




Flexible Permitting In Minnesota

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Why are we here?

- ☐ Minnesota is a leader in flexible permitting
- ☐ Desire for flexibility has lead to complexity – lots of choices
- ☐ Hope to explain the different approaches

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Outline

- ▣ Minnesota Air Permitting Program
- ▣ Flexible permitting for minor sources under New Source Review (NSR)
- ▣ New options: Capped Permit and Environmental Management System (EMS) Permit


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Minnesota Air Permitting Program

- ▣ Combined construction and operating permit program – one permit system
- ▣ Includes federal construction permit program (New Source Review or NSR)
- ▣ State construction permit program (Minor NSR)
- ▣ Federal operating permit program (Part 70)
- ▣ State operating permit program


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Operating Permitting Thresholds

Pollutant	State	Federal
Volatile organic compounds (VOC)	100 tons per year	100 tons per year
Carbon monoxide (CO)	100 tons per year	100 tons per year
Nitrogen Oxides (NO _x)	100 tons per year	100 tons per year
Sulfur dioxide (SO ₂)	50 tons per year	100 tons per year
Fine particulate matter (PM ₁₀)	25 tons per year	100 tons per year
Hazardous Air Pollutants - single and combined	10 and 25 tons per year	10 and 25 tons per year

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Construction Permitting Thresholds

- ▣ Federal thresholds apply based on ton per year increases
- ▣ State thresholds apply based on pound per hour increases
- ▣ Amendments needed for other reasons (e.g. revising or adding permit conditions, new applicable requirements, etc.)

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Flexible Permitting for Minor Sources under New Source Review




What is a Flexible Permit?

- ▣ With minimal (or no) MPCA involvement:
 - ▣ Able to add or delete emission units/controls
 - ▣ Able to change materials, fuels and other ways to operate

Require less agency resources to administer over long-term


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Available “Flexible” Permits

- ❑ Registration Permits (state permit)
- ❑ General Permits (federal or state permit)
- ❑ FlexCap Permits (federal or state permit)
- ❑ PreCap Permits (federal or state permit)
- ❑ Capped and EMS State permit


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Registration Permits

- ❑ Prohibitory rule with 4 permit options for sources with low actual emissions (Options A-D)
- ❑ State permits with limits at roughly 50% of Part 70 threshold
- ❑ Allows specified list of New Source Performance Standard (NSPS) regulated units, all others don't qualify
- ❑ Rule contains all limits and monitoring

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Registration Permits (2)

- ☐ Permittee submits application, gets permit, pays fees, minimal submittals
- ☐ < 60 days to issue (over 2000 issued)
- ☐ Can make any change as long as continue to qualify under the rules (add new units, modify, etc.)
- ☐ Allows credit for controls that meet the Minn. Control Equipment Rule*


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Minnesota Control Equipment Rule

- ☐ Facility can get “credit” only for control equipment listed in rule (*Minn. R. 7011.0060*)
- ☐ Control equipment rule specifies control equipment efficiency, monitoring, record keeping, and reporting

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General Permits

- General Pt .70 **Manufacturing Permit** with limits on all pollutants or production to avoid NSR (25 issued)
- General State **Sand and Gravel Permit** with limits on all pollutants or production to avoid Pt. 70 and NSR (96 issued)
- Facilities consisting of only specified equipment and applicable requirements can apply (certain NSPS and NESHAPs included)
- Can make any change as long as continue to qualify for the permit


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FlexCap Permits

- Set total facility caps on key (or all) pollutants to avoid NSR major source threshold
- Individual State or Part 70 permit
- May require or have options for some emissions controls
- Include all necessary standards and monitoring
- Authorize specific or categories of changes (replacements, additional capacity, etc.) – all annual and hourly potential emissions accounted for upfront.


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FlexCap Permits (2)

- Any authorized change under the emissions caps has no annual emissions increase (don't trigger NSR) – if not authorized, there could be an increase
- All hourly emissions accounted for upfront, so if change is authorized, no hourly increase (don't trigger Minor NSR)
- Equipment labeling and inventory
- Report changes at some frequency
- Good choice if you can predict the types of changes you want to make and want to have certainty in permit applicability (minimal analysis)


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PreCap Permits

- Set total facility caps on key (or all) pollutants to avoid NSR major source threshold
- Individual State or Part 70 permit
- May require or have options for some emissions controls
- Include standards and monitoring as much as possible
- No changes are expressly authorized, but write emissions caps to cover any new or modified equipment (“pre-limit” new or modified equipment).


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PreCap Permits (2)

- ▣ Changes under the emissions caps have no annual emissions increase (don't trigger NSR)
- ▣ State amendments still apply to changes under the caps (hourly increase analysis) since only the annual emissions are addressed upfront
- ▣ May need an amendment to address monitoring or applicable requirements
- ▣ Result is a more streamlined amendment procedure when making changes


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PreCap Permits (3)

- ▣ Permits may have equipment labeling and inventory
- ▣ Usually no reporting other than required by rule
- ▣ Good choice if you can't predict changes, determine the hourly emissions upfront, and are willing to do the state amendment analysis prior to making changes


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PreCap Permits (4)

- ▣ Example Language:
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 - All VOC-emitting equipment at the Facility is subject to this limit.
 - If the Permittee replaces any existing VOC-emitting equipment, adds new VOC-emitting equipment, or modifies the existing equipment, such equipment is subject to this permit limit as well as all of the requirements of GP 001. Prior to making such a change, the Permittee shall apply for and obtain the appropriate permit amendment, as applicable. The Permittee is not required to repeat VOC calculations described in Minn. R. 7007.1200, subp. 2.
 - A permit amendment will still be needed regardless of the emissions increase if the change will be subject to a new applicable requirement or requires revisions to the limits or monitoring and recordkeeping in this permit.

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Summary

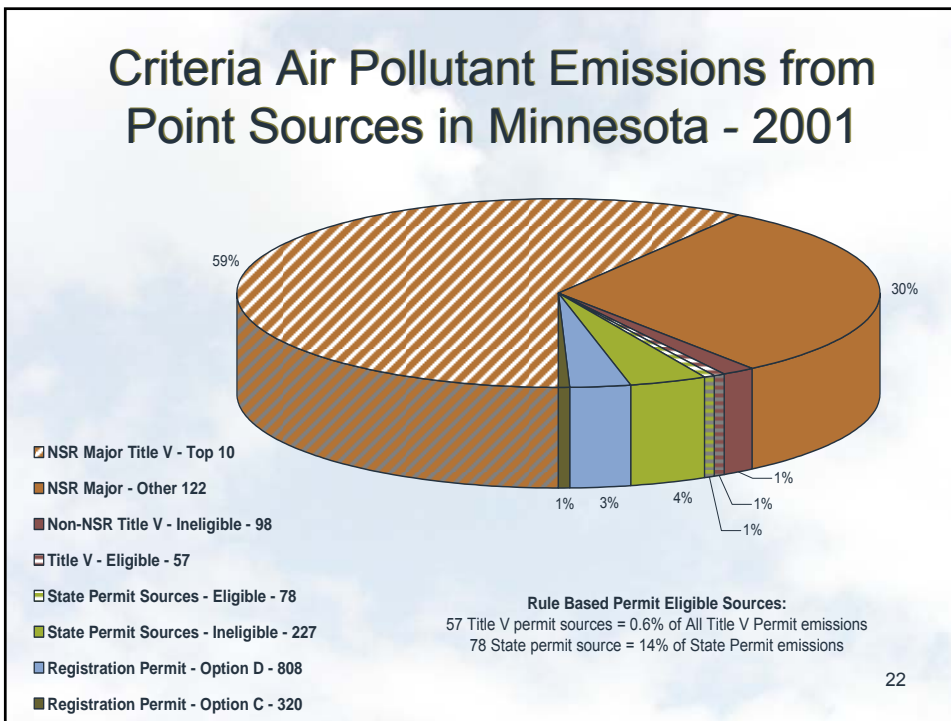
- ▣ Offer many flexible permit options for sources wishing to stay below NSR thresholds
- ▣ If you have an individual operating permit now and want it to include FlexCap or PreCap language – major amendment or address at reissuance
- ▣ Rule-based permits easier and quicker to issue/administer than individual flexible permits


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New State Permit Options

- Capped Permit
- Environmental Management System (EMS) Permit






Why MPCA Added New Flexible Options

- Improve match between MPCA resources spent and environmental impact
- Reduce backlog in issuing state individual permits (FESOPs)
- Reduce need for construction permits over long term
- Provide benefit/incentive to facilities with Environmental Management System (EMS)

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Why MPCA Added New Flexible Options

Goal Make permitting process faster and more efficient while achieving a similar (or better) environmental outcome than with individual state permit

- ▣ New option may motivate some sources to move from Pt. 70 to Capped (lower allowable emissions)
- ▣ Registration permit still most attractive (lowest allowable emissions)

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Who may want a Capped Permit?

Facility that:

- ☐ Makes changes frequently
- ☐ Needs a permit quickly
- ☐ Needs federally enforceable limits on HAPs to stay out of NESHAP


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Who can't get a Capped Permit?

- ☐ Facilities subject to an NSPS other than one of 12 listed in rule
- ☐ Waste combustors, ethanol plants
- ☐ Facilities in source category where general permit is available
- ☐ Facilities that require site-specific permit conditions


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Capped Permit Application

- ◻ Streamlined state permit application-forms available on-line
- ◻ Rule allows applicant to supplement previous applications


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Capped Permit Thresholds – 2 Options

- ◻ Option 1
 - ▣ allows up to 90 % of federal permitting thresholds
 - ▣ requires tracking of insignificant activity emissions
- ◻ Option 2
 - ▣ allows up to 75 – 90 % of federal permitting thresholds, pollutant specific
 - ▣ does not require tracking of insignificant activity emissions


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Capped Permit Compliance

- ☐ Limits, recordkeeping, monitoring in rule (one page permit)
- ☐ Monthly calculation of actual emissions (all pollutants)
- ☐ Keep up-to-date compliance plan on site
- ☐ Perform ambient air quality assessment to qualify and before making changes
- ☐ Credit for control equipment same as Reg. Permit


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Ambient Air Quality Assessment

- ☐ Use SCREEN3 or an on-line spreadsheet "CAPS"
- ☐ Into CAPS enter: hourly PM-10, SO₂ emissions, annual NO_x emissions, stack heights and distance to property line
- ☐ Facility can use default dispersion factors in spreadsheet (easy) or develop their own (harder)
- ☐ Predicted concentrations must be < 1-hr, 3-hr, 24-hr SO₂ std.; 24-hr PM-10 std.; and annual NO₂ std.


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Pre-Change Analysis

- ☐ Before making any change, facility must do analysis (*including ambient air assessment*) to show it will be eligible
- ☐ Keep records on site
- ☐ No notification to MPCA


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Capped Permit Reporting

- ☐ Annual emissions inventory – including an updated equipment list, plus fuels/materials
- ☐ Deviation report semi-annually only if a deviation
- ☐ Annual compliance certification
- ☐ Plus any reporting associated with applicable requirements like NSPS and mandatory shutdown/breakdown, etc.

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Capped Permit Issuance

Goal Issue 60-90 days after receipt of application

- ❑ No public notice of permit, but 30 day comment period on eligibility (to start within 15 days of receiving application)
- ❑ Receipt of application posted on web and electronic notification sent to listserv (no paper notice)


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Capped Permit Duration

- ❑ Non-expiring by default
- ❑ Agency can make expiring if it would improve likelihood of continuing compliance


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Response to Capped Permit

- Expect about a dozen applications in 2005
- Timing for facilities is important - waiting until reissuance, amendment needed, etc.


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State Permit with EMS Provisions

- Environmental Management System: tool to improve environmental compliance and performance at entire facility
- Provide both a benefit to facilities with EMS and an incentive for others
- Up to 10 facilities eligible of the 45 currently ISO 14001 registered or qualified in MN


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EMS Provisions

- ☐ Relief from minor/moderate amendments
- ☐ Semi-annual deviation reporting only if deviation
- ☐ Calculate emissions of a pollutant on annual basis if actual emissions are < 25% of federal permit thresholds
- ☐ Safeguards in rule to ensure facility adequately implementing EMS


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Facility Eligibility for EMS Provisions

- ☐ Implement ISO 14001-registered EMS or implement EMS conforming to 14001 as determined by third-party EMS auditor
- ☐ Apply for permit that establishes facility-wide pollutant limits
- ☐ Perform ambient AQ assessment

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EMS Permit Issuance and Duration

- ☐ Permit contains both “customary” permit conditions and EMS provisions
- ☐ Agency notification (*not permit amendment*) dictates which conditions apply
- ☐ This is an individual state permit
 - ▣ 30 day public notice of permit
 - ▣ Similar application, issuance time, duration
- ☐ Priority given on case-by-case basis

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More Information

MPCA Flexible Permits
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Capped Permit
<http://www.pca.state.mn.us/air/permits/capped.html>
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