a more timely manner and prevent applications from being rejected for minor, non-technical reasons.</i> |
| Enhance expedited permitting process | ➡ | <i>Consider reviewing and revising the expedited permitting process and include relevant statistics in reporting tools. Ex. Utilize 3rd party permit professionals</i> |
| Data on air permit processing timelines | ➡ | <i>Improved data could benefit the MPCA, the public and applicants with increased transparency</i> |
| Support resources for permit applicants | ➡ | <i>Consider expanding small business ombudsman to assist companies of any size, or enhance the Business First Stop program to serve more applicants.</i> |

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Considerations for improvement: Water permitting

Further prioritize commitment to timeliness

Provide leadership support for timely issuance and reissuance of permits, while preserving the ability to modify schedules as appropriate to work through complicated issues with permittees



Increased schedule certainty for permittees, especially for those that need a permit action prior to new or expanded activities

Reduce regulatory complexity

Develop additional general permits for similar operations and types of discharges



Increased options for streamlined and efficient permitting, while achieving the same environmental protection goals

Clarify and streamline antidegradation procedures

Develop guidance and tools to navigate Minnesota's complex water quality criteria and large number of impaired waters



Increased ease of navigating permitting process, while achieving the same environmental protection goals

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Considerations for improvement: Environmental Review



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.



Narrow the focus of EAW content to focus more specifically on those questions where the impacts would not require permits (i.e., subject to the mitigation of an ongoing authority) or those impacts subject to permits that do not have public comment/engagement as part of the process



Revise the scoping requirements for a mandatory EIS to provide project proposers more certainty regarding the time it takes to complete the process.

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Considerations for improvement: Wetlands



Complete the 404 assumption to reduce duplication between the Wetland Conservation Act and the U.S. Army Corps of Engineers.



Expand the Board of Water and Soil Resources annual Local Government Units report to further evaluate effectiveness of specifically administering the WCA, such as timing of completeness review and decisions to understand the actual decision timeframes, and to help identify areas for improvement.



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