



Citizens' Guide to Part 70 (Title V) Air Quality Permits

Background

This Minnesota Pollution Control Agency (MPCA) fact sheet provides a basic overview about air quality permits, particularly a type of federal permit issued by the MPCA called a "Part 70" or "Title V" Permit. A Part 70 or Title V Permit is a federal air emissions permit issued by states, such as Minnesota, delegated to implement the Clean Air Act. This document also outlines ways in which interested citizens can learn more about a specific permit and participate in the permitting process.

What is an air quality permit?

A permit is a regulatory document issued to a specific facility that contains legally enforceable requirements. An air emission permit spells out the process equipment (type of equipment used by a facility in its day-to-day operations), air-pollution-control equipment, and rules or regulations that apply to a specific facility.

The air emission permit also includes monitoring requirements, based either on the rules that apply to the facility or on the MPCA's decision that certain monitoring requirements are needed to demonstrate the facility's compliance with the permit limits.

Prior to the federal Clean Air Act Amendments of 1990, many states had air permit programs, but they were all different. It was possible that a facility that required a permit in Minnesota may not have needed a permit in a different state. Minnesota's air permitting program had emissions thresholds above which facilities

were required to obtain operating permits. In addition, various types of construction activities (adding new equipment, expanding the facility) required permits.

What is a Part 70 permit?

Title V of the Clean Air Act Amendments of 1990 requires that all major stationary (nonmoving) sources of air pollutants obtain a permit to operate. (A facility is "major" if it has emissions over certain thresholds.) Part 70 is the section in the Code of Federal Regulations where Title V is detailed. "Title V Permit" and "Part 70 Permit" are used interchangeably.

The purpose of Title V was to establish a consistent permitting program across the country, to reduce violations of air-pollution laws, and to improve the enforcement of those laws. Prior to 1990, there was no federal requirement that existing sources of air pollution have operating permits.

The purpose of a Part 70 Permit is to gather all applicable air-pollution requirements for a major stationary source into one site-specific, legally enforceable permit. A Part 70 permit is valid for five years; then it must be renewed.

Does a facility receiving a Part 70 Permit receive new requirements?

In general, the Part 70 Permit is meant to incorporate existing applicable state and federal requirements. It is not intended to

create new requirements. However, the Part 70 Permit will often include monitoring requirements (testing, recordkeeping, etc.) that did not appear in previous permits and/or are not explicitly required under existing regulations.

These monitoring requirements are forms of “periodic monitoring,” a required part of the Clean Air Act's Title V operating permits program. Periodic monitoring includes actions deemed necessary for the facility to demonstrate compliance with rules or permit conditions.

Can the state add requirements to the Part 70 Permit?

Because the Part 70 Permit is issued under state rules, the MPCA can use its general authority under Minnesota Statutes to develop and include additional state-only requirements that are necessary to protect human health and the environment or to prevent pollution. “State-only” means that only the MPCA has the authority to enforce these state-only requirements; the U.S. Environmental Protection Agency (EPA) would not have any authority to enforce them or oversee any disputes about them.

What is a Part 70 threshold?

A facility needs a Part 70 Permit if its *potential* to emit air pollutants when it is operating at its maximum capacity is over specific emission thresholds. These thresholds **are not limits**. Facilities with emissions over the Part 70 thresholds simply must have a Part 70 Permit. In addition to these federal thresholds, Minnesota has lower thresholds that require a state permit. The table on this page shows what the Part 70 thresholds are.

What is EPA’s role in Part 70 Permits?

The federal Part 70 regulations tell states what they need to do to develop air permits that meet the requirements of Title V of the 1990 Clean Air Act Amendments. In Minnesota, the air permitting rules can be found in Minn. R. ch. 7007. These state rules meet the federal requirements. Because the state rules are used to issue federal permits, EPA has the authority to review draft permits before they are issued.

The EPA has a 45-day period to review the permit. This will usually take place concurrently with the public comment period, although there are circumstances under which the EPA’s 45 days will commence after the public

comment period is over. The EPA is also responsible for reviewing, approving, and overseeing Minnesota’s entire permit program.

For permit conditions that are federally enforceable (i.e., not state-only requirements), EPA has appeal procedures that allow the facility or a citizen to outline objections to those conditions.

Part 70 Permitting thresholds, based on potential to emit, in Tons per Year (TPY)

Pollutant	Threshold
Volatile Organic Compounds (VOCs)	100 TPY
Carbon Monoxide (CO)	100 TPY
Nitrogen Oxides (NO _x)	100 TPY
Sulfur Dioxide (SO ₂)	100 TPY
Fine Particulate Matter (PM ₁₀)	100 TPY
Very Fine Particulate Matter (PM _{2.5})	100 TPY
Combined Hazardous Air Pollutants (HAPs)	25 TPY
Carbon Dioxide Equivalent (CO ₂ e)*	100,000 TPY
Individual HAPs	10 TPY each
Lead	10 TPY

*As of 7/1/2011

What is the public’s role in Part 70 Permits?

Individuals or organizations are notified that a draft permit is available and invited to comment for 30 days. Citizens may request public information meetings during the 30-day public comment period.

