



**Progress Report:**  
**Wastewater Point Source  
Permitting, Compliance  
and Enforcement**

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REPORT TO THE LEGISLATURE

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Minnesota Pollution Control Agency

February 2003

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The mission of the  
Minnesota Pollution Control Agency  
is to help Minnesotans  
protect and improve  
the environment.



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# Executive Summary

This report describes the Minnesota Pollution Control Agency's (MPCA's) efforts to protect, maintain and improve the environment by ensuring that facilities discharging to the state's waters are properly permitted and in compliance with federal and state law.

In May 2001, the Legislative Audit Commission authorized a review of the MPCA's performance in the permit issuance, compliance monitoring and enforcement aspects of the wastewater point-source program. The Office of the Legislative Auditor (OLA) recommendations, published January 24, 2002, were:

*With regard to wastewater point-source permitting:*

The Legislature should require the MPCA to prepare a progress report prior to the 2003 legislative session that addresses:

- The status of the agency's permit backlog;
- Improvements in the permitting process, including (but not limited to) permit forums, time limits, permit priority-setting and phosphorus and mercury issues.
- Consistent ways to track the productivity of permit-related staff.

*With regard to wastewater compliance and enforcement:*

The MPCA should:

- Consider options for increasing its number of inspections per full-time equivalent (FTE) staff position;
- Update its "enforcement response matrix" and ensure that staff uses it consistently;
- Consider options for reducing the number of instances where permittees fail to submit required reports; and

- Periodically monitor trends in permit violations, inspections completed and inspector productivity.

This report summarizes the MPCA's progress, both prior to and following the OLA report, to speed issuance of wastewater permits and increase compliance and enforcement activities, as well as maintain the wastewater point-source program as a whole. It has been prepared for the Minnesota Legislature, as required in Laws 2002, Chapter 382, Section 5, found at [www.revisor.leg.state.mn.us/slaws/2002/c382.html](http://www.revisor.leg.state.mn.us/slaws/2002/c382.html).

## Permitting: Results and Process Improvements

The U.S. Environmental Protection Agency (EPA) defines major facilities as those discharging greater than one million gallons per day of effluent; Minnesota has 86 majors. Those with less than one million gallons per day are defined as minors; Minnesota has 1308 minors. These definitions are used throughout this report.

The MPCA's efforts to increase the number of wastewater point-source permits issued has met or exceeded its first targets.

- During 2001 and 2002, the MPCA increased the percentage of major facility permits that are up-to-date from 45 percent in January 2002 to 67 percent as of December 31, 2002. **The backlog of out-of-date water quality major facility permits dropped from 55 percent to 33 percent, exceeding the established goal of 38 percent.**

- The MPCA increased the percentage of minor facility permits that are up-to-date from 55 percent in January 2002 to 70 percent as of December 31, 2002. **The backlog of out-of-date minor facility wastewater permits dropped from 45 percent to 30 percent, exceeding the established goal of 38 percent.**

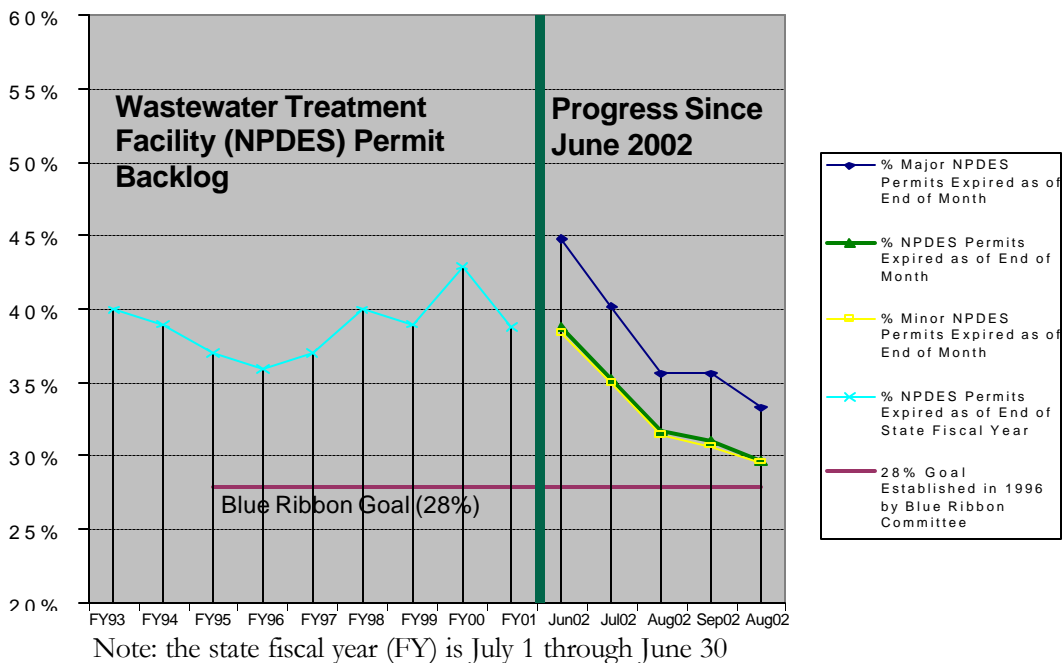
The MPCA effort will continue in calendar year 2003, with **backlog targets of 18 percent for major facilities and 28 percent for minor facilities by the end of December 2003.**

Many strategies were combined to achieve these outcomes. The MPCA:

- **Established clear goals, lines of authority, responsibility and communication among all of the MPCA involved in wastewater point-source permitting activities.** From the Commissioner's Office through the permit writers, staff members established and met ambitious goals. Staff knows that wastewater point-source permitting is a high priority. The MPCA tracks individual permits and the backlog as a whole, focuses attention on completing permits efficiently and recognizes the successes of permitting staff.
- **Reallocated MPCA resources to achieve results.** In November 2001, the legislature allowed the MPCA to reallocate four full-time equivalents (FTEs), in addition to necessary clerical support and management oversight, to wastewater point-source

permitting. In addition, other aspects of the wastewater point source program that affect permitting were enhanced and special projects and other work unrelated to permit issuance were "parked" to focus on the backlog.

- **Established clear priorities among permit applications.** The MPCA placed new or expanded dischargers that were financially viable and ready to construct, permit modifications, noncompliant facilities and permits that had passed a five-year expiration date at the top of the priority list. By doing so, the MPCA facilitated the needs of permittees while working on permits with the most potential impacts on the environment.
- **Examined the workload to identify and streamline issuance of similar types of permits.** When evaluation of expired permits revealed that 20 percent or more of the backlog consisted of stabilization pond permits, the MPCA staff batched those permits. Common boilerplate language and application of laws, rules and standards streamlined the process and allowed the MPCA to issue all backlogged stabilization pond permits by November 2002. More batches have been identified and will be managed similarly.
- **Removed infrastructure problems hampering permitting staff.** The MPCA made significant efforts to remove impediments to efficient permit issuance by making improvements to the DELTA database used to write and track permits, developing permit forums for peer review and mentoring on difficult permits, enhancing training, reducing the



number of water permitting supervisors from six to two, and implementing a “hands-on” management style with monthly or quarterly staff check-ins.

- **Identified external barriers that drive permit delays and devised strategies to overcome them.** Policy issues related to mercury monitoring and phosphorus limits have delayed many major permits, and the MPCA has recommendations regarding phosphorus. (Market forces have eliminated obstacles to mercury monitoring.) More management involvement in complex or contentious permit negotiation, efforts to identify streamlined methods of community involvement, and other strategies are underway.
- **The MPCA established time tracking for all employees in January 2002, allowing managers to monitor productivity of staff.** Standards have been established in staff work plans of timeliness of permit issuance, number of permits expected, timeliness of establishing effluent limits and other landmarks, which are tracked monthly and quarterly.

## Compliance and Enforcement: Results, Process Improvements

As the OLA reported, the number of MPCA facility inspections declined to 17 percent in federal fiscal year 2000 and 12 percent in 2001. In addition, facility compliance levels have room for improvement.

Approximately 69 to 82 percent of Minnesota’s major facilities have been in “significant compliance” in recent years. While this is comparable to statistics for other Midwestern states and the nation, the MPCA set and met aggressive targets for compliance.

The strategy for improving compliance and enforcement efforts consists of increasing the number of facility inspections. The MPCA has met or exceeded its inspection goals for federal fiscal year 2002 (to October 1, 2002):

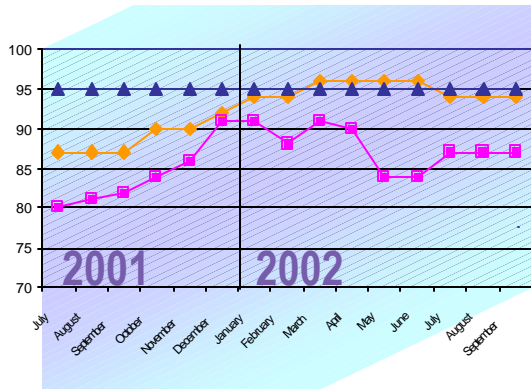
- The goal for minor facility inspections per FTE per year was an average of 24. To date, **the average is 26.5 minor facility inspections per FTE per year.**
- The MPCA **staff inspected 70 percent of major facilities**, a total of 61 out of 86, in 2002. In addition, 10 wastewater permit inspections were performed at facilities considered major in one of the other media.
- The MPCA **staff inspected 23 percent of minor facilities**, 295 out of 1,308, in 2002. The goal was

20 percent of all minor facilities.

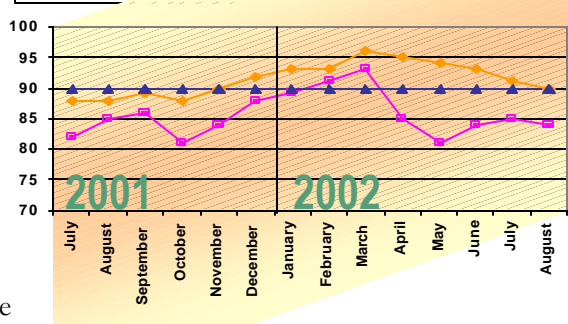
- During the federal fiscal year 2002 (October 1, 2001 through September 30, 2002), MPCA staff issued **18 Notices of Violation (NOVs), 15 Administrative Penalty Orders (APOs) and eight Stipulation Agreements for compliance problems.**

The MPCA effort will continue in federal fiscal year 2003, with **goals of inspecting all major facilities annually (86) and 20 percent of minor facilities (262) before October 1, 2003. The compliance goal for 2003 is 90 percent of minor and 95 percent of major facilities in significant compliance.** The MPCA has made major inroads on these compliance goals (see graphs on page 4). The strategies used to achieve these improvements are specific to compliance monitoring and enforcement:

- **Established clear goals, lines of authority, responsibility and communication among MPCA staff involved in wastewater point-source compliance monitoring and enforcement.**
- **Reallocated MPCA resources to achieve results.** In November 2001, the legislature allowed the MPCA to reallocate two FTEs to wastewater point-source compliance and enforcement.
- **Established clear priorities for inspections and enforcement cases.** The MPCA **updated its major and minor facility enforcement response matrices** and tracked all permitted facilities for compliance. The MPCA is developing a Significant Noncompliance tracking system for minor facilities that mirrors the tracking system that the EPA uses for major facilities. Two of three components are completed -- **tracking significant effluent violations and nonsubmittal of Discharge Monitoring Reports (DMRs).**
- **Improved infrastructure and tools for compliance staff.** The MPCA has created an internal Web page for inspectors, including inspection report templates, inspection checklists, performance reports, the Regional Environmental Management Inspection Strategy, technical guidance, hot links to statutes and rules, the Enforcement Response Plan, and time-tracking guidance.
- **The MPCA established time tracking for all employees in January 2002, allowing managers to monitor productivity of staff.** Inspector productivity can be monitored and tracked, to identify problems earlier and resolve them faster.



