

## Feeling Minnesota

### A cautionary tale for permitting reformers

By James Broughel

December 2024

Minnesota's efforts to streamline environmental permitting under former Gov. Mark Dayton (D) initially saw some success, with reforms aimed at reducing approval times for priority permits and enhancing processing through electronic submissions. However, challenges persisted, particularly for complex projects, as businesses continued to face delays. These inefficiencies became more pronounced as the state pursued aggressive renewable energy goals, such as the 100 percent carbon-free electricity target by 2040. Minnesota's 2024 reforms sought to address these issues by further streamlining processes, particularly for renewable projects, but these changes raise concerns about fairness and potential cost increases for consumers. The experience serves as a cautionary tale about the delicate nature of permitting reforms that, while well-intentioned, can lead to over-investment while inflating costs.

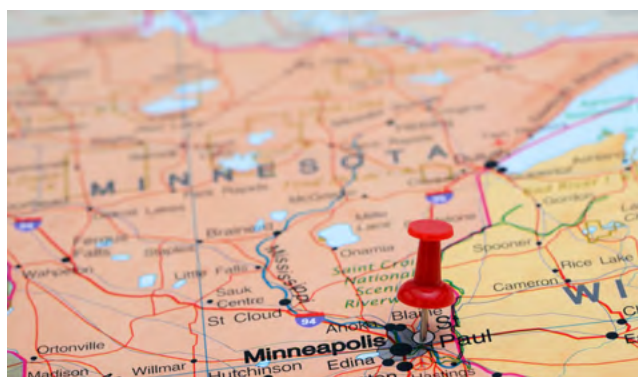
#### Reforms under Gov. Mark Dayton

In 2011, then-Gov. Mark Dayton kicked off a series of reforms aimed at improving Minnesota's environmental permitting process. Dayton's reforms began with Executive Order 11-04, issued in January 2011.<sup>1</sup> This order set specific goals for state agencies, particularly the Department of Natural Resources and the state Pollution Control Agency. It mandated that these agencies aim to make decisions on environmental permit applications within 150 days of deeming an application complete, with a 30-day goal upon completion of environmental impact statements. The executive order also called for the implementation of electronic submission systems for environmental review and permit applications, aiming to reduce paperwork and expedite the process.

As Dayton's tenure progressed, these early reforms were expanded upon. By 2014 the administration reported that over 97 percent of priority permits were being issued within the 150-day target.<sup>2</sup> Legislation was then passed to further reduce wait times.<sup>3</sup> A core feature of the 2014 law was the introduction of a two-tiered system for permit review. Tier 1 permits were defined as those that do not require individualized actions or public comment periods, while Tier 2 permits require individualized actions or public comment periods.

This approach aimed to process an estimated 11,000 annual general and registration permits, those defined as Tier 1, within a 90-day timeframe, while allocating 150 days for more complex permits requiring public comment and detailed review. Some businesses were also given the option to expedite their applications by funding private consultants or paying for agency staff overtime. This fee-for-service model is similar to processes seen in states like Louisiana and Pennsylvania.<sup>4</sup>

While these changes represented significant efforts to update the permitting process, subsequent reports indicated that challenges persisted. Delays in permitting, particularly for more complex projects, continued to be a concern for businesses and policymakers alike in the



<sup>1</sup> Governor Mark Dayton, Executive Order 11-04, "Establishing Goals and Procedures to Ensure that Certain Environmental Permits are Issued More Efficiently," January 24, 2011, <https://www.house.mn.gov/comm/docs/ExecOrder11-04.pdf>.

<sup>2</sup> Governor Mark Dayton, "FACT SHEET: Permitting Reform," Press Release, May 17, 2014, [https://mn.gov/governor/images/2014\\_05\\_17\\_unsession\\_permitting\\_reform.pdf](https://mn.gov/governor/images/2014_05_17_unsession_permitting_reform.pdf).

<sup>3</sup> H.F. 2543 – Environmental Permitting and Regulatory Modifications, 88th Legislature, 2013 – 2014, <https://www.revisor.mn.gov/bills/bill.php?b=House&f=HF2543&y=2014&ssn=0>.

<sup>4</sup> James Broughel, *Mardi Gras for Permits: Louisiana's Expedited Permit Program*, Competitive Enterprise Institute, 2024.



years that followed. This suggested that while progress was made, further improvements to the process were needed to fully address the longstanding issues of timeliness in Minnesota’s environmental review system.

### Efficiency report cards

The 2014 Minnesota permitting efficiency law also required the preparation of annual reports detailing agency performance in meeting the established permitting goals. The reports, due on August 1 each year, provided a mechanism to track the long-term effects of Dayton’s reforms and identify areas for further improvement.

Recent reports demonstrate that Minnesota’s environmental agencies have largely maintained the improvements obtained during Dayton’s reforms, with some important exceptions.<sup>5</sup> At the Minnesota Pollution Control Agency, 87 percent to 96 percent of all permits met their timeliness goals during the years 2017 to 2023.<sup>6</sup>

However, the data reveal a persistent discrepancy between priority and non-priority permits. Priority permits, typically associated with new construction and jobs,<sup>7</sup> consistently met their goals at rates of 94-99 percent. Non-priority permits, often routine re-issuances, showed more variability, with compliance rates fluctuating between 46 percent and 92 percent (see Table 1). This disparity suggests that while the Dayton-era reforms successfully prioritized economically significant projects, there may be ongoing resource allocation challenges for routine permitting activities.

Reports also highlight common reasons for permit delays, including lack of staff, waiting for additional information from applicants, and complex technical issues requiring extended review.<sup>8</sup> These factors were particularly significant for Tier 2 and non-priority permits, indicating areas where further refinement of Dayton’s reforms might be beneficial.

The Fiscal Year 2023 report from the Minnesota Department of Natural Resources reveals slightly stronger adherence to permit timeliness goals. For Tier 1 permits, which have the 90-day decision goal, 95.8 percent of permits were approved or denied within 90 days of receiving an initial application, and 97.9 percent were handled within 90 days of receiving a complete application. For Tier 2 permits, with the 150-day goal, 87.9 percent were completed within 150 days of the initial application, and 95 percent within 150 days of receiving a complete application.<sup>9</sup> The delays in meeting these goals were attributed mainly to staffing shortages, the complexity of certain permits, and issues related to incomplete or inaccurate applications submitted by applicants.<sup>10</sup>

**Table 1: Minnesota Pollution Control Agency permit timeliness statistics, 2017 – 2023**

	2017	2018	2019	2020	2021	2022	2023
Priority permits that met goal	94%	97%	99%	98%	98%	99%	98%
Non-priority permits that met goal	46%	63%	61%	92%	83%	46%	76%
All permits that met goal	87%	93%	93%	96%	96%	89%	91%

Source: Minnesota Pollution Control Agency, Annual Permitting Efficiency Reports for 2022 and 2023.

<sup>5</sup> “Environmental Permitting: Minnesota Pollution Control Agency’s Annual Permitting Efficiency Report,” Minnesota Legislative Reference Library, accessed October 8, 2024, <https://www.lrl.mn.gov/edocs/edocs?oclcnumber=920540181>; “Legislative Reports,” Minnesota Department of Natural Resources, accessed October 8, 2024, <https://www.dnr.state.mn.us/aboutdnr/reports/index.html>.

<sup>6</sup> Minnesota Pollution Control Agency, “Report to the Legislature: Annual Permitting Efficiency Report, 2023,” August 2023, <https://www.pca.state.mn.us/sites/default/files/lrp-gen-1sy23.pdf>; Minnesota Pollution Control Agency, “Report to the Legislature: Annual Permitting Efficiency Report, 2022,” August 2022, <https://www.pca.state.mn.us/sites/default/files/lrp-gen-1sy22.pdf>.

<sup>7</sup> Minnesota Pollution Control Agency, “Report to the Legislature: Annual Permitting Efficiency Report,” p. 5.

<sup>8</sup> Minnesota Pollution Control Agency, “Report to the Legislature: Annual Permitting Efficiency Report,” Appendix B.

<sup>9</sup> Minnesota Department of Natural Resources, “Environmental Permit Performance: Report for Fiscal Year 2023,” October 19, 2023, p. 2, <https://files.dnr.state.mn.us/aboutdnr/reports/legislative/2023/fy23-permitting-efficiency-report.pdf>.

<sup>10</sup> Minnesota Department of Natural Resources, “Environmental Permit Performance: Report for Fiscal Year 2023,” p. 2.

Despite these challenges, the reports show a substantial volume of permit activity being processed on time. For instance, in fiscal year 2023, the DNR handled over 5,200 Tier 1 and 3,600 Tier 2 permit applications.<sup>11</sup> The Minnesota Pollution Control Agency, meanwhile, manages more than 28,000 air, water, and land permits across 22,500 sites.<sup>12</sup>

These two state agencies also continue to build on Dayton's initial reforms in other ways, including upgrading data management systems, implementing new online services, working on improving workflow, and maintaining adequate staffing.

### Continuing backlogs in recent years

In 2023, Minnesota committed to achieving 100 percent carbon-free electricity by 2040.<sup>13</sup> This goal will arguably be impossible to meet, given that the state has had a moratorium on new nuclear construction since 1994.<sup>14</sup> Due to the intermittent nature of wind and solar, nuclear will likely be needed as a backstop. However, currently there is only one company, Xcel Energy, providing nuclear power in the state.<sup>15</sup>

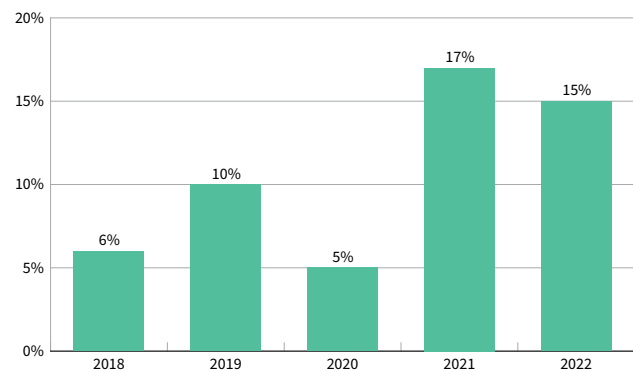
The legislation also requires that 55 percent of retail electric sales to retail customers in Minnesota be sourced from renewables by 2035.<sup>16</sup> An early version of Minnesota's carbon-free proposal, which excluded nuclear as a "carbon-free energy resource," estimated the costs of attaining the carbon-free electricity goal to be in the hundreds of billions of dollars, costing consumers thousands of dollars annually.<sup>17</sup>

While the final version that passed into law was more relaxed, substantial challenges remain. One analysis showed that if low-carbon energy generation continues at the pace achieved over the previous decade, Minnesota would not reach its goal until 2062.<sup>18</sup> To meet the 2040 goal, according to this report, the state would need to double the pace at which it added solar, wind, and other low-carbon power resources.

These struggles are not surprising given that throughout the late 2010s and early 2020s, Minnesota faced challenges with its environmental permitting processes. Data from the Minnesota Pollution Control Agency revealed that Tier 2 air permits, required for larger facilities and more complex projects, took an average of 586 days to issue between 2018 and September of 2023, with the longest priority Tier 2 permit taking 3,451 days.<sup>19</sup>

The average was nearly four times longer than the agency's goal of 150 days. Indeed, just 5 to 17 percent of Tier two air permits met the 150-day goal each year between 2018 and 2022 (see figure 1).<sup>20</sup> Renewable energy sources were particularly hard hit by permitting delays. Solar projects beginning in 2019 or after had average permit issuance times of 549 days.<sup>21</sup> For large transmission line projects, the average review process has stretched to 673 days in recent years.<sup>22</sup>

**Figure 1: Percent of Priority Tier 2 permits that met the MPCA's 150-Day goal**



Source: Minnesota Chamber Foundation, "Streamlining Minnesota's Environmental Permitting Process: Essential for Economic Growth," p. 13.

<sup>11</sup> Minnesota Department of Natural Resources, "Environmental Permit Performance: Report for Fiscal Year 2023," p. 2.

<sup>12</sup> Minnesota Pollution Control Agency, "Report to the Legislature: Annual Permitting Efficiency Report, 2023," p. 2.

<sup>13</sup> H.F. 7 – A bill for an act relating to energy, 93rd Legislature, 2023 – 2024, <https://www.revisor.mn.gov/bills/bill.php?f=HF7&y=2023&ssn=0&b=house>.

<sup>14</sup> R.C. Drews, "Does nuclear power stand a chance in Minnesota amid a moratorium and carbon-free mandate?" Energy News Network, September 13, 2023, <https://energynews.us/2023/09/15/does-nuclear-power-stand-a-chance-in-minnesota-amid-a-moratorium-and-carbon-free-mandate/>.

<sup>15</sup> Bill Glahn, "Are massive blackouts at the end of the carbon-free rainbow?" American Experiment, August 28, 2024, <https://www.americanexperiment.org/are-massive-blackouts-at-the-end-of-the-carbon-free-rainbow/>.

<sup>16</sup> Minnesota Commerce Department, "Governor Walz Signs Bill Moving Minnesota to 100 Percent Clean Energy by 2040," press release, February 7, 2023, <https://mn.gov/commerce/news/?id=17-563384>.

<sup>17</sup> Isaac Orr, Mitch Rolling, and John Phelan, "The High Cost of 100 Percent Carbon-Free Electricity by 2040: Governor Walz's Proposal Would Cost Minnesota \$313 Billion Through 2050 and Lead to Blackouts," Center for the American Experiment, September 2022, <https://files.americanexperiment.org/wp-content/uploads/2022/09/The-High-Cost-of-100-Percent-Carbon-Free-Electricity-by-2040-in-Minnesota.pdf>.

<sup>18</sup> Aaron Rosenthal, "Powering Progress: Transforming Clean Energy Permitting for a Greener Minnesota," North Star Policy Action, 2024, <https://northstarpolicy.org/powering-progress/>.

<sup>19</sup> Minnesota Chamber Foundation, "Streamlining Minnesota's Environmental Permitting Process: Essential for Economic Growth," February 2024, p. 12, <https://www.mnchamber.com/minnesota-chamber-foundation/streamlining-minnesotas-environmental-permitting-process-essential>.

<sup>20</sup> Minnesota Chamber Foundation, "Streamlining Minnesota's Environmental Permitting Process: Essential for Economic Growth," p. 13.

<sup>21</sup> Aaron Rosenthal, "Powering Progress: Transforming Clean Energy Permitting for a Greener Minnesota," p. 11.

<sup>22</sup> Aaron Rosenthal, "Powering Progress: Transforming Clean Energy Permitting for a Greener Minnesota," p. 13.

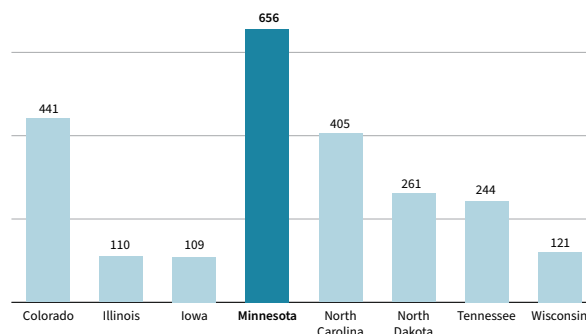
The prolonged permitting timelines were not only an inconvenience, but also had measurable economic effects. Analysis conducted by the Policy Navigation Group estimated that aligning Minnesota's air permitting review times with those of peer states could potentially generate between \$260 million and \$910 million in annual economic output and create between 960 and 3,400 full-time jobs.<sup>23</sup>

These statistics hint at how Minnesota's permitting challenges are affecting its competitiveness in the region. While none of Minnesota's neighboring states had renewable energy targets matching its ambitions, they were generally outpacing Minnesota in renewable energy generation growth. For instance, Iowa and South Dakota increased their share of electricity from wind and solar sources nearly four times more than Minnesota between 2017 and 2022.<sup>24</sup>

The state's slow permitting process was also harming its ability to attract and retain large-scale projects. In 2022 alone, three significant economic development projects, representing a combined potential of 350 new jobs and \$1.2 billion in capital investment, were withdrawn due to lengthy and uncertain permitting timelines.<sup>25</sup> This trend was particularly concerning given the surge in federal policies to boost domestic supply chains around that time.

These compounding factors of economic losses, regional competitiveness concerns, project withdrawals, process inconsistencies, and the urgency of meeting climate targets created momentum for permitting reform to pass. It became evident that without significant changes to the permitting process, Minnesota risked falling short of its economic potential and its renewable energy ambitions. This realization set the stage for the reforms that would be enacted in 2024.

**Figure 2: Average number of days to issue an air permit**



Source: Minnesota Chamber Foundation, "Streamlining Minnesota's Environmental Permitting Process: Essential for Economic Growth," p. 15.

### A Minnesota cautionary tale

While Minnesota's goal of achieving 100 percent carbon-free electricity by 2040 was celebrated by environmental advocates, it soon became clear that the existing permitting processes for energy projects were ill-equipped to handle the rapid transition envisioned to meet this target. In response, the Minnesota Legislature passed sweeping permitting reforms in 2024.<sup>26</sup>

Key changes of this reform included placing time limits on final permit decisions and moving environmental review staff directly under the Public Utilities Commission. The law replaced the Power Plant Siting Act with the Minnesota Energy Infrastructure Permitting Act, consolidating multiple permitting requirements into one new chapter. It also created two new categories for permitting – Major Review and Standard Review – to simplify and shorten the process for different types of projects.

The 2024 law clearly favors renewable energy projects in several ways. For instance, it exempts many wind, solar, and energy storage projects from requiring a certificate of need. Additionally, transmission line requirements are relaxed, particularly for lines connecting renewable energy systems, and the timeline for utilities to file certain applications has been shortened to accelerate project development. Meanwhile, the legislation mandates that the PUC must prepare an environmental impact statement in accordance with the Minnesota Environmental Policy Act for all carbon dioxide pipelines.<sup>27</sup>

<sup>23</sup> Minnesota Chamber Foundation, "Streamlining Minnesota's Environmental Permitting Process: Essential for Economic Growth," p. 16.

<sup>24</sup> Minnesota Chamber Foundation, "Minnesota 2030: 2023 Edition," 2023, p. 17, <https://www.mnchamber.com/minnesota-chamber-foundation/minnesota-2030-2023-edition>.

<sup>25</sup> Minnesota Chamber Foundation, "Minnesota 2030: 2023 Edition," p. 17.

<sup>26</sup> S.F. 4942 – Omnibus Agriculture, Commerce, Energy, Utilities, Environment and Climate supplemental appropriations, 93rd Legislature, 2023 – 2024, <https://www.revisor.mn.gov/bills/bill.php?f=SF4942&y=2024&ssn=0&b=senate>.

<sup>27</sup> "Minnesota Legislature Passes Historic Permitting Reform Bill," Fredrikson, May 22, 2024, <https://www.fredlaw.com/alert-minnesota-legislature-passes-historic-permitting-reform-bill>.



This preferential treatment for renewable projects, while clearly aligned with the state's carbon-free goals, raises concerns about fair competition among energy sectors and overlooks important environmental and economic benefits for some non-renewable projects, such as natural gas or nuclear. Moreover, there is a clear danger the legislation will increase costs for energy consumers by promoting rapid expansion of renewable energy projects and transmission lines, the cost of which will be passed on to consumers.

This is not merely speculation. "Green-plating" is a term that refers to utilities using the push for renewable energy to justify massive capital expenditures on wind, solar, and natural gas projects, which can inflate their profits under cost-of-service regulations.

In Minnesota, Xcel Energy serves as a prime example. Since the state passed the Next Generation Energy Act in 2007, mandating utilities to generate 25 percent of electricity from renewable sources, Xcel's profits have soared, growing by 115 percent largely due to renewable energy investments. However, these costs have been passed onto consumers. Isaac Orr and Mitch Rolling, policy fellows at the Minnesota-based think tank Center of the American Experiment, report:

*In 2001, according to data provided by the Energy Information Administration (EIA), electricity rates at Xcel in Minnesota ranked in the bottom half of utilities in the country and were 16 percent lower than the national average. In 2022, thanks to massive investments in unnecessary wind and solar facilities, they ranked in the top 25 percent and were 7 percent higher than the national average.<sup>28</sup>*

This practice highlights the potential downside of the push for a renewable energy transition: while utilities earn hefty profits, customers end up paying higher rates. The streamlined permitting process for renewable projects exacerbates this issue by making it easier for utilities to rapidly build new assets and grow their rate base, even when the added capacity isn't needed.

The situation in Minnesota serves as a cautionary tale for other states considering permitting reforms. While streamlining processes can be beneficial, reforms must be carefully structured to ensure a level playing field and prevent harm to consumers. Effective permitting reform should include mechanisms to prevent unnecessary or inefficient infrastructure investments and ensure that consumer interests are protected alongside environmental goals. Minnesota's experience demonstrates that well-intentioned reforms, if not carefully designed, can lead to an unfair system that creates winners and losers and ultimately burdens consumers with higher costs.

## Conclusion

Minnesota's experience underscores the importance of policy design that avoids incentivizing overspending on unnecessary infrastructure and ensures that the benefits of streamlined permitting are broadly distributed. Other states considering permitting reforms should take note of these unintended consequences. Ultimately, a successful permitting framework should foster competition and guard against over-investment that can be passed on to consumers. Minnesota has made some uneven improvements in recent years, but without further adjustments the state risks undermining its economic competitiveness and the welfare of its residents.

## About the author

**Dr. James Broughel** is a Senior Fellow at the Competitive Enterprise Institute. He is an accomplished economist whose expertise lies in regulatory institutions and the effects of regulations on economic growth. Broughel is author of the book *Regulation and Economic Growth: Applying Economic Theory to Public Policy*. This research was conducted with the support of the Hoover Institution's State and Local Governance Initiative's Small Business Regulation Visiting Fellowship.

The author would like to thank **Owen Yingling** for helpful research assistance that contributed to this report.

<sup>28</sup> Isaac Orr and Mitch Rolling, "Green-plating™ the grid: How utilities exploit the 'energy transition' to rake in record profits," American Experiment, March 11, 2024, <https://www.americanexperiment.org/green-plating-the-grid-how-utilities-exploit-the-energy-transition-to-rake-in-record-profits/>.



The Competitive Enterprise Institute promotes the institutions of liberty and works to remove government-created barriers to economic freedom, innovation, and prosperity through timely analysis, effective advocacy, inclusive coalition building, and strategic litigation.

**COMPETITIVE ENTERPRISE INSTITUTE**

1310 L Street NW, 7th Floor

Washington, DC 20005

202-331-1010