Written comments on draft permits are seriously considered and some result in changes to the final permit. Comments are most helpful and likely to be incorporated into the decision-making process when they address specific items in the proposed permit or when they suggest specific additional permit requirements. Legally, the MPCA can not consider comments outside the scope of the permit, including public concerns about land-use, zoning, or environmental impacts unrelated to air emissions. When an individual or organization requests a public information meeting, one is usually held if the issues raised are pertinent to the permit.

Unlike some other MPCA programs, there is no minimum number of requests required to hold a meeting. During such meetings, citizens can learn more about the permit, the process and the pollutants covered in the draft or talk to the staff about concerns or suggestions. If the public information meeting is requested to discuss

issues not relevant to the draft permit, or if there has already been a previous public forum for citizens, the MPCA may choose not to hold another meeting. The MPCA staff may instead contact commenter to discuss whether concerns may be addressed more effectively outside of the Part 70 Permit process.

If a public information meeting is held, staff will make every effort to respond to your concerns, either at the meeting or by getting back to you later. It is important to note that even though MPCA staff may discuss comments with you during a meeting or on the phone, your comments are not considered part of the public record unless they are submitted in writing. Comments must be submitted before 4:30 p.m. on the last day of the 30-day public comment period, as specified in public notices.

What other options do citizens or facilities have to influence the final permit?

If discussions with permitting staff and a public information meeting do not resolve the concerns of interested parties, other options for raising new facts or information are available to the public.

MPCA Citizens' Board

The MPCA is unique among state agencies in having a Citizens' Board (Board) that considers issues of high public interest or controversy. The Board is comprised of citizens from all walks of life and all parts of the state. If you would like the Board to consider the permit, submit your request through the staff member listed on the public notice or contact the Commissioner's Office directly. The Board may consider the permit if the Commissioner or a Board member asks to have the matter put on the agenda. Requests for Board involvement in a Part 70 Permit should deal with specific concerns about the permit or new facts that the requestor feels were not taken into account by the staff. For more information about the Board process, see www.pca.state.mn.us/about/board/1-00.pdf.

Contested case hearing

Interested persons may also request that the MPCA hold a contested case hearing. A contested case hearing is somewhat similar to a trial, except that it is before an administrative law judge instead of a district court judge. Legal counsel usually represents the parties, although parties may represent themselves; witnesses are sworn

and cross-examined; evidentiary rules apply; briefs are filed.

A contested case hearing is much different from a public information meeting, where the purpose is for all parties to listen and gain understanding of each other's positions. The purpose of a contested case hearing is to resolve *disputed material facts* that are both relevant to a MPCA decision and within the MPCA's authority. The decision whether to hold a contested case hearing, if one is requested, will be made under Minn. R. 7000.1900.

Requestors should indicate the specific change in the permit they want or propose a resolution of the matter. The reasons why the requestor wants a change (which may be in the form of proposed findings) must be clearly stated and relevant to the specific permit. Failure to comply with these rules **exactly** may result in a denial of the contested case hearing request.

EPA 45-day review period

As previously mentioned, EPA has an additional 45 days to review the draft permit, and will typically do that during the public comment period. However, if comments are received during the public comment period, after all comments have been addressed and public information meetings and Board Meetings held (if applicable), the MPCA may need to submit the proposed permit to EPA, either with or without changes, for an additional 45-day review period. If you still have concerns at this point, you may contact the EPA during their 45-day review period. To do that, send your comments to:

Ms. Pamela Blakley, Chief
Air Permit Section (AR-18J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, IL 60604

If you have additional questions about your options to influence the final permit, contact the MPCA staff person listed in the public notice for the permit. A sample public notice sent out to people on the interested parties list and published in a newspaper that serves the affected community, is included on the next page.

If you are not satisfied with the final permit decision, you may request judicial review (Minn. Stat. § 115.05, subd. 11). To make this request, follow the procedures in Minn. Stat. §§ 14.63 to 14.69. A petition must be filed with the Court of Appeals and served on the MPCA no later than 30 days after the date the final decision and order are received by external parties.

Can a citizen express concerns after the permit has been issued?

You can express your concerns to the MPCA about *any facility at any time* regardless of a facility's permit status.

Make a citizen complaint

You can report specific pollution incidents you observe or experience by using the MPCA's on-line citizen complaint form at: www.pca.state.mn.us/complaints.cfm or by phoning the MPCA's Air Quality Complaint Line at 651-296-6300.

Request a meeting with MPCA staff

If you have concerns about a facility regulated by the MPCA, you may request a meeting with MPCA staff. Contact the MPCA at 651-296-6300 or 800-657-3864 to make your request. State the nature of your concern and the specific topics you wish to discuss. Granting the request will depend on staff availability and whether your concerns are within the MPCA's authority.

The next step

If there appears to be a problem with a permit, the MPCA may decide to request additional information from the facility or perform an inspection. Violations of Part 70 Permits may result in MPCA and/or EPA enforcement action. To learn about enforcement actions, go to: www.pca.state.mn.us/newscenter/enforcement.html.