Percent of NPDES Major and Minor Permittees in Significant Compliance



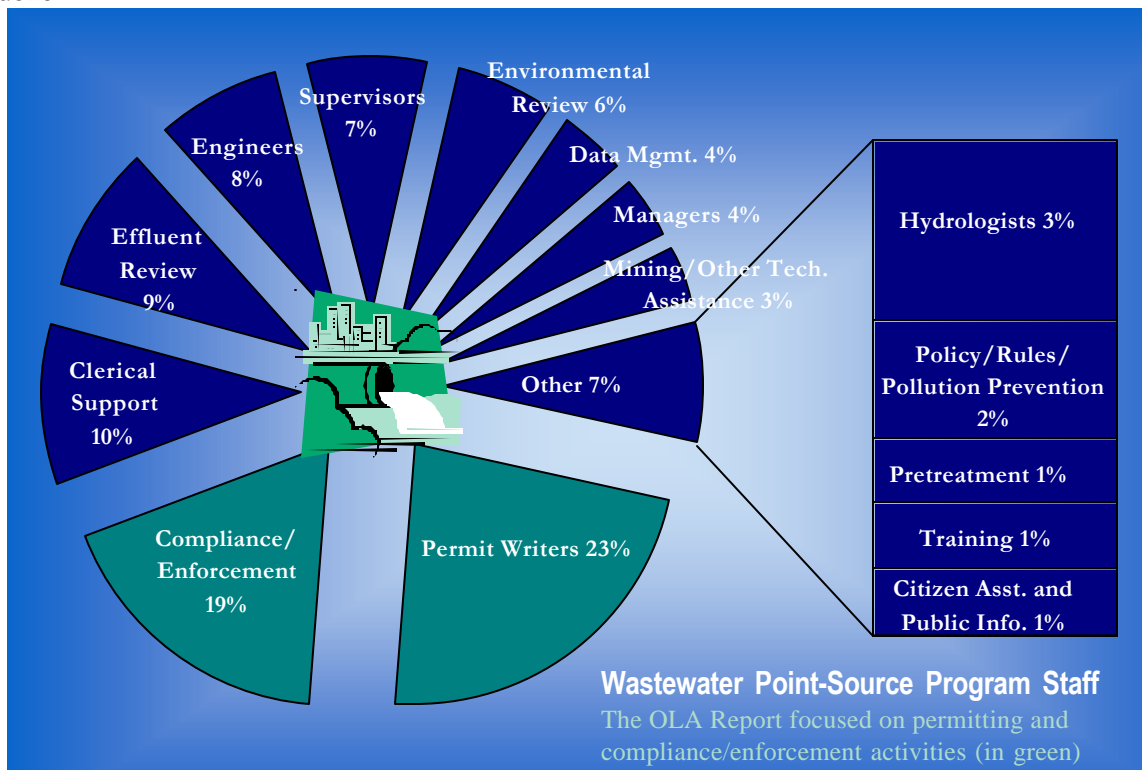
Percent of NPDES Minor Permittees in Significant Compliance

## Future of the Wastewater Point-Source Program

By focusing intently on wastewater point-source permitting and compliance/enforcement, the MPCA staff has addressed a large portion of the permit backlog and improved compliance monitoring significantly. **But the wastewater point-source program consists of more than permits, inspections and enforcement actions.**

By making permitting, inspection and enforcement a priority, the MPCA has reduced the backlog, increased the number of inspections and noted significant compliance among permittees. Work on emerging issues, innovative or complex permits, permit-related policy issues, environmental review and other aspects of the wastewater point-source program did not get done.

The wastewater point-source program has been chronically underfunded for many years (see January 2002 OLA report on MPCA funding at [www.auditor.leg.state.mn.us/ped/2002/pe0202.htm](http://www.auditor.leg.state.mn.us/ped/2002/pe0202.htm)). The complexity of permits, new types of permits, new standards, new laws and new water-quality priorities increase the effort needed in permitting, compliance, enforcement and other areas of the wastewater point-source program while staffing and funding have eroded.



The major forces and trends predicted to affect the future of the wastewater point-source program include:

- **Funding water quality.** Current water-quality fees do not cover the MPCA's staff costs for permitting, inspections, compliance determination and enforcement. If associated essential activities such as standard setting and effluent review, rule development, environmental review, technical assistance, engineering, hydrology and administrative overhead are added, then fees cover less than 24 percent of the MPCA's costs for wastewater point source efforts. These costs are currently defrayed by the state General Fund and federal funds. Federal funding for wastewater permitting and compliance has remained flat, and thus has eroded due to inflation. The legislature has reduced General Fund "bridge" funding by five percent every year during fiscal years 1998 - 2001.
- **Competing for priority.** According to MPCA's 2000 305(b) report to the EPA, 14 percent of Minnesota's water pollution comes from point sources; 86 percent from nonpoint sources. Among those water-quality issues competing with wastewater point-source regulation for funding are: industrial and construction stormwater permits, sewer overflow collection system permits, one-time dischargers, nutrient reduction, impaired waters efforts and other watershed management efforts. Wastewater point-source activities must be balanced with other water program needs to maintain gains in water quality.
- **Federal expectations.** While the MPCA has set and met ambitious goals for permit issuance and inspections, further efficiencies can only be gained by developing and implementing streamlining measures. The MPCA can realistically accomplish an 18 percent backlog on major permits and 28 percent on minor, a significant improvement. The national goals are 10 percent for major facilities and 25 percent for minors -- until 2004, when the minor facility goal drops to 10 percent. The EPA is working with the MPCA on a streamlining process for permitting point sources. This work will be prioritized against other critical programs and could be delayed if additional resources are not available.
- **Lack of program development.** Innovation, process improvements, training, technological upgrades, development of laws and rules, community involvement, trend and data analysis, standard-setting and watershed-based services take time from permit-writing, inspections and enforcement. Program development efforts are currently lacking, because resources are focused on production.
- **Economic impacts.** There are substantial costs associated with lack of prompt wastewater point source permitting and enforcement. From a permitting standpoint, delays in permit issuance can result in lost economic development opportunities for municipalities and industries. From an enforcement standpoint, an inability to address problems and violations can result in resource degradation affecting tourism, fishing, recreation and public health. Cost-benefit analyses of wastewater point source funding should consider these impacts.
- **Stakeholder scrutiny.** The wastewater point-source program has been a focus of public scrutiny, in part because end-of-pipe impacts are visual, measurable and understood, while nonpoint sources of water pollution are not. Water plays a large role in the state's life and economy, and people notice and voice concern over the degradation of lakes, rivers and streams. This concern often translates to public opposition of permits that are assumed to "permit" pollution rather than provide enforceable limits to reduce it. This slows down permit issuance, which slows down improvements in point sources, which allows further resource degradation and prompts more criticism and complaints which need investigation.



In 2002, the MPCA made substantial progress in reducing the backlog in wastewater point-source permits and increasing inspections, but further progress will require a partnership with the legislature, facility owners and operators with wastewater permits, the EPA, interest groups and citizens.

**1 The Minnesota Legislature should develop a broad-based, stable funding source to support core water resource protection functions.** The wastewater point-source program is a core function of the MPCA, required by both state and federal laws. Fee increases and appropriations for performing this core function have not been forthcoming from the legislature. If the Minnesota Legislature wants to maintain the gains in water quality that the state has achieved through permitting and compliance activities during the past 30 years, broad-based, stable funding will be crucial.

**2 The Minnesota Legislature should give guidance to the MPCA regarding allocation of resources necessary to meet national Environmental Protection Agency targets for expired wastewater point-source permits and to operate an adequate program.**

The MPCA has made significant progress in the last year by reducing the major permit backlog from 55 percent to 33 percent and minor permit backlog from 45 percent to 30 percent. The MPCA is well on the way to reach the goal of 18 percent for major facilities and 28 percent for minor facilities by

December 2003. These backlog levels still fall behind the EPA goals of 10 percent for major and minor facilities.

Meeting federal permit backlog goals is only one indicator of wastewater point-source program success. Other program goals include improving timeliness of permit issuance, increasing inspections, improving compliance monitoring, developing streamlining measures, training wastewater operators and providing the technical expertise (engineers, hydrologists, staff setting effluent limits) to make the program work. The MPCA estimates that an additional nine FTEs (an estimated \$740,000 annually) will need to be allocated to the wastewater point-source program in order for the MPCA to meet federal goals and better protect the state's waters.

**3 The Minnesota Legislature should provide a clear policy statement regarding phosphorus limits for municipal facilities discharging more than 1,800 pounds of phosphorus per year.** Clarification about when limits apply to facility discharges would eliminate time-consuming disputes among municipalities, nongovernmental organizations and the MPCA. The MPCA could solicit input from its stakeholders and develop a recommended approach for legislative consideration in 2004.

#### **The MPCA Citizens' Board: Involvement in Permitting**

The MPCA is unique among state agencies in having a nine-member Citizens' Board governing the agency. By law, the Commissioner is the chair of the Board and all members are appointed by the Governor to staggered terms. One member must represent organized labor, one must be knowledgeable about agriculture, up to two may be local government officials, but all are citizen members. The Board adopts agency rules, acts on requests for variances, decides on whether environmental assessment worksheets or impact statements are needed or adequate, considers contested-case hearing requests, and reviews broad policies. The Board's regular meetings are open to the public.





# Introduction

This report describes the Minnesota Pollution Control Agency’s efforts to protect, maintain and improve the environment by ensuring that facilities that discharge to the state’s waters are properly designed, permitted and monitored for compliance with federal and state law.

In May 2001, the Legislative Audit Commission authorized a limited review of MPCA’s performance, focusing on MPCA’s permit issuance, compliance monitoring and enforcement in the wastewater point-source program.

This report summarizes the MPCA’s progress, both prior to and following the OLA report, to speed issuance of water quality permits and increase compliance and enforcement activities. It has been prepared for the Minnesota Legislature, as required in Laws 2002, Chapter 382, Section 5 at [www.revisor.leg.state.mn.us/slaws/2002/c382.html](http://www.revisor.leg.state.mn.us/slaws/2002/c382.html).

**It comprises both those actions recommended by the OLA, as well as other process improvements implemented by the MPCA in the wastewater point-source program, which consists of many functions beyond permitting and compliance/enforcement.**

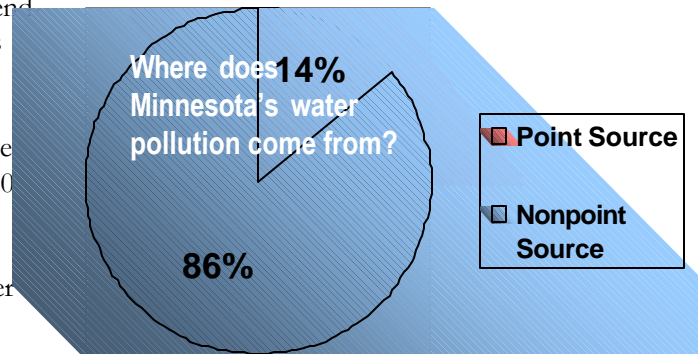
Strategies that have shown significant success or posed significant challenges are emphasized, to provide legislators with a qualitative as well as quantitative view of the wastewater point-source program.

## MPCA Authorities for Wastewater Regulation

The MPCA’s wastewater point-source program makes up only part of the state’s environmental protection efforts to preserve the state’s lakes, rivers, streams and ground water. This is because the sources of water pollution have changed. In the early days of environmental protection, the MPCA focused on “end-of-pipe” or point-source pollution – large industries and municipalities that treated and discharged wastewater to surface waters. A strong wastewater point-source program is essential for maintaining the substantial gains in water quality achieved through 30 years of point-source water-pollution control.

Today, the MPCA is focusing not only on wastewater point sources, but other categories of point and nonpoint sources as well – feedlots, industrial and

municipal stormwater, individual sewage treatment systems (ISTS), farm field runoff and bank erosion, for example. According to a recent MPCA report to the EPA, 14 percent of Minnesota’s water pollution today comes from point sources; 86 percent comes from nonpoint sources. Balancing limited resources for water quality programs is sometimes a difficult task.



As part of the MPCA's core functions as a regulatory agency, the MPCA issues wastewater point source permits for municipal and industrial facilities that discharge wastewater to surface water or land through discrete discharge points. The U.S. Environmental Protection Agency (EPA) has delegated to the MPCA the authority to issue National Pollutant Discharge Elimination System (NPDES) permits. The MPCA also issues State Disposal System (SDS) permits either concurrently with the NPDES permit or for activities not addressed through the NPDES program.

### Major and Minor Permits

Permits fall into two different categories, depending upon a facility's discharge rate to the receiving water. The distinction between the "major" and "minor" permits is important: major facility permits have more requirements, need more oversight, take longer to complete than minor permits and discharge a much greater volume of wastewater. The EPA classifies municipal facilities with a greater than one million gallon per day (MGD) discharge rate as major facilities.

Those with less than one MGD are defined as minor facilities. EPA closely monitors the permitting and compliance activities at major facilities.

### MPCA Water Permitting Work Load

The MPCA's progress report focuses on the substantial workload represented by these 1394 permits (86 major, 1308 minor), but NPDES permits are issued for other discharge impacts not discussed here because they were not included in the OLA report. These include pretreatment (special discharge limits for significant industrial users of a municipal system), biosolids (residuals left from wastewater treatment processes), industrial storm water (runoff from industrial sites), construction storm water (runoff from construction activities) and municipal storm water (runoff from city streets).

## Challenges to Improving the Permit Process

Even though very few states have met the national goals of no more than a 10 percent backlog in major and minor facility permits, many states have experienced more movement toward this goal than has Minnesota. Here are some challenges that faced the MPCA in improving the permit process.

### Permit/Process Complexity

- The permitting process has become one implementation tool for broader MPCA and EPA policy initiatives.
- The standards-setting process for toxics reviews, nondegradation issues, mercury-reduction considerations or variance requests complicates some permits.
- The number of permit modifications and variance requests has increased.
- The MPCA staff spends time providing up-front administrative and technical assistance on projects unable to secure funding.

### Stakeholders Playing an Active Role

- Organized and legally sophisticated groups challenge many MPCA policies during the public notice process on NPDES permits.
- Permittees are resisting additional requirements placed into permits.

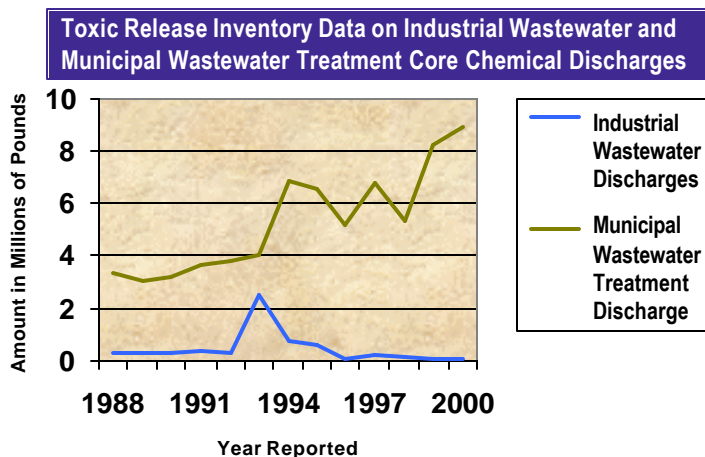
### Program Management Issues

- When ongoing facility noncompliance is integrated into a facility's permitting process, reissuance is substantially slowed.
- Before January 2002, a comprehensive system for tracking the progress of permit issuance had been lacking.
- The water quality DELTA database, the MPCA computerized permit-management system, needs additional development to make it a more effective tool for permitting and compliance tracking activity.
- Vacated permit-writer positions remained unfilled due to budget limitations in 2000 and 2001.
- Training for new permitting supervisors and staff is needed on a routine basis.
- The 1998 MPCA reorganization caused various problems, many of which have been addressed by the November 2001 organization change.

During the past 10 years, the number of permits redefined by the EPA as National Pollutant Discharge Elimination System (NPDES) has grown considerably. Despite developing efficient ways to expedite these new permits, permit efficiency does not eliminate the need for complaint response, technical assistance requests, inspections and enforcement expectations regarding those permits. This overall picture is important, because agency responsibilities are defined in statute and a smaller staff complement must be spread over growing water program work loads.

### Impacts of Wastewater Point Sources

Controlling water pollution discharged from wastewater point sources continues to be an important core function of the MPCA. According to the most recent federal data for Minnesota, an estimated 60,315 pounds of chemicals were released from industrial sources in 2000, as well as 8.8 million pounds of chemicals from municipal wastewater treatment facilities.



Constraining and reducing these discharges and monitoring compliance is important to the environment. The state has 92,000 miles of rivers and streams and 11,842 lakes of 10 acres or more, and many are receiving waters for wastewater from point sources. These discharges have impacts on fish, wildlife, biological diversity and habitat.

However, discharges have economic impacts as well. Tourism contributes \$10 billion annually to the state's economy, supporting 117,000 jobs. People clearly come for water recreation; 98 percent of Minnesota's resorts, 80 percent of campgrounds and 24 percent of hotels are located on lakes and rivers, attracting more than 1.5 million anglers each year who spend an estimated \$846 million.

### Funding for Wastewater Point Source Regulation

The MPCA receives most of its funding for wastewater point-source staff from four sources: the state environmental fees and taxes (37 percent), the state General Fund (20 percent), federal funds (31 percent) and the Minnesota Public Facilities Authority (10 percent).

According to a report by the Office of the Legislative Auditor, "Minnesota Pollution Control Agency Funding," Minnesota's water quality fee revenues do not cover the cost of MPCA's water-related regulatory activities. Currently, water quality fees cover an estimated 24 percent of staff and associated support.

### Current Staff Complement

The agency's 1998 decentralization placed staff in all media programs closer to where their services were needed throughout the state. The goal was to improve service delivery and ensure that decision-making was faster. Accordingly, regional FTE numbers increased from 116 in 1997 to 187 by the end of 2002. In addition to staff actually providing environmental regulatory activity, additional administrative and management support had to be assigned locally to assist them. The FTE numbers for program activity described in this report include technical staff, as well as administrative and management support.

Staff working on wastewater point-source permitting and compliance/enforcement are located in all offices and all divisions. The Majors and Remediation (MAR) Division provides permits, compliance determination and enforcement for major facilities. The Regional Environmental Management (REM) Division provides similar services for minor facilities. Technical support staff members are located in various divisions, depending upon their primary responsibilities.

The MPCA staff involved with wastewater point sources also:

- Reviews routine compliance data from permitted facilities;
- Performs facility inspections – announced, unannounced, complaint-related and multimedia;
- Undertakes enforcement activities at sites not in compliance with state and federal regulations;
- Reviews, comments on, and sometimes prepares Environmental Assessment Worksheets (EAWs) or

Environmental Impact Statements (EISs) if a permit is being sought for a new facility or expansion;

- Coordinates public involvement activities for permits of high public interest;
- Reviews engineering plans and specifications for new, updated or expanding facilities;
- Determines appropriate water quality standards to apply to permitted facilities;
- Reports progress to MPCA management, the Governor, the Minnesota Legislature, the EPA and the public;
- Maintains a database of permitted facilities and compliance issues;
- Prepares Citizens' Board items, findings of fact and expert testimony on contested case hearings involving permits or rule hearings; and
- Evaluates emerging science regarding water pollution and its health or ecological impacts, as well as its implications for water quality permits.

Table 1 shows the current number of FTEs assigned to the wastewater point-source program.

<b>Table 1: MPCA FTEs Assigned to the Wastewater Point-Source Program</b>	
<b>Program Function</b>	<b>FTEs</b>
Permit writers	22.50
Compliance/enforcement	18.25
Clerical support	10.00
Water quality standards/effluent review	9.25
Engineers	7.75
Supervisors	7.50
Environmental review	6.00
DELTA system/data management	4.25
Managers	4.00
Technical assistance/mining	3.25
Hydrologists	2.75
Policy development, rule-writing and pollution prevention	1.75
Pretreatment	1.00
Training	1.00
Customer assistance	0.50
Public information	0.50
<b>TOTAL FTEs</b>	<b>100.25</b>

## Recommendations of the Legislative Auditor

In recent years, the MPCA's wastewater point-source program has faced funding shortfalls and been criticized for unsatisfactory performance. During the 2001 legislative session, some legislators expressed concern about whether the MPCA's core functions, such as permitting and enforcement, were being adequately managed by the agency.

In May 2001, the Legislative Audit Commission authorized a limited review of MPCA's performance, focusing on MPCA's permit issuance, compliance monitoring and enforcement in the wastewater point-source program. The recommendations that emerged from this audit are as follows, broken down into main tasks for convenience:

### **With regards to permitting:**

The Legislature should require the MPCA to prepare a progress report prior to the 2003 legislative session that addresses:

- The status of the agency's permit backlog;
- Improvements in the permitting process, including (but not limited to) permit forums, time limits, permit priority-setting and phosphorus and mercury issues.
- Consistent ways to track the productivity of permit-related staff.

### **With regards to compliance and enforcement:**

The MPCA should:

- Consider options for increasing its number of inspections per full-time equivalent (FTE) staff position;
- Update its "enforcement response matrix" and ensure that staff uses it consistently;
- Consider options for reducing the number of instances where permittees fail to submit required reports; and
- Periodically monitor trends in permit violations, inspections completed and inspector productivity.

This report summarizes the MPCA's progress, both prior to and following the OLA report. **It comprises both those actions recommended by the OLA, as well as other process improvements implemented by the MPCA in the wastewater point-source program.** Strategies that have shown significant success or posed significant challenges are emphasized, to provide legislators with a qualitative as well as quantitative view of the wastewater point-source program. Parts of the report highlighted pertain directly to the OLA's recommendations.

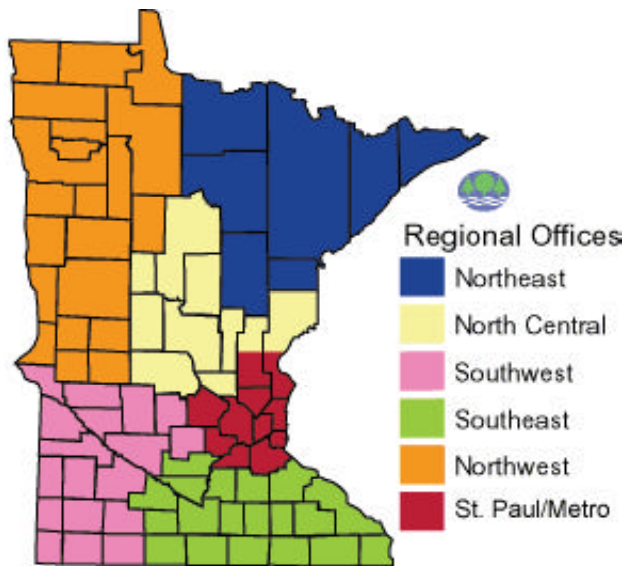
The report updates a July 2002 Special Report widely disseminated by the MPCA outlining the agency's plan for implementing the OLA recommendations (see Appendix I). The Special Report described goals for permitting, inspections and enforcement, including numerical targets, for both the short- and long-term. A summary of results of these strategies to date will be included in each section of the report.

## History Lesson: Blue Ribbon Task Force

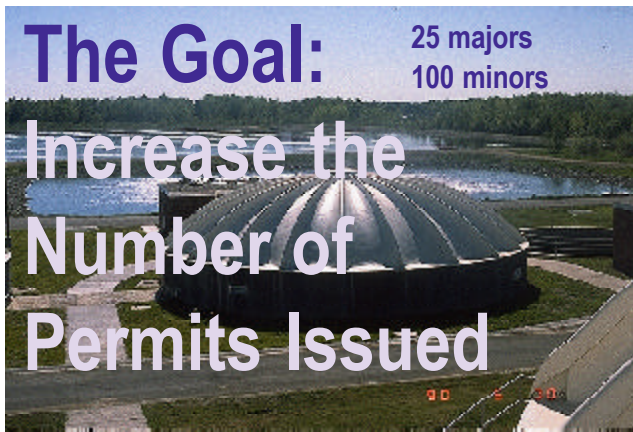
The Blue Ribbon Task Force on Funding Minnesota's Water-Quality Programs was established by actions of the legislature and Governor in Laws of Minnesota 1995, Chapter 220 (Sec. 2, Subd. 2). A shortfall in the budget for water quality programs spurred the effort, which involved a wide range of stakeholders.

The Task Force made a number of recommendations in 1996, including "stretch" goals for permit issuance and staff performance, implementation of a flow-based fee system, a time-tracking system and other strategies to improve permitting and enforcement efficiency and stabilize funding.

Why weren't the Task Force recommendations implemented? Many were implemented, but some were not. The reasons include the failure of three requests to the legislature for increased fee funding recommended by the Task Force. The MPCA's 1998 reorganization, the state's focus on developing the feedlot program, and the increasingly high priority of nonpoint source pollution problems also prevented Task Force recommendations from being implemented.



*The agency's 1998 decentralization placed staff in all media programs closer to where their services were needed throughout the state. The goal was to improve service delivery and ensure that decision-making was faster.. Accordingly, regional FTE numbers increased from 116 in 1997 to 187 by the end of 2002.*



The wastewater point-source permitting program set ambitious targets for staff to achieve in terms of the number of permits issued and individual staff performance. By developing strategies to improve efficiency, track progress, set priorities, develop consistency and innovate, the MPCA is achieving its first landmarks. The steps that led to increased permit issuance during the last year are:

**Step One: Set Goals**

In setting goals for wastewater point-source permitting, the MPCA took into account commitments, resources and realities. Table 2 shows the numerical goals and timeline established by the MPCA, along with reference values from the EPA and the Blue Ribbon Task Force.

**Step Two: Translate Goals into Work Plans**

To achieve these reductions in the backlog, the MPCA integrated the following targets into division work plans. This made clear what was expected of division management and what outcomes were desired.

- The Majors and Remediation (MAR) Division goal was to reissue 25 major facility permits by end of December 2002.
- The Regional Environmental Management (REM) Division goal was to reissue 100 minor facility permits by end of December 2002.

**Step Three: Develop Staff Productivity Goals to Integrate into Work Plans**

The next step has been to formulate staff productivity goals, looking at reasonable timeframes for permit issuance, setting timelines and integrating these goals into division, section, unit and individual work plans. This made clear what was expected at all levels in the organization and what outcomes were desired. These productivity goals include:

- An average of 13.6 permits will be issued per permit-related FTE per year. This goal applies to the entire wastewater point-source permitting program, both majors and minors.
- A maximum of 120 days from the date a permit application is assigned to a permit writer to a draft permit being placed on public notice.
- A maximum of 60 days from the date permit application information is provided to technical support staff to the date that technical support staff provides permit writers with effluent limits for a draft permit.

**Step Four: Develop and Implement Process Improvements**

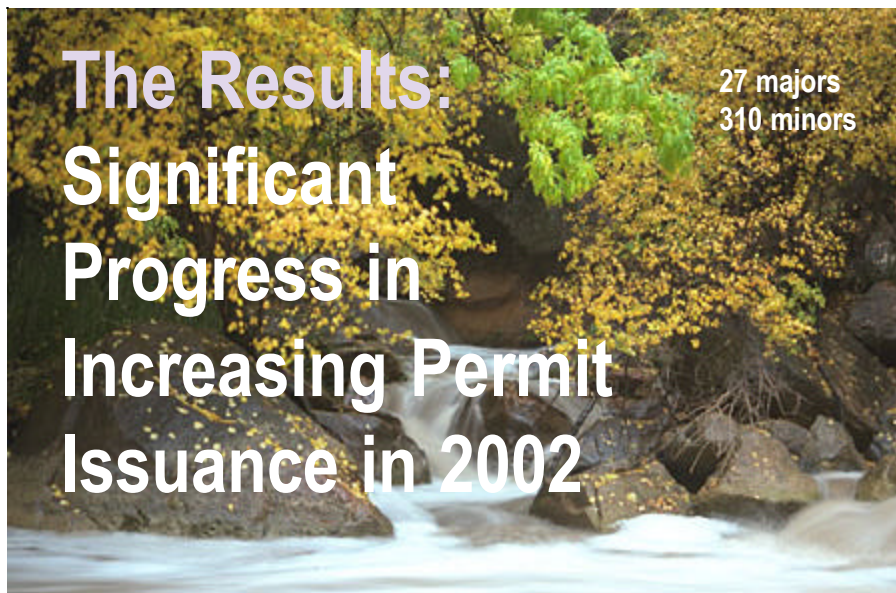
Using information from the OLA report, the 1995 Blue Ribbon Task Force Recommendations and the report of internal design teams, the MPCA designed and implemented several types of process improvements. Some of these improvements were underway before the OLA report was released, others emerged after the OLA audit. This report contains progress to date in implementing the process improvements described. (See Appendix II for a list of process improvements.)

**Step Five: Track Performance and Evaluate Results**

In January 2002, the MPCA implemented time tracking for all staff, giving managers and supervisors data on time spent on permitting. In addition, systems to track progress on permits have been implemented for both major and minor facilities.

**Table 2: Timeframe and Goals for Reducing Wastewater Point-Source Permit Backlog**

	Existing Backlog 1/1/02	MPCA Goal 12/31/02	MPCA Goal 12/31/03	National Goal 2003/2004	Blue Ribbon Task Force Goal
Majors	55%	38%	18%	10%/10%	28%
Minors	45%	38%	28%	25%/10%	28%



The MPCA's efforts to increase the number of water-quality point-source permits issued has met or exceeded its first targets.

- The MPCA has increased the percentage of major facility permits that are up-to-date from 45 percent in January 2002 to 67 percent as of December 31, 2002. **The backlog of out-of-date water quality major facility permits dropped from 55 percent to 33 percent surpassing the 2002 goal of 38 percent.**
- The MPCA has increased the percentage of minor facility permits that are up-to-date from 55 percent in January 2002 to 70 percent as of December 31, 2002. **The backlog of out-of-date minor facility water quality permits dropped from 45 percent to 30 percent, surpassing the 2002 goal of 38 percent.**

During the federal fiscal year, October 1, 2001 through September 30, 2002, the MPCA issued 337 total permits -- 127 general and 210 individual facility wastewater point-source permits. Of these, 103 were part of a batching process (see sidebar, page 14).

In July 2002, the MPCA issued a summary of proposed goals, performance measurements and strategies. Appendix III provides a summary of these strategies and progress to date.

### Who's on First? Prioritizing Permit Applications

With limited MPCA resources and permit applicants with time and cost constraints, it is important to prioritize the permitting process to best serve the interests of the majority of permittees. Therefore, developing a clear-cut priority list was important for MPCA staff attempting to clear the backlog.

The following criteria is used to prioritize projects statewide:

- Priority 1: New or expanded dischargers that are financially viable and ready to go into construction or operation within six months of filing an application.
- Priority 2: New or expanded dischargers that are financially viable and ready to go to construction after six months.
- Priority 3: Permit modifications without additional construction constraints.
- Priority 4: Noncompliant facilities that meet any of the criteria listed above.
- Priority 5: Permits that have passed the five-year expiration date.
- Priority 6: Permits that require changes because the facilities discharge to waters that have been identified as impaired. These permits will be prioritized also to assure that the most impaired waters are managed promptly.
- Priority 7: All other types of permits.

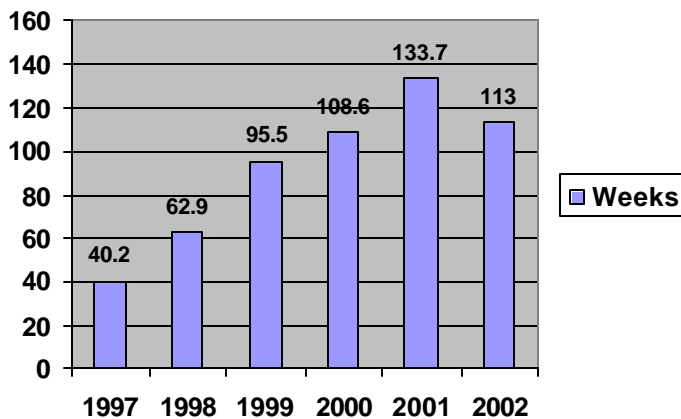
## Key Successes, Challenges

### Compressing the Timeframe from Permit Application to Issuance

The MPCA set a goal of 120 days (or roughly 17 weeks) from the receipt of a completed permit application to placing the permit on public notice. This goal may be approachable in 2003, but could not be achieved in 2002 because the focus has been on the permits that have waited the longest. Most of these permits were backlogged well over 120 days at the time of the OLA Report and the MPCA's push to diminish the backlog.

Progress is definitely moving in the right direction, and the MPCA predicts substantial strides toward the 120-day goal in 2003. The following graph shows historical information about the time lag between the date of receipt of application and permit issuance between 1997 and 2002.

**Number of Weeks Between Permit Application and Issuance, 1997 - 2002**



### Quantity Versus Complexity

Both MAR and REM Division staff worked hard to meet the 2002 goals established by the plan, but the differences in success deserve discussion (27 majors, 310 minors). Major facility permits take substantially more time to write, are much harder to negotiate with permittees, are often controversial, sometimes require Citizens' Board approval, and often involve major policy issues. The permit for the St. Cloud Wastewater Treatment Plant is a good case in point. The draft permit was placed on public notice in December 2000. The permit has involved issues regarding a phosphorus effluent limitation. There have been four Citizens' Board appearances regarding the St. Cloud permit, with a decision to issue the permit in December 2002. Staff time, Board time, policy research, legal costs and other resources are spent in these discussions.

## Stabilization Pond Batching

Certain types of wastewater point-source permits apply to facilities with very similar features and pollution concerns. "Batching" involves identifying groups of similar facilities and developing permits in which significant permit conditions would be similar or identical.

Writing permits for batched facilities involves less effort, since boilerplate language or comparable water quality effluent limits could be applied. In addition, an assigned staff group working exclusively on a particular type of facility is able to quickly identify root problems, set up re-issuance strategies and extrapolate those strategies to other like permits.

Stabilization ponds for small municipal wastewater treatment systems are a good example of facilities with many common features. The REM Stabilization Pond "Batching" Project arose from analysis of the focused wastewater backlog system, which revealed that pond systems currently make up approximately 20-25 percent of the current backlog and are generally low risk. For six months starting in March 2002, two permit writers and a compliance person focused their time on efficiently completing pond permits.

The REM staff on the project completed all of the backlogged stabilization pond permits in mid-August 2002, as the result of this approach, with the last final permit issued post public notice in November 2002. This cleared 103 permits in roughly seven months.

Other potential batching projects now being considered include wastewater permits for mechanical plants, noncontact cooling water systems and municipal land-application facilities. After assessing how well the batching works to both increase permit issuance and protect the environment, the MPCA will also evaluate these types of facilities to determine if a general permit would be appropriate.



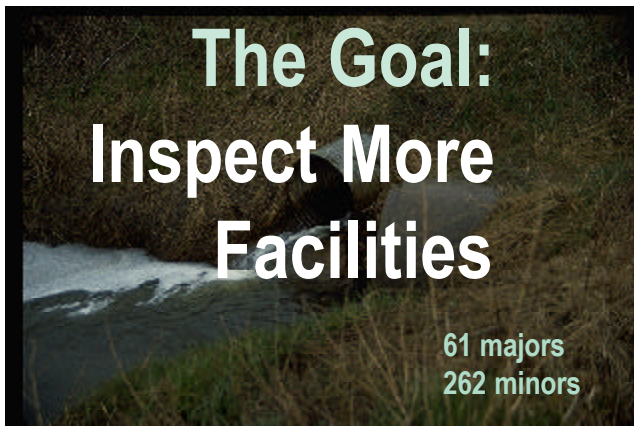


### **Importance of Technical Support**

The technical support staff for the wastewater point-source permitting program develops effluent limits for draft permits, reviews engineering and water quality aspects of construction, writes rules, develops training and more. Inadequate numbers of technical support experts can create a “bottleneck” in the permitting

process. Among these technical support staff are the one-person program experts, in pretreatment, biosolids and other specialty areas. The MPCA is considering ways in which these staff members can mentor colleagues and extend expertise.



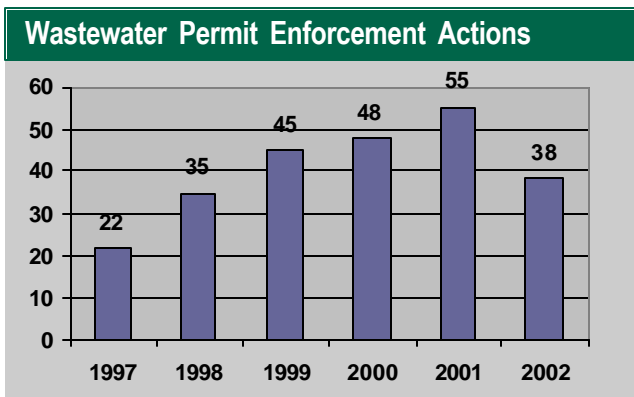


As the OLA reported, approximately 18 to 31 percent of Minnesota’s major facilities have been in “significant noncompliance” in recent years. This is comparable to other Midwestern states and the nation. However, the OLA reported that facility compliance levels have room for improvement since 41 percent of major facilities and 45 percent of major facilities with NPDES permits exceeded effluent limits at least once. In addition, six percent of facilities never submitted required discharge monitoring reports (DMRs), and many DMRs submitted were incomplete.

The MPCA has set ambitious compliance rate goals for major and minor facilities and has made major inroads on these goals. (See graphs on page 4 for facility compliance rates.)

Further, the OLA reported that the number of MPCA facility inspections declined from 32 percent in federal fiscal year 1995 to 17 percent in 2000 and 12 percent in 2001. In 2002, the MPCA set inspection goals, met its goal for major facility inspections and has exceeded its goal for minor facility inspections.

The MPCA’s enforcement actions at wastewater point-source permitted facilities have been increasing since 1997, as the graph below shows.



The steps to achieve more inspections and increases in compliance rates closely resemble those followed to increase wastewater point-source permitting:

### Step One: Set Goals

In considering goals for inspection and compliance (referred to as “compliance monitoring” by the OLA), the MPCA considered a number of factors, including EPA requirements, current staffing, significant noncompliance rates and priorities for inspection. These goals were and are:

- The MPCA will inspect 70 percent of major facilities (61 total) before October 1, 2002, the end of the federal fiscal year.
- The MPCA will inspect all major facilities (86) before October 1, 2003, and annually thereafter.
- The MPCA will inspect 20 percent of minor facilities (262 total) annually.
- Compliance rate goals for minor facilities is 90 percent and for major facilities 95 percent.

### Step Two: Translate Goals into Work Plans

The MPCA integrated these targets into division work plans. This made clear what was expected of division management and what outcomes were desired.

### Step Three: Develop Staff Productivity Goals to Integrate into Work Plans

Looking at reasonable timeframes and resources, the MPCA developed the following productivity goal:

- The MAR staff were assigned to major facilities and made accountable for inspections and enforcement.
- The REM staff were assigned to minor facilities and were expected to conduct an average of 24 inspections per FTE per year.

### Step Four: Develop and Implement Process Improvements

Using information from the OLA report, the 1995 Blue Ribbon Task Force Recommendations and the report of internal design teams, the MPCA designed and implemented several types of process improvements. See Appendix IV for a list of process improvements.

### Step Five: Track Performance, Evaluate Results

In January 2002, the MPCA implemented time tracking for all staff, giving managers and supervisors data on time spent on inspections and enforcement.



The MPCA built on existing strengths in the wastewater compliance monitoring and enforcement program to meet or exceed its goals for inspections.

- The MPCA has exceeded its goal for minor facility inspections (an average of 24 per year per FTE). **In 2002, the average number of inspections per FTE in was 26.5.**
- **The MPCA staff has inspected 70 percent of major facilities, a total of 61 out of 86, in 2002.** In addition, 10 water quality permit inspections were performed at facilities considered major in one of the other media.
- **The MPCA staff has inspected 23 percent of minor facilities, a total of 295 out of 1,308, in 2002.** The goal was 20 percent.
- During the federal fiscal year 2002 (October 1, 2001 through September 30, 2002), **the MPCA staff has issued 18 Notices of Violation (NOVs), 15 Administrative Penalty Orders (APOs) and eight Stipulation Agreements** for compliance problems. This is on par with previous years in terms of enforcement actions.

In July 2002, the MPCA issued a summary of proposed goals, performance measurements and strategies for compliance monitoring and enforcement. Appendix V. includes a summary of these goals, along with progress to date.

### Assessing Penalties by the Numbers

When the MPCA assigns penalties during an enforcement action, staff uses a formula that takes into account the following factors:

- The risks a violation posed to public health or the environment.
- Whether the violation is an isolated incident or part of a pattern of violations.
- The damage the violation causes to natural resources.
- Whether the violation was intentional or accidental.
- How quickly a violation was reported to appropriate authorities.
- Whether an operation achieves a financial advantage over its competitors.
- How prompt and cooperative a party is in fixing the problem.

One penalty used increasingly by the MPCA in enforcement cases is the Supplemental Environmental Project (SEP). The regulated party must complete a project of some specific dollar amount that will benefit the community affected by the pollution. These generally fall within one or more of the following categories:

- Pollution prevention,
- Pollution reduction,
- Environmental restoration and protection,
- Public health,
- Assessments and audits,
- Environmental compliance promotion or
- Emergency preparedness or planning.



## Key Successes, Challenges

### Do more inspections translate to more enforcement?

It is important to note that increasing the number of facility inspections does not necessarily translate to more enforcement. Inspections are fact-finding missions, and the end result is frequently advice, technical assistance, or confirmation of compliance. Operators of most permitted facilities want to comply with the law, although they may not know applicable rules and statutes or be aware of technology fixes for pollution problems. The desired goal is not enforcement, but compliance, however that may be most productively achieved.

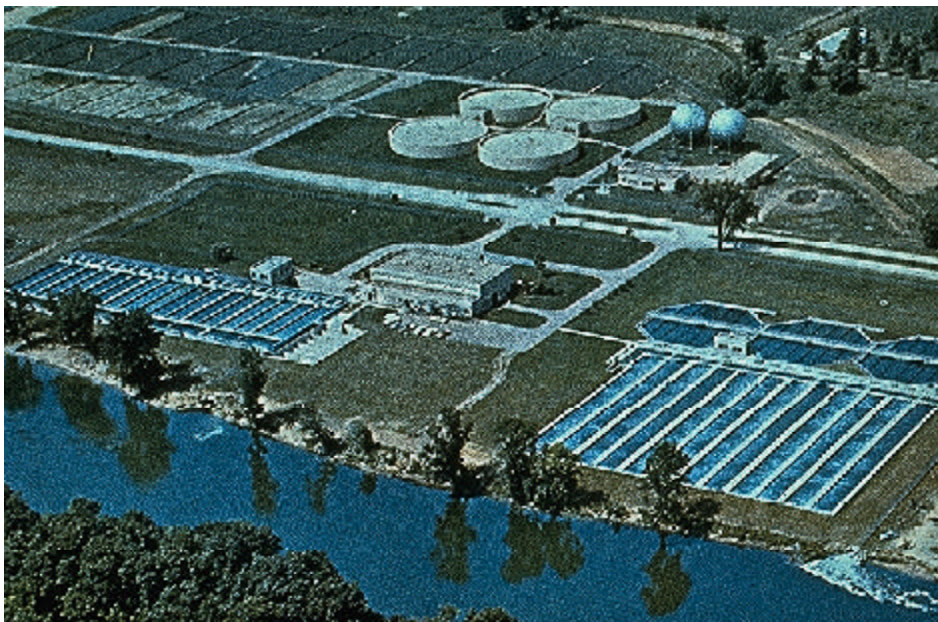
### Compliance tracking system under construction

The MPCA infrastructure designed to track compliance determination and enforcement information is still under construction, but has been substantially improved. The systems differ for major facilities (which have existing requirements for documentation) and minor facilities (where more flexibility is allowed). Major and minor facility tracking systems have been designed to be complementary. Among those factors being tracked are significant

effluent violations, Discharge Monitoring Report (DMR) nonsubmittals, compliance schedule violations, status of enforcement cases, lapse time between discovering noncompliance and issuing an appropriate enforcement document, and more.

### Wastewater operator training and recognition needs support

The MPCA hosts many training opportunities for wastewater treatment plant operators, including certification and yearly recognition of those doing a good job protecting water quality and the environment in their local communities. Through training and technical assistance, many compliance problems can be prevented. Wastewater operator training is underfunded, and an investment in these popular and successful efforts would pay great dividends.



*At the end of the federal fiscal year 2002 (September 30, 2002), 94 percent of NPDES EPA Major Facilities were in significant compliance and 87 percent had no effluent compliance issues.*

*During the same period, 90-91 percent of EPA Minor Facilities were in significant compliance, and 84-85 percent had no effluent compliance issues.*



# Future of the Wastewater Point- Source Program

By focusing intently on wastewater point-source permitting and compliance/enforcement, the MPCA reduced a large portion of the permit backlog. With current resources, the MPCA can make more progress -- maintaining a permit backlog of 18 percent for major facilities, 28 percent for minor facilities. In addition, the MPCA can maintain inspection rates of 100 percent per year for major facilities and 20 percent per year for minor facilities. These are substantial improvements within a short timeframe.

These improvements are a step toward meeting federal goals and citizen expectations. The next challenges will involve prioritization.

- The national goal for major facilities permits is no more than 10 percent backlog. With existing circumstances and resources the MPCA can reduce the backlog to 18 percent.
- The national goal for minor facilities permits is no more than 25 percent backlog, with a reduction of that goal to 10 percent starting in 2004. The MPCA can reduce the backlog to 28 percent (the goal in the Blue Ribbon Task Force recommendations).
- To maintain water quality gains, the MPCA must complete inspections at all major facilities and should inspect 30 percent of minor facilities annually. Current resources stretch to cover inspections at major facilities, but the MPCA can only perform inspections at 20 percent of minor facilities each year. Further, not all compliance problems and violations can be addressed with current resources.

The MPCA has succeeded in issuing more permits and increasing inspections by making these activities a priority. But this effort is a short-term fix for a long-term problem -- underfunding of the wastewater point-source program. The Minnesota Legislature should provide guidance regarding program priorities and future funding.

## Wastewater Point-Source Funding

Water-quality permitting fees have never been commensurate with the services the MPCA provides to permittees. At present, the wastewater point-source fees paid to the MPCA cover only 24 percent of the actual costs of operating this delegated program, if all technical activities, as well as clerical and management oversight costs, are included.

This is especially true for major permits, which often involve lengthy discussions with permittees, policy questions and public involvement. It is also true for other wastewater point-source program activities, such as environmental review, standard setting, rulemaking, engineering, pretreatment and hydrology.

The MPCA has repeatedly requested legislative action to fill the gap between this core federal and state regulatory program's basic needs and its actual resources.

In this context, the recently projected \$4.2 billion deficit in the state budget for 2004-2005 signals further difficulties for the wastewater point-source program. Approximately 20 percent of wastewater point-source funding is derived from the General Fund, which will be one potential source of dollars to offset the deficit.

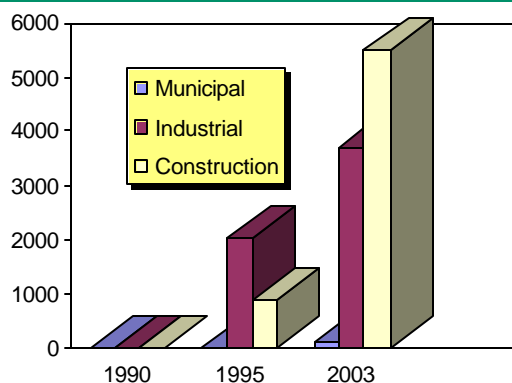
## Competing for Priority

According to the MPCA's 2000 305(b) report to the EPA, 14 percent of Minnesota's water pollution comes from point sources; 86 percent from nonpoint sources. Wastewater permitting and compliance/enforcement resources must be balanced with other priorities.

In 1999, for example, the MPCA diverted funding from wastewater point-source efforts to feedlots, to respond to concerns raised in the 1999 Legislative Audit on Feedlots. Twelve employees from the wastewater program worked in feedlot regulation for one year to achieve changes recommended by the OLA. The competition for resources within the water quality arena may be fierce in the near term. Among those water-quality issues looming:

- **Municipal, industrial and construction stormwater permits** required by the federal Clean Water Act. The chart below illustrates the estimated number of facilities required to have storm water permits beginning in March 2003.
- **Impaired waters.** There are 1,779 lakes and rivers defined as impaired in Minnesota's 2002 303(d) submittal to the EPA. As studies begin to determine total maximum daily loads for these bodies of water -- and allocate controls -- major efforts will be needed to integrate point- and nonpoint-source strategies to restore and maintain the state's waters. A separate legislative report has been prepared on the needs of the impaired waters program.

### Stormwater Permit Workload History and Projections



Pre-Phase I Phase I Phase II

## Federal Expectations

The national goals for permit backlog are 10 percent or less for major permits and 25 percent or less for minor permits (changing to 10 percent in 2004). The EPA also expects annual inspections of all major facilities, stormwater phase II permit issuance, a confined animal feedlot regulatory program and total maximum daily load (TMDL) studies for impaired waters, as well as implementation of restoration activities. Sufficient federal funding to achieve these objectives is not forthcoming.

The MPCA is working closely with EPA on a Region 5 states NPDES permit streamlining effort for the wastewater program. The work group is looking at alternatives to facility-specific, five-year NPDES permits, which is one of the MPCA's long-term strategies (see Appendices VI and VII). The MPCA will strive toward fulfilling the EPA's expectations for operation of a wastewater point-source program within existing resource constraints.

## Program Development Needs

Further implementation of the long-term strategies in the wastewater point-source permitting and compliance/enforcement plan hinges on whether sufficient staff time is available to devote to program development: training, streamlining, innovations, trend analysis, general permit development, rulemaking, better integration of permit writing and standards setting, developing processes for emerging issues and facilitating cross-training on such topics as pretreatment and biosolids.

Currently, 90 percent of permit writers' time is spent writing permits. The MPCA has contracted for assistance with identifying potential batches and general permits, but the majority of staff in the program are tackling permit issuance, reissuance or modification. Investment of time in developing better ways to achieve success in permitting and compliance monitoring is limited for staff. However, during the next year, a process improvement project will be undertaken, with results coming to bear in 2004.

Program development efforts to date have focused on training new permit writers, developing guidances and a permit writers' training manual, working to improve data tracking and management and streamlining the operator training and awards effort. Future efforts to set up "low risk" permit teams, procedures for dealing

simultaneously with permitting and enforcement at a facility, and coordinating permitting efforts with impaired waters processes all require concentrated program development efforts.

### The High Cost of Not Doing Business

Economic, health and environmental costs associated with delays in wastewater point-source permit issuance and inadequate compliance/enforcement are rarely weighed in decisions about these programs. However, those costs can be considerable:

- Postponed business construction or expansion. If construction cannot begin until a permit is issued or if financing is contingent upon a permit, delays can have significant economic impacts.
- Pressures on drinking water utilities and wastewater plants downstream. Expired permits must be followed, but a facility that has one may be releasing more pollutants to the environment, putting a greater burden and cost on water users or dischargers downstream.
- Effects on natural resources. Facilities with expired permits or those not adequately monitored can damage natural resources with great economic value to Minnesota. If fish populations deteriorate due to water quality problems, an estimated 1.5 million anglers per year, who spend an estimated \$846 million in the state may vacation elsewhere.
- Accidental releases of untreated effluent. While many wastewater bypasses result from weather-related situations, others result from lack of a facility-wide overview and updating, which permit processes, inspections and operator training forestall.
- Increased complaints response. The deterioration of water quality that results from insufficient permitting and compliance monitoring increases complaints and the time spent by federal, state and local officials in responding to concerns.
- Erosion of public trust. MPCA's inability to issue timely permits and respond to violations has eroded citizens' trust, thereby increasing their suspicions about and participation in draft permit proceedings.
- Litigation and contested case hearing requests. Environmental groups, local governments, community coalitions and permittees themselves have contested requirements and policies, causing increased permit delays and backlogs. The expenses involved, to the state, permittees and citizens, can be considerable.



### Public Scrutiny: Increased Public Involvement in Wastewater Permitting

The wastewater point-source program has repeatedly been the focus of public scrutiny in the legislature, environmental community, local government and the news media, among others. This occurs because end-of-pipe pollution impacts are visual, measurable and understood, while nonpoint pollution is not. Water plays a large role in the state's life and economy, and people note and voice concern over degradation of lakes, rivers and streams. Other factors that stimulate more public involvement:

- Increasing population in Minnesota -- more people, more opinions.
- Increasing diversity of the state, bringing new and different perspectives and issues (such as environmental justice) not previously raised
- Housing shortages that restrict people with environmental concerns about their communities from moving easily.
- Public safety concerns about water supplies, wastewater plants and other infrastructure.
- Information technologies making new science (or misinformation) immediately accessible.

Public concern often translates to opposition of "permits to pollute," slowing permit issuance and improvements in water quality that permits would require. The resulting resource degradation prompts more public criticism. Strategies to involve and educate the public about controversial permits will be important in maintaining progress in the wastewater point-source program.



# Recommendations

The MPCA has made substantial progress in reducing the backlog in wastewater point-source permits and improving compliance monitoring. Further progress will require partnerships with the legislature, permittees, local governments, the EPA, interest groups and citizens.

In Minnesota, clean water resources are essential to our health, economy and way of life. Tourism contributes \$10 billion annually to the state's economy, supporting 117,000 jobs. Our rich resources include:

- 11,842 lakes of 10 acres or more;
- more than one trillion gallons of ground water; and
- 92,000 miles of rivers and streams.

The wastewater point source program is a core function of the MPCA. The recommendations outline steps to protect and improve Minnesota's water quality into the future.

## **Recommendation 1: The Minnesota Legislature should develop a broad-based, stable funding source to support core water resource protection functions.**

Wastewater point-source program is a core function of the MPCA. Fee increases and appropriations for performing this core function have not kept up to the costs. Currently, fees cover only 24 percent of the cost of these functions and associated technical activities, clerical support, environmental review and management oversight. Federal funding has remained level, but inflation has eroded those federal dollars so that they buy less.

The MPCA has worked with stakeholders on possible funding options, which can be found on the MPCA's Web site at [www.pca.state.mn.us/about/funding.html](http://www.pca.state.mn.us/about/funding.html). Stakeholder meetings were conducted in 2002 on the MPCA budget. The Funding Options Working Group, consisting of business, local government, environmental, citizen and other key stakeholders, found the existing funding mechanisms unstable and inefficient. The current MPCA funding structure:

- Does not adequately fund environmental protection;
  - Is complicated and difficult to manage; and
  - Is inflexible and does not allow resources to be directed to the state's top environmental priorities.
- An OLA audit, "Minnesota Pollution Control Agency Funding" published January 24, 2002, recommended that the legislature decide what water permitting fees should cover and assess fees accordingly. However, the MPCA has worked with the Funding Options Working Group to develop possible options for streamlining environmental funding.

The Working Group felt any new funding structure should:

- Be simple and understandable for fee payers, the general public and the legislature;
- Ensure revenue sources come from nonpoint-source pollution generators as well as point-source generators;
- Retain some linkage between the revenue source and environmental protection activities it funds; and
- Be fiscally sustainable over time and generate enough revenue to adequately address environmental problems.

It is expected that the Minnesota Legislature will be discussing environmental funding options for water quality programs in Session 2003.



**Recommendation 2: The Minnesota Legislature should give guidance to the MPCA regarding allocation of resources necessary to meet national Environmental Protection Agency targets for expired wastewater point-source permits and to operate an adequate program.**

The MPCA has made significant progress in the last year by reducing the major permit backlog from 55 percent to 33 percent and minor permit backlog from 45 percent to 30 percent. The MPCA is well on the way to reach the goal of 18 percent for major facilities and 28 percent for minor facilities by December 2003. These backlog levels still fall behind the EPA goals of 10 percent for major and minor facilities.

Meeting federal permit backlog goals is only one indicator of wastewater point-source program success. Other program goals include improving timeliness of permit issuance, increasing inspections, improving compliance monitoring, developing streamlining measures, training wastewater operators and providing the technical expertise (engineers, hydrologists, staff setting effluent limits) to make the program work. The MPCA estimates that an additional nine FTEs (an estimated \$740,000 annually) would need to be allocated to the wastewater point-source program (see table at right) in order for the MPCA to meet federal goals and better protect the state's waters.

If the legislature determines that backlog levels of 18 and 28 percent are acceptable, this still would represent a significant improvement over the MPCA's past performance. The state should then be prepared for resulting consequences and costs associated with not achieving federal goals.

These may include: delayed business construction or expansion, pressures on drinking water utilities downstream of dischargers, natural resource damages, loss of water use for tourism and recreation, accidental release of untreated wastewater and its cleanup, installation of control technologies that do not provide a good long-range solution for facilities, increased complaints about water quality coming in to all levels of government, lawsuits by environmental groups seeking more stringent permits and enforcement, lawsuits by permittees disputing permit conditions, contested case hearings, and potential federal enforcement action or program involvement.

**Wastewater Point Source Program  
Staffing Increases Recommended**

- 2 FTEs for program and rule development, innovations, general permit development and other streamlining strategies;
- 1 FTE for effluent limits review, which is currently a bottleneck in completing permits;
- 2 FTEs for major facility inspections, compliance monitoring and enforcement;
- 2 FTEs for minor facility inspections, compliance monitoring and enforcement;
- 1 FTE for wastewater treatment operator certification training; and
- 1 FTE for data management and ensuring that report submittals are on time and complete.

**Recommendation 3: The Minnesota Legislature should provide a clear policy statement regarding phosphorus limits for municipal facilities discharging more than 1,800 pounds of phosphorus per year.** Clarification about when limits apply to facility discharges would eliminate time-consuming disputes among municipalities, nongovernmental organizations and the MPCA. The MPCA could solicit input from its stakeholders and develop a recommended approach for legislative consideration in 2004.

**For More Information**

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**Minor Facilities**

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# Water-Quality Point-Source Permitting and Compliance/Enforcement Plan

This special report provides an overview of the Minnesota Pollution Control Agency's (MPCA's) Water-Quality Point- Source Permitting and Compliance/Enforcement Plan. This plan is one part of a comprehensive approach to the regulation of water issues in Minnesota.

## Plan Background

The MPCA regulates water pollution from both point and nonpoint sources. Point sources of water pollution include domestic and industrial facilities that discharge treated wastewater to surface water or land through distinct discharge points. (Permits for nonpoint sources, such as stormwater and feedlots, are not covered in this plan summary.)

Staff members in the water-quality point-source program issue permits, monitor compliance through data review and inspections, and enforce permit conditions. Specialists in engineering, hydrology, biosolids, pretreatment and effluent limits review provide technical support for the permitting and compliance/enforcement staff.

The MPCA's current staff complement working on permitting, compliance/enforcement and technical support is illustrated below. These figures include a reallocation in November 2001 of four full-time equivalents (FTEs) to water-quality point-source permitting and two FTE to

MPCA FTEs Assigned to Water Quality Permitting and Compliance/Enforcement.			
MPCA Division	Permit Writers	Compliance Enforcement	Technical Support
Majors/ Remediation (MAR)	7.25	4.25	8.75
Regional Environ. Mgmt. (REM)	7.75	10.50	15.25
TOTALS	15.00	14.75	24.00

When this Plan was drafted, the MPCA had 1,394 total point-source water-quality permits for wastewater treatment facilities. Using the federal definitions, 86

facilities are classified as "major" and 1308 are "minor," based upon the size of the facility, its potential discharges, and other factors. The distinction between majors and minors is important; major facility permits have more requirements, need more oversight, take longer than minor permits to complete, and discharge a much greater percentage of water pollutants statewide.

Internal agency analysis and two audits performed by the Office of the Legislative Auditor identified a current backlog of water-quality permits. The backlog consists of facilities operating under expired permits beyond five years (expired permits continue to remain in effect). As of January 2002, these backlogs were **54 percent** for facilities defined as major and **45 percent** for facilities defined as minor. Factors contributing to the permit backlog include circumstances both within and outside of MPCA control:

### Outside of MPCA Control

- Regulatory policy changes have increased the complexity of some permits;
- Environmental groups, local governments and permittees have challenged more draft permits and prolonged discussions about permit content;
- Budget reductions in the MPCA's point-source permitting program (recommended by the Blue Ribbon Task Force and adopted by the Legislature) of 5 percent per year between 1999 and 2001; and
- In recent years, there has been an increase in the number of facilities requiring water-quality permits.

### Within MPCA Control

- The MPCA's 1998 reorganization slowed the permitting process;
- In fiscal year 1999, the MPCA temporarily transferred water permitting staff into feedlot regulation; and
- The implementation in 1998 of the new computerized permit system (called DELTA) that eventually will speed permit issuance initially added time to the permitting process.

The MPCA has developed plans for reducing backlogs and stepping up compliance monitoring and enforcement. These plans are summarized briefly here, along with key program contacts.



# Permitting

The following proposed strategies for reducing the permitting backlog include short-term strategies and long-term strategies or strategies dependent upon additional resources. The performance goals are ambitious, reflecting the MPCA's determination to improve efficiency.

## The Goal: Increase the Number of Permits Issued

The MPCA will reduce its January 2002 54 percent backlog of major facility water-quality permits to:

- 38 percent by 12-31-02 and
- 18 percent by 12-31-03

The MPCA will reduce its January 2002 45 percent backlog of minor facility water-quality permits to:

- 38 percent by 12-31-02
- 28 percent by 12-31-03

Short-Term Strategies	By Whom?	By When?	Measurement
Reissue 25 major facility permits	Majors and Remediation Division (MAR)	12-31-02	Number completed, report monthly
Reissue 100 minor facility permits	Regional Environmental Mgmt. (REM) Division	12-31-02	Number completed, report monthly
Place draft permits on public notice an average of 120 days after receipt of a complete application	MAR, REM Divisions	Beginning 7-15-02	Days elapsed between receipt of complete application and public notice, report quarterly
Provide effluent limits for a draft permit to the permit writer in 60 days or less after the complete application is provided to technical support staff	Environmental Outcomes (EO) Division	Beginning 7-15-02	Days elapsed between application for limits and receipt, report quarterly
Establish a permit forum, where staff bring unresolved permit issues for resolution	MAR and REM Divisions	Completed 4-1-02	Hold permit forum once a month
Assign priorities to permit applications	MAR, REM Division Supervisors	Completed 4-1-02	Supervisors track prioritized assignments, meet with staff quarterly
Develop a permit-writers' manual with clear direction and procedural assistance for staff new to permit writing	Policy and Planning (P&P)	12-31-02	Manual completed, distributed
Batch similar permits, allowing permit writers to develop language, limits and strategies that will expedite all permits of similar type and scope	REM Division	Underway since 4-1-02	Identify batch criteria, report quarterly
Revise phosphorus strategy to improve efficiency of permit issuance	EO Division	12-31-02	Revised strategy proposed, implemented
Develop batch permits or general permits for minor facilities	EPA Contractor	Beginning 7-15-02	Report quarterly
Improve DELTA computerized permit system; 1) provide training for permit writers; 2) fix identified problems; and 3) improve boilerplate permit language	Information Services, REM and MAR Divisions	9-1-02	Percent of permit writers trained, report monthly, (REM and MAR); improvements completed report quarterly (IS)
Implement more detailed permit tracking tools designed to streamline reporting	MAR, REM Division Supervisors	Underway since 4-1-02	Tools completed, report quarterly
Resist sidetracking permit staff on emerging issues, such as innovative Divisions permits, pilot projects, or emerging issues permit-related strategies by one to two years	MAR, REM	Underway since 4-1-02	Permit goals being met evaluate monthly

Long-Term Strategies or Strategies Requiring More Staff	By Whom?	By When	Measurement	Contacts
Establish "low-risk" permit team, which can work quickly with applications for facilities with limited health or environmental risk.	REM Division	12-31-03	Report quarterly on progress	<ul style="list-style-type: none"> <li>■ <b>Overview and Legislative:</b> Lisa Thorvig, (651) 296-8811 Assistant Commissioner</li> <li>■ <b>Major Facilities:</b> Mike Tibbetts, (651) 297-8381 Majors/ Remediation (MAR) Division</li> <li>■ <b>Minor Facilities:</b> Suzanne Hanson, (218) 723-4665 Regional Environmental Management (REM) Division</li> </ul>
Determine categories of general permits that apply to multiple facilities	REM Division	12-31-03	General permit categories identified	
Explore alternatives to facility-specific permits, including permit-by-rule and permitting conditional/de minimus exceptions	P&P, REM and MAR Divisions	12-31-03	Develop procedures for feasible alternatives	
Assess the impacts of compliance matters on a facility's permitting process	REM, MAR Divisions	12-31-03	Complete recommendations	
Determine need for statute revisions	P&P Division	8-1-03	Recommendations available by 2004 legislative deadline	
Work on better integration of the standard-setting process with the permit-writing process	MAR, REM, P&P, EO Divisions	12-31-03	Complete recommendations	
Assess the efficiency of central versus regional permitting	MAR, REM Divisions	12-31-03	Complete recommendations	
Coordinate efforts between permitting staff and staff developing Total Maximum Daily Loads	MAR, REM, P&P, EO Divisions	12-31-03	Develop a regular forum for information exchange and problem solving	
Develop backup and seek funding for "one person program" experts (in pretreatment, biosolids, etc.) to ensure continuity of program expertise	MAR, REM Divisions	12-31-03	Develop and implement	

## Notes for External Stakeholders

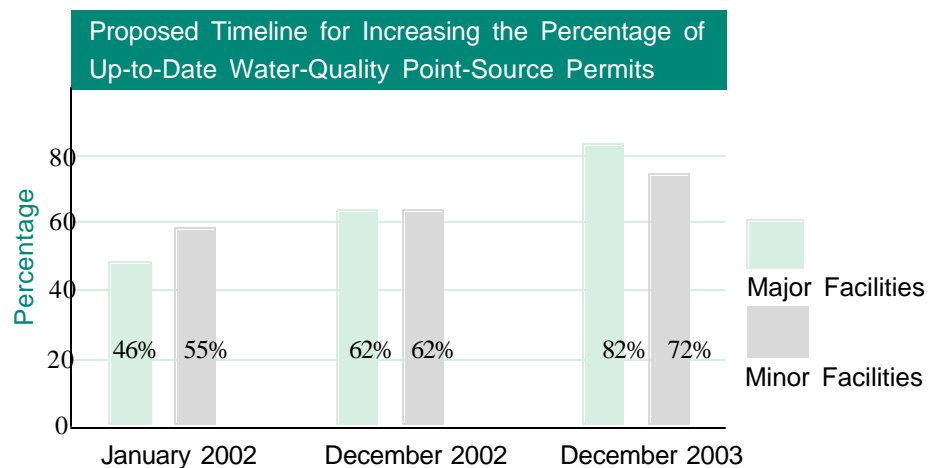
To improve performance in water-quality point-source permitting, the MPCA will need the assistance of all Minnesotans.

- The Minnesota Legislature determines the MPCA's budget and priorities. Even after implementing many of the efficiency measures outlined here, the federal goal of no more than a 10 percent permit backlog for major facilities and 25 percent backlog for minor facilities is not achievable with the current staffing level. The Legislature needs to decide whether the MPCA will meet national standards or accept the best achievable goals with current staffing levels.
- Permit applicants can speed the permitting process by maintaining

facility compliance, forging positive relationships with neighboring communities, and providing thorough information that the MPCA needs to complete a permit.

- Public involvement helps the MPCA write better permits and is a welcome part of the process.

However, if citizens focus on the *specific* environmental impacts of *specific* permits, fewer permits would be sidetracked for months or years because of policy or land-use issues unrelated to the permit on public notice.





## Compliance and Enforcement

As the Office of the Legislative Auditor reported, approximately 18 to 31 percent of Minnesota’s major facilities have been in “significant noncompliance” in recent years. This is comparable to other midwestern states and the nation. The MPCA Water-Quality Point-Source Plan has set aggressive targets for compliance inspections and enforcement actions. By implementing the following strategies, the MPCA staff plans to bring 95 percent of Minnesota’s major facilities into compliance by the end of 2003.

### The Goal: Inspect More Facilities, Major and Minor

- The MPCA will inspect 70 percent of major facilities (61 total) before October 1, 2002
- The MPCA will inspect 20 percent of regular facilities (262 total) before October 1, 2002
- The MPCA will inspect all major facilities (86) before October 1, 2003
- The MPCA compliance and enforcement staff will conduct an average of 24 inspections per FTE per year for regular facilities.

Short-Term Strategies	By Whom?	By When?	Measurement
Provide clear expectations for enforcement staff responding to water-quality point-source violations in the Enforcement Response Plan	MAR, REM Divisions	7-1-02 into employee work	Expectations integrated into employee work plans, results tracked monthly
Develop inspection guidance to determine whether inspections will be announced or unannounced	MAR, REM Divisions	12-31-02	Guidance completed and implemented
Only inspections entered into the DELTA database are counted toward performance goals	MAR, REM Divisions	Beginning 7-15-02	Inspections entered into DELTA, evaluate quarterly
Improve timeliness of enforcement actions, with the clock starting with the initial discovery of noncompliance	MAR, REM Supervisors	Beginning 7-15-02	Report quarterly on timeliness of enforcement actions
Assess training needs of and provide training for compliance and enforcement staff to improve staff efficiency	All Affected Staff	Completed 4-1-02	Percent of compliance and enforcement staff trained, report quarterly
Develop and deliver a staff training program for compliance and enforcement, with Level I and Level II certification	MAR Division	12-31-02	Complete training program, report quarterly
Draft an enforcement prioritization system, based upon federal guidance, human health risk, persistence of noncompliance, magnitude of violations, pollutant type, and associated risks	MAR, REM, P&P, EO Divisions	Completed 5-1-02	Report quarterly on implementation

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Management

Long-Term Strategies or Strategies Requiring More Staff	By Whom?	By When?	Measurement
Data-entry staff will perform low-level enforcement actions for facilities that fail to submit, delay or inadequately complete Discharge Monitoring Reports	REM, MAR Divisions	12-31-03	Report quarterly
Develop a DELTA-related system to track permit and compliance schedule violations and alert staff	Information Services	12-31-03	Report quarterly
Improve coordination among permitting and compliance staff	MAR, REM Managers and Supervisors	12-31-03	Recommendations developed, implemented
Support external training efforts, which help achieve compliance	REM, MAR and P&P Divisions	12-31-03	Report quarterly
Develop a library of common enforcement responses to certain violations in lieu of taking routine cases to forum	MAR, REM Divisions	12-31-03	Library developed

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This report can be made available in other formats, including Braille, large type, computer disk or audiotape, upon request.

## Appendix II: Permit Streamlining Strategies

### Process Improvements Affecting the Entire Wastewater Point Source Program

Some improvements were applied to the overall point source program and therefore will be implemented by both divisions (MAR and REM).

#### Set Goals for Improvement

- The MPCA set target issuance rates in the MAR work plan (25 major facility permits in 2002) and in the REM work plan (100 minor facility permits in 2002).
- The MPCA established a 120-day goal from receipt of a complete permit application to public notice.

#### More Time, More Staff Assigned to Water Permits

- The MPCA assigned 40 percent of permitting staff time to permit reissuances.
- The MPCA reallocated four additional staff to the wastewater point-source permitting program from other areas of the agency.
- The MPCA developed a common permitting priorities system between the MAR and REM Divisions.
- The MPCA has assigned 8-10 major facility permits to staff in the REM Division to be completed in calendar year 2002, to ensure that the highest priority and most labor-intensive permits are completed.

#### Improvements in Information Services and Communication Support

- The MPCA Information Services staff has eliminated errors and incomplete information from the water quality DELTA database and updated software, so that the database can be used more efficiently for permit tracking and compliance issues.
- The MPCA Organizational Training and Development staff has undertaken a process to develop more effective and efficient strategies for public participation in permit decisions for controversial permits.

#### Improving Program Management Decisions

- The MPCA restructured the agency into media-based leads to centralize the roles and responsibilities for water quality permitting and enforcement.

### Process Improvements Affecting Major Facilities Addressing Permit and Process Complexities for Major Facility Permits

- The MPCA focused permit reissuance priority on major facilities with less complicated permits to expedite reduction of the permit backlog.
- The MPCA implemented permit forums for difficult permit decisions to expedite quick and consistent policy decisions.
- The MPCA implemented a project-tracking system to establish baseline data on the permitting process and use it as a basis for evaluating progress.
- The MPCA permitting staff identified common delays in permit issuance so that common solutions could then be evaluated.
- The MPCA management decided to delay assigning innovative permit, pilot projects or emerging issues to majors permit writing staff for one to two years.
- The MPCA allowed more types of permit modifications to be classified as minor to eliminate unnecessary requirements.

#### Addressing Interactions with Stakeholders Involved with Permits

- The MPCA will work with key stakeholder groups to resolve policy issues or public concerns that hamper issuance of permits.
- The MPCA will reconsider implementing strategies through water quality permits that lead to permittees and stakeholder contesting and delaying permit issuance.

#### Improving Program Management Decisions

- The MPCA established separate municipal and industrial permit reissuance units to concentrate and streamline efforts to complete expired permits.
- The MPCA senior management becomes involved early in permit negotiations to resolve problems expeditiously.
- The MPCA has designed and will implement a plan to balance the permit reissuance workload over the five-year cycle established for major permits to make certain that permits due for renewal are evenly dispersed from year-to-year.

## **Establishing an Effective Performance Management System**

- Using the positive time tracking system, the MPCA determines the amount of total staff time needed to issue each major facility permit.
- On a quarterly basis, MPCA supervisors meet with individual staff to discuss permit issuance work-plan goals.
- The MPCA has established a list of assigned projects with permittee name, assigned staff and target dates for public noticing and issuance.
- MPCA supervisors track the progress of issuance monthly and report to managers in the monthly indicators report.
- As problems are identified, the MPCA has developed specific actions plans to assure measurable progress in meeting established goals and objectives.

## **Process Improvements Affecting Minor Permits Addressing Permit and Process Complexities for Minor Wastewater Permits**

- The MPCA developed a focused wastewater permit backlog system, allowing for assessment of types and numbers of permits with the goal of finding strategies to streamline.
- The MPCA staff has begun “batching” projects by identifying similarities among backlogged permits and dedicating staff to work on these similar permits.
- The MPCA staff also developed a streamlined and regionalized sewer-extension permitting process. This process puts more of the responsibility on the permittee and less on the MPCA staff.
- The MPCA is also exploring other approaches to speeding permit issuance, including Web-based permits.
- On a quarterly basis, the MPCA supervisors and managers discuss the permitting work-plan goals and identify performance problems or obstacles, strategies for continued progress and ideas for streamlining the process.
- Focusing on quick permitting of loan/grant/financial assistance projects throughout the state to assure that permitting processes do not endanger a project’s financial status.
- Short-term “crunch time” efforts that have all appropriate staff working on reducing the backlog.

- Issuing permits in an assigned basin, allowing regional offices with a thorough understanding of geographic considerations to manage better.

## **Addressing Interactions with Stakeholders Interested in Water Quality Permits**

- The MPCA staff will streamline the variance process.
- The MPCA has developed a rulemaking and policy development needs list and prioritized these needs for future implementation. There are no available resources within the point source program to work on rulemaking and policy development, but this poises the agency to move quickly if resources become available.

## **Improving Program Management Decisions**

- The MPCA set up clear lines of responsibility and communication.
- The MPCA established a Project Tracking System for use by supervisors to track projects and encourage staff accountability.
- The MPCA established permit prioritization criteria to speed the staff’s ability to decide which permits must be issued first.
- The REM Division is working with MAR to expand the permit forum into a more useful tool for regional staff.

## **Establishing an Effective Performance Management System**

- The MPCA is working to track minor permits issued, remove issuance roadblocks and initiate the next batching project.
- The MPCA established a Permit Prioritization Queue for minor facilities, which was in place in March 2002.
- Supervisors received training on the use of the new DELTA database and clear guidelines as regards their responsibilities and management expectations.
- The MPCA supervisors have been evaluating progress monthly, monitoring negotiations progress and assessing permit forum outcomes.
- The MPCA supervisors discuss individual progress with each of their staff members to assure that they are meeting permit issuance goals.

## Appendix III: Progress to Date, Short-Term Permit Strategies

Short-Term Strategies	By Whom?	By When?	Results to Date
Reissue 25 major facility permits	Majors and Remediation Division (MAR)	12-31-02	The MPCA issued 27 major facility permits as of 12-31-02
Reissue 100 minor facility permits	Regional Environmental Management (REM)	12-31-02	The MPCA issued 310 minor facility permits as of 12-31-02
Place draft permits on public notice an average of 120 days (17.1 weeks) after receipt of a complete application	MAR, REM Divisions	Beginning 7-15-02	The MPCA has improved its performance, from 133.7 weeks in 2001 to 113 weeks in 2002 for major facilities. (See narrative, page 17)
Provide effluent limit reviews (ELRs) for a draft permit to the permit writer in 60 days or less after the complete application is provided to technical support staff	Environmental Outcomes (EO) Division	Beginning 7-15-02	The MPCA set targets of 35 ELRs for major facilities, 90 for minors. As of September, the staff completed 36 ELRs for major facility permits, 177 for minor facility permits.
Establish a permit forum, where staff bring unresolved permit issues for resolution	MAR and REM Divisions	Completed 4-1-02	The MPCA scheduled permit forum once a month, with staff bringing cases to two forums since 4-1-02.
Assign priorities to permit applications	MAR, REM Division Supervisors	Completed 4-1-02	The MPCA established permit priority criteria. See sidebar, page 15.
Develop a permit-writers' manual with clear direction and procedural assistance for staff new to permit writing	Policy and Planning (P&P) Divisions	12-31-02	The initial permit-writers manual will be completed by 12-31-02, but it will continue evolving to meet program needs. The MPCA also brought in the EPA to provide NPDES training for new permit writers.
Batch similar permits, allowing permit writers to develop language, limits and strategies that will expedite all permits of similar type and scope	REM Division	Underway since 4-1-02	The MPCA batched stabilization ponds, issuing permits for 103 facilities in this category within a six-month period. The MPCA has identified other potential batches and will undertake the next project in early 2003. See page 17.
Revise phosphorus strategy to improve efficiency of permit issuance	EO Division	12-31-02	The MPCA revised the phosphorus strategy and has proposed an initiative for the legislature to establish phosphorus limits in law.
Develop general permits for minor facilities	EPA Contractor	Beginning 7-15-02	The EPA contractor provided its first report, and recommendations are being assessed.
Improve DELTA computerized permit system; 1) provide training for permit writers; 2) fix identified problems; and 3) improve boilerplate permit language	Information Services, REM, MAR Divisions	9-1-02	1) Training for permit writers has been completed. 2) Problems identified with DELTA <i>to date</i> have been corrected. 3) The MPCA is waiting for a consultant report.
Implement more detailed permit tracking tools designed to streamline reporting	MAR, REM Division Supervisors	Underway since 4-1-02	MAR, REM Divisions have completed tracking tools and are reporting quarterly.
Resist sidetracking permit staff on issues, such as innovative permits, pilot projects, or permit-related strategies by one to two years	MAR, REM Divisions	Underway since 4-1-02	See narrative on page 24 for types of projects in the "parking lot"



## Appendix IV. Process Improvements Affecting Compliance/ Enforcement Staff

### Overall Program Improvements

- The MPCA updated the water quality portion of the Enforcement Response Plan to provide clear expectations for enforcement staff responding to violations.
- Developed an inspection guidance to assist staff in deciding when an inspection should be announced versus unannounced.
- Established a policy not to credit any inspection unless it has been entered into the Water Quality DELTA database.
- Modified the enforcement database to track timeliness of enforcement actions, triggered by the discovery of noncompliance.
- Developed and implemented a staff training plan, including a Level I and II certification process for compliance determination and enforcement staff and individual training assessments for all staff.
- Modified the enforcement forum process to make it a better resource for the MAR and REM Divisions.
- Developed a system whereby data-entry staff can undertake enforcement actions (e.g., letters of warning) for failure to submit DMRs, late DMRs or incomplete DMRs.
- Developed a system to track and respond to compliance schedule violations.

### Process Improvements Affecting Major Facility Compliance/Enforcement

- Established clear compliance determination and enforcement priorities and principles, designed to use limited staff resources to address top priority noncompliance and “high risk” facilities first.
- Established clear roles and responsibilities for compliance determination and enforcement, including reducing reportability from six to two supervisors.
- Began tracking number of inspections and number of hours spent on inspections to determine performance averages per FTE.
- Developed an enforcement prioritization system, with priorities based on federal guidance, basis of the limitation being violated (is the standard set to protect human health or industrial use, for example), amount of time in violation, magnitude of violation, pollutant type and associated risks.
- Considered opportunities such as generic forums, sector initiatives and the like.

### Process Improvements Affecting Minor Facility Compliance/Enforcement

- Tracked and responded to significant effluent violations using existing systems, eliminating overlapping enforcement efforts and requiring monthly reporting.
- Developed inspection prioritization process, including consideration of high-risk areas, pre-permitting inspections, regional/local issues and randomness (so that permittees may expect an inspection at any time).
- Tracked and responded to violations identified during inspections, with monthly report.

## Appendix V. Progress to Date on Short-Term Strategies to Increase Wastewater Inspections and Enforcement

Short-Term Strategies	By Whom?	By When?	Measurement	Results to Date
Provide clear expectations for enforcement staff responding to wastewater point-source violations in the Enforcement Response Plan (referred to as the “enforcement matrix” in the OLA report)	MAR, REM Divisions	7-1-02	Expectations integrated into employee work plans, results tracked monthly	Expectations set in work plans, first target (24 inspections per FTE per year) exceeded. The ERP for major and minor facilities has been updated.
Develop inspection guidance to determine whether inspections will be announced or unannounced	MAR, REM Divisions	12-31-02	Guidance completed and implemented	Draft guidance is completed, will be finished on deadline
Only inspections entered into the DELTA database are counted toward performance goals	MAR, REM Divisions	Beginning 7-15-02	Inspections entered into DELTA, evaluate quarterly	Policy implemented, staff compliance is 100 percent
Improve timeliness of enforcement actions, with clock starting with the initial discovery of noncompliance	MAR, REM Supervisors	Beginning 7-15-02	Report quarterly on timeliness of enforcement actions	Database to track timeliness still in process
Assess training needs of and provide training for compliance and enforcement staff to improve staff efficiency	All Affected Staff	Completed 4-1-02	Percentage of compliance and enforcement staff trained, report quarterly	Training ongoing, all staff have received individual training assessment
Develop and deliver a staff training program for compliance and enforcement, with Level I and Level II certification	MAR Division	12-31-02	Complete training program, report quarterly	Training has been completed and staff has been certified at the appropriate level.
Draft an enforcement prioritization system, based upon federal guidance, human health risk, persistence of noncompliance, magnitude of violations, pollutant type, and associated risk	MAR, REM, P&P, EO Divisions	Draft Completed 5-1-02	Report quarterly on implementation	The prioritization system is still in draft, but will place an enforcement situation within a Tier (I, II or III) based on many factors that will reflect its potential risk.

## Appendix VI. Long-Term Strategies for Improving Wastewater Point Source Permitting

Long-Term Strategies	By Whom?	By When?	Measurement
Establish “low risk” permit team, which can work quickly with applications for facilities with limited health or environmental risk	REM Division	12-31-03, if staff resources available	Report quarterly on progress
Determine categories of general permits that apply to multiple facilities	REM Division	12-31-03	General permit categories identified
Explore alternatives to facility-specific permits, including permit-by-rule and conditional/de minimus exceptions, work with EPA Region V on federal streamlining efforts.	P&P, MAR, REM Divisions	12-31-03, if staff available	Develop procedures for feasible permitting alternatives. May require rulemaking
Assess the impacts of compliance issues on a facility’s permitting process	MAR, REM Divisions	12-31-03	Complete recommendations
Determine need for statute revisions	P&P Division	8-1-03	Recommendations available by 2004 legislative deadline
Work on better integration of the effluent limit-setting process with the permit-writing process	MAR, REM, P&P, EO Divisions	12-31-03, if staff resources available.	Complete recommendations
Assess the efficiency of centralized versus regional permitting	MAR, REM Divisions	12-31-03	Complete recommendations
Coordinate efforts between permitting staff and staff developing Total Maximum Daily Loads for impaired waters	MAR, REM, EO, P&P Divisions	12-31-03	Develop a regular forum for information exchange and problem solving
Develop backup and seek funding for “one person program” experts (in pretreatment, biosolids, etc.) to ensure continuity of program expertise	MAR, REM Divisions	12-31-03, if staff resources available	Develop and implement

## Appendix VII. Long-Term Strategies for Improving Wastewater Compliance/Enforcement

Long-Term Strategies	By Whom?	By When?	Measurement
Data-entry staff will perform low-level enforcement actions for facilities that fail to submit, delay or inadequately complete DMRs	REM, MAR Divisions	12-31-03	Report quarterly on progress
Develop a DELTA-related system to track permit and compliance schedule violations and alert staff	Information Services	12-31-03	Report quarterly
Improve coordination among permitting and compliance staff	MAR, REM Managers and Supervisors	12-31-03, if staff resources available	Recommendations developed, implemented
Support external training efforts, which help achieve compliance	MAR, REM, P&P Divisions	12-31-03, if staff resources available	Report quarterly
Develop a library of common enforcement responses to certain violations in lieu of taking routine cases to forum	MAR, REM Divisions	12-31-03, if staff resources available	Library developed
Participate in EPA Region V compliance and enforcement streamlining efforts.	MAR, REM Divisions	12-31-03, if staff resources available	Recommendations developed and implemented.



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