The MPCA can also re-open a permit for grounds listed in Minn. R. 7007.1600. Minn. R. 7007.1700 lists grounds under which the agency may revoke an air emissions permit. In very rare circumstances, emergency powers may be invoked by the agency under Minn. Stat. § 116.11.

Further citizen action

Request that the MPCA board hear your concerns

The MPCA Citizens' Board can decide whether to reopen, rescind, or reverse a decision of the Board or Commissioner (Minn. Stat. § 116.02, subd. 6 (7)). You may ask that the Board hear your concerns. To ask the Board to hear your concerns, you must provide information relevant to the action you wish taken by the Board. Board contact information is available at www.pca.state.mn.us/about/board/index.html.

File a civil action

Under Minnesota's Environmental Rights Act (Minn. Stat. § 116B.10), a citizen can file a state civil action challenging an environmental quality standard, limitation, rule, order, stipulation agreement, or permit promulgated or issued by the agency. The citizen has the burden of proof to show material evidence that the environmental quality standard, limitation, rule, order, stipulation agreement, or permit promulgated or issued by the agency is inadequate to protect air resources in the state from pollution, impairment, or destruction.

A citizen may also bring a federal civil action under section 304 of the federal Clean Air Act as amended in 1990.

Further questions?

For other questions, contact the MPCA at 651-296-6300 or 800-657-3864. For permit information, visit the MPCA's air permit Web page at www.pca.state.mn.us/air/permits/index.html.

The Minnesota Department of Health's Environmental Health Division answers questions from the public regarding health risks from environmental health hazards. Call 651-201-4899.

PUBLIC NOTICE ON PROPOSED AIR EMISSION FACILITY PERMIT

NOTICE IS HEREBY GIVEN, that the Commissioner of the Minnesota Pollution Control Agency (MPCA) proposed to issue Air Emission Permit No. xxxxxxxx-xxx to Blank Industries, Inc. for its proposed facility at 2525 Blank Street, Blankville, Blank County, Minnesota.

The permit action is for construction and operation of the facility. The permit action is a part 70 Permit; therefore, the permit has been placed on public notice.

Blank Industries will install and operate six 2000-kilowatt diesel generators. Operation is limited by a fuel usage limit, to restrict emissions below the major source threshold in the federal New Source Review permit program.

A summary of the Potential to Emit (PTE) in tons per year is as follows:

Pollutant	PM	PM ₁₀	PM _{2.5}	SO ₂	NO _x	CO	VOC	CO _{2e}	Pb	All HAPs
Total Facility PTE	2.08	2.08	2.08	4.82	235	5.98	4.15	90,000	0	0.1056

PM = particulate matter; SO₂ = sulfur dioxide; VOCs = volatile organic compounds; HAPs = hazardous air pollutants; Pb = lead
PM₁₀ = PM smaller than 10 microns; PM_{2.5} = PM smaller than 2.5 microns; NO_x = nitrogen oxides; CO = carbon monoxide, CO_{2e} = carbon dioxide equivalent

The Permittee is not required to submit a pollution prevention progress report pursuant to Minn. Stat. § 115D.08.

The preliminary determination to issue the air emission permit is tentative. There are four formal procedures for public participation in the MPCA’s consideration of the permit application. Interested persons may (1) submit written comments on the proposed permit; (2) request that the MPCA hold a public information meeting; (3) request the MPCA hold a contested case hearing; and/or (4) submit a petition to the Commissioner requesting that the MPCA Board consider the permit matter.

The decision whether to issue the permit and, if so, under what terms, will be presented to the MPCA Board for decision if: (1) the Commissioner grants the petition requesting the matter be presented to the Board; (2) a MPCA Board member requests to hear the matter prior to the time the Commissioner makes a final decision on the permit; or (3) a request for a contested case hearing is pending. Otherwise, the Commissioner will make the decision.

Persons who submit comments or petitions to the MPCA must state (1) their interest in the permit application or the draft permit; (2) the action they wish the MPCA to take, including specific references to the section of the draft permit they believe should be changed; and (3) the reasons supporting their position, stated with sufficient specificity as to allow the MPCA to investigate the merits of the position.

As described in Minn. R. 7000.1800, persons who submit requests for a contested case hearing must also state the issues they propose to address in a contested case hearing, the specific relief requested or resolution of the matter, and the reasons (which may be in the form of proposed findings) supporting an MPCA decision to hold a contested case hearing. Failure to comply with these rules exactly may result in a denial of the request. The decision whether to hold a contested case hearing will be made under Minn. R. 7000.1900. Most public libraries throughout the state have copies of the current Minnesota Rules. They are also available on the Internet at <http://www.revisor.leg.state.mn.us>

The public comment period commences July 12, 2009 and terminates August 12, 2009. Comments must be received in writing at the MPCA by 4:30 p.m. on August 12, 2009. Evidence of timely receipt includes a date/time stamp imprinted on the first page of the written comments by the first floor information and reception area of the MPCA or by the regional office support staff, or receipt by fax.

Comments, requests and petitions should be mailed to: (contact person, address, phone number, fax number, and way to obtain a draft of the entire permit).

DATED: Issue date

Official signature: