Tom Joseph

How much effort do you expect would be required for screening threshold analyses (hours, cost, etc. to calculate air toxics emissions)?

We recognize that MPCA did not clarify how insignificant activities (IAs) would be handled in this process. If only EI units are included (i.e., excluding IAs) <50 hours of time needed, mainly to set up default dispersion parameters within the RASS. If IAs are included, time could be upward of 150 hours.

If you've previously completed a risk assessment (AERA), what was the cost range for this work? How much time did it take?

While we've never submitted a complete AERA, we expect costs to exceed $150,000 for a final product. Model development, QA, and report development would likely take 8 months to one year to complete. Additional time and cost would incur if further iterations were found to be needed following discussion with MPCA.

Ryan Birkenholz

How much effort do you expect would be required for screening threshold analyses (hours, cost, etc. to calculate air toxics emissions)?

Totally depends on the facility. Smaller facility with less than 10 sources would probably cost approximately $10,000. A larger site could easily be $20,000 or more.

If you've previously completed a risk assessment (AERA), what was the cost range for this work? How much time did it take?

I find that they typically cost about $15,000 - 30,000 but I have had them cost upwards of $50,000

Would facilities that are over screening thresholds prefer to submit a permit amendment, develop a compliance determination protocol, or both?

Most of my clients would probably opt for a compliance demonstration protocol. Air permits are already difficult enough to comply with so more restrictions is not going to be accepted widely. Plus, air permit amendments can sometimes cost more than an AERA.

If you work for a facility, what actions would you be willing to take to stay below screening thresholds (move/change stacks, other operational changes, etc.)? Or would you opt to do an AERA instead?

Move/change stacks is often a very expensive capital investment so that is unlikely. I think most would end up conducting an AERA to maintain operational flexibility.

If you have a registration or general permit, would it be possible to track operating hours for each emissions unit or is it more reasonable to track hours of operation on a total facility level?

Tracking each emissions unit would be very difficult unless they all have operating hour meters. I am not following how to track hours of operation for a total facility; I suppose if the facility is open, all emissions units would be assumed to be operating even though that is not what is happening?

How much time is reasonable to develop an air toxics reduction plan? Eight weeks, six months, or one year? Why?

Six months seems reasonable to develop a draft reduction plan for a small facility as long as we have very clear guidance from MPCA on what is expected (an example plan would be nice). A very large plant could easily require a year or more, particularly if any operational changes are being considered; they need time to obtain approval for capital expenditures.

How much time is reasonable to comply with an air toxics reduction plan? Why?

It can sometimes take years to engineer, procure, permit, and construct physical changes. I think the timeframe depends on what is in the plan. IF the plan requires changing a stack or a process, I would say that many facilities may need 3-4 years to get it done. If it is a small plant and only proposing operating hour restrictions then obviously it won't take long to comply.

After completing a risk assessment, if a facility cannot comply with an air toxics reduction plan, what are reasonable alternatives?

I think there needs to be some consideration on where the impacts occur. If it is in the middle of nowhere, consideration should be given to the population exposure in that there are no significant impacts. If it is next to a university campus with students, then I think that facility would be held to a different standard.

1. *What kind of public notices would you like to see required by these rules?*
2. *When above screening thresholds and making changes to the facility?*
3. *When a risk assessment is completed?*
4. *When a risk reduction plan is required?*
5. *Other times?*

I don't think it is necessary to have any of these public notices. I think that a public notice of a facility that cannot meet health risk standards might be justified.

Should petitions be allowed and if so, what actions should be allowed to be petitioned for? Please share any example you might have.

Not sure what you mean by petitions. petitions for alternatives? Yes, I think you need to leave options open for MPCA to approve alternative options because it will be impossible to think of every situation.

How could a screening process be made easier? What support could be helpful?

Clear guidance/tools and perhaps an example analysis completed by MPCA to show what a final screening looks like. Michigan EGLE has a good process; I have used it many times…They allow comparison of mass emission rates to an allowable emission rate, if that doesn't work, applicant can show compliance with an agency provided dispersion factor process, third option is to conduct facility specific modeling.

Any other feedback you would like to share?

I think it is every likely that you will get facilities that cannot screen out of the first step and will also not be able to meet the AERA because event he AERA has a lot of overly conservative assumptions. Many facilities will need to go to a Q/CHI process with the AERA

to potentially show compliance, particularly for larger facilities with lots of stacks. I also think that MPCA needs to allow a final option which is to consider actual population exposure similar to what California allows in an AB2588 or a Tier 2 analysis in Washington; I think it is likely facilities will have to go to that extent to show compliance. This is going to require a lot of resources at MPCA.

According to the statute, the rules must account for any exposure of residents in environmental justice areas to facilities' air toxic emissions. How do you recommend accomplishing this?

What about exposure to residents in non-environmental justice areas? I don't think there should be any different standard for EJ vs. non-EJ areas. As to how we can account for exposure of residents (in all areas) to air toxics emissions; I thought that is the whole purpose of the screening and AERA process. is to show that concentrations show compliance with acceptable health risks. I think that is all that needs to be done.

Should the MPCA limit/regulate air toxics where there are no health risk values established, such as PFAS?

No. It would be arbitrary to regulate something that has no standards. We need a target.

Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this?

Absolutely; any emissions from virgin fossil fuels such as natural gas and fuel oil should be exempt; this is consistent with Wisconsin DNR NR 445.07(5). The insignificant amounts of HAPs that are identified in AP-42 for combustion of these fuels is not a significant risk and realistically probably are not even being emitted anyway. NR 445.07(5) even exempts air toxics from coal combustion (group 2 virgin fossil fuels) as long as certain stack parameters are met. I think there are a lot of other non fossil fuels that should be exempt from inclusion such as biodiesel and hydrogen.

Joan Vanhala

1. *What kind of public notices would you like to see required by these rules?*
2. *When above screening thresholds and making changes to the facility?*
3. *When a risk assessment is completed?*
4. *When a risk reduction plan is required?*
5. *Other times?*

these three should be made publicly available:

- When screening thresholds and making changes to the facility
- When a risk assessment is completed
- When a risk reduction plan is required

Should petitions be allowed and if so, what actions should be allowed to be petitioned for? Please share any example you might have.

Environmental justice based on cumulative impacts using the social determinants of health

According to the statute, the rules must account for any exposure of residents in environmental justice areas to facilities' air toxic emissions. How do you recommend accomplishing this?

this must be public information that is reported to the MN Department of Health and the local jurisdictions' health department (city and/or county)

Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this?

any toxins should be reported especially in an EJ community

Any other feedback you would like to share?

How is this process being informed by the Department of Health, local jurisdictions health departments and EJ communities? You cannot leave this process solely up to the reporting polluter.

Denise Kazmierczak

How much effort do you expect would be required for screening threshold analyses (hours, cost, etc. to calculate air toxics emissions)?

See comments attached

If you've previously completed a risk assessment (AERA), what was the cost range for this work? How much time did it take?

See comments attached

Would facilities that are over screening thresholds prefer to submit a permit amendment, develop a compliance determination protocol, or both?

See comments attached

If you work for a facility, what actions would you be willing to take to stay below screening thresholds (move/change stacks, other operational changes, etc.)? Or would you opt to do an AERA instead?

See comments attached

If you have a registration or general permit, would it be possible to track operating hours for each emissions unit or is it more reasonable to track hours of operation on a total facility level?

See comments attached

*How much time is reasonable to **develop** an air toxics reduction plan? Eight weeks, six months, or one year? Why?*

See comments attached

*How much time is reasonable to **comply** with an air toxics reduction plan? Why?*

See comments attached

After completing a risk assessment, if a facility cannot comply with an air toxics reduction plan, what are reasonable alternatives?

See comments attached

1. *What kind of public notices would you like to see required by these rules?*
2. *When above screening thresholds and making changes to the facility?*
3. *When a risk assessment is completed?*
4. *When a risk reduction plan is required?*
5. *Other times?*

See comments attached

Should petitions be allowed and if so, what actions should be allowed to be petitioned for? Please share any example you might have.

See comments attached

How could a screening process be made easier? What support could be helpful?

See comments attached

According to the statute, the rules must account for any exposure of residents in environmental justice areas to facilities' air toxic emissions. How do you recommend accomplishing this?

See comments attached

Should the MPCA limit/regulate air toxics where there are no health risk values established, such as PFAS?

See comments attached

Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this?

See comments attached

Any other feedback you would like to share?

See comments attached

MPCA Air Toxics Regulations Rulemaking
Comments to MPCA "Smart Questions" from September 17, 2024 Webinar
October 18, 2024
Comments by Stantec Consulting Services Inc.

Stantec Consulting Services Inc. submits the following comments in response to the MPCA "Smart Questions" included in the September 17, 2024 Webinar regarding the air toxics rulemaking.

MPCA Question 1: How much effort do you expect would be required for screening threshold analyses (hours, cost, etc. to calculate air toxics emissions)?

Comment: Screening threshold efforts will be dependent on the screening threshold values and the screening methodology that MPCA develops. Therefore, MPCA should create a working group to develop the screening thresholds and the screening methodology that allows input from the regulated community.

A screening analysis may only require 20-40 hours for a relatively straight forward site with air toxics identified by default MPCA air emission inventory emission factors and low actual emissions. However, a site with a large number of air toxics, emission sources and emission points may have a significant time commitment to complete a screening analysis. Costs for a screening analysis could easily be $5,000-$10,000 for a small facility, and significantly more for a large facility.

This effort could be a significant burden for some smaller facilities, for example those with Option D permits with reduced recordkeeping requirements due to low emissions. The data needed for the screening threshold analysis could be additional to their permit requirements and could be time- consuming to obtain.

MPCA Question 2: How could a screening process be made easier? What support could be helpful?

Comment: The following items should be considered for the screening process:

- Screening values should be based on distance to property line rather than the distance to the fenceline. The hazards and risks that the legislature intended to address are those to the community, not exposures within facility property. Not all facilities have a true "fenceline" or a public preclusion plan and therefore the property line needs to be the basis of the analysis.
- Other states include exemptions from screening, such as liquid and gaseous fossil fuels along with laboratory activities (see Wisconsin's NR445.07(5)).
- Control efficiencies should be allowed for calculation of air toxics emissions.
- Chemicals that are not detected in emission factor documents or test data should not be considered in the analyses. Some publicly available emission factors are based on detection limits, and these should not be used or included.
- Use of emissions data older than 10 years should be allowed where it is the most representative available information, to reduce analysis costs.
- Use of the SCREEN3 model should be allowed as a streamlined option, as an alternative to MPCA's proposed screening methodology. A one size fits all approach for dispersion factors often overestimates concentrations.

- Consider a "pre-screen" step prior to the screening threshold analysis step with off ramps for facilities that have few sources or low emissions. For example, facilities that only have air toxics emissions from combustion sources, or that have Option D permits with reduced recordkeeping requirements, could use a screening questionnaire to determine if the full screening step is required.

MPCA Question 3: If you have a registration or general permit, would it be possible to track operating hours for each emissions unit or is it more reasonable to track hours of operation on a total facility level?

Comment: This will vary by the facility. However, many Option D facilities track total throughputs for all similar type units, and do not split out by individual emission units (e.g., natural gas usage for all combustion units; total paint and solvent usage for all similar type paint booths) and do not track operating hours for individual units. Since this is not currently a requirement of that type of permit, it is unknown if all facilities do this. It is also unknown why MPCA would add this requirement and additional burden to these smaller facilities as a result of this rulemaking.

MPCA Question 4: Would facilities that are over screening thresholds prefer to submit a permit amendment, develop a compliance determination protocol, or both?

Comment: The preference for a permit amendment versus a compliance determination protocol will vary depending on the MPCA's protocol requirements, MPCA's ability to issue timely permit amendments, and the type of permit amendment needed and associated application fees. It is assumed that most facilities would not want to bear the costs of doing both a protocol and a permit amendment.

It is recommended that MPCA carefully evaluate its screening thresholds and compliance protocol requirements with respect to possible unintended effects for Registration Permit (RP) sources. It would be unfortunate in terms of costs to MPCA and permittees to reduce or eliminate RP eligibility for current or prospective RP holders, all for purposes of imposing new compliance determination requirements on low-emitting sources.

Option D, Capped or Part 70 general manufacturing permit holders are not eligible to submit permit amendment applications or establish facility specific permit terms under current Minnesota rules. Therefore, the only option for that type of facility would be to submit a compliance determination protocol. Forcing these facilities to apply for a different type of site-specific permit does not appear to be the intent of the legislation.

MPCA Question 5: If you work for a facility, what actions would you be willing to take to stay below screening thresholds (move/change stacks, other operational changes, etc.)? Or would you opt to do an AERA instead?

Comment: This will vary by facility. Moving/changing stacks can be a very expensive solution and may have limitations based on the facility layout and structures. Operational changes may also be very challenging for a facility.

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Comments to MPCA "Smart Questions" from September 17, 2024 Webinar
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There needs to be more options for facilities rather than having to default to an AERA. AERA's can be very costly and time consuming, especially with MPCA modeling requirements and length of time involved regarding modeling protocols. MPCA review of a large number of refined modeling analyses are likely to require significant MPCA resources and time, as well as significant costs to the regulated facilities.

MPCA Question 6: If you've previously completed an air emissions risk assessment (AERA), what was the cost range for this work? How much time did it take?

Comment: It is unclear if MPCA intends to follow the environmental review AERA methodology, or a more streamlined AERA approach. An environmental review AERA includes a significant amount of work beyond completion of the Risk Assessment Spreadsheet, and requires specialized GIS expertise to access the required databases to generate the figures requested by MPCA AERA forms and guidance. An AERA can cost anywhere from $30,000 to $500,000+ under current MPCA guidance, depending on the type of analysis completed. For facilities that do not meet the screening threshold analysis, it is assumed that AERMOD modeling will be necessary, and the minimum cost will be higher than stated above.

Similarly, the timeframe is variable from a few weeks to over a year depending on the complexity of the project.

MPCA Question 7: How much time is reasonable to **develop** an air toxics reduction plan? Eight weeks, six months, one year? Why?

Comment: This time period will vary by facility and their specific requirements. If reformulation of raw materials used at the facility is required by the facility's suppliers, it could take more than year.

Reformulation requires testing of the produced product to ensure it will meet the company's quality and warranty requirements as well as possible requirements in other environmental programs such as TSCA. Therefore, development of an air toxics reduction plan could be a simple as a few weeks, to possibly several years.

MPCA Question 8: How much time is reasonable to **comply** with an air toxics reduction plan? Why?

Comment: Compliance schedules should be site-specific based on the unique results of the facility's analysis. Construction related actions may require air permit amendments to implement, followed by construction. Current MPCA processing times are more than a year for priority permits, to several years for non-priority permits. As stated above for Question 7, reformulation of raw materials used could take several years for development and testing before the product could be ready for market. Therefore, compliance with an air toxics reduction plan could be as simple as a few weeks, to possibly several years.

MPCA Question 9: After completing a risk assessment, if a facility cannot comply with an air toxics reduction plan, what are reasonable alternatives?

Comment: This will be specific to the facility and is hard to make general assumptions.

MPCA Air Toxics Regulations Rulemaking
Comments to MPCA "Smart Questions" from September 17, 2024 Webinar
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MPCA Question 10: What kind of public notices would you like to see required by these rules?

- When above screening thresholds and making changes to the facility?
- When a risk assessment is completed?
- When a risk reduction plan is required?
- Other times?

Comment: There should not be any additional public notices required under this rule; that seems to go beyond the intent of the legislation. Adding public notice requirements to the items listed above is overly burdensome. If a permittee needs to amend their permit, public notice should follow what is already established in rule for permit amendments.

MPCA Question 11: Should petitions be allowed and if so, what actions should be allowed to be petitioned for? Please share any example you might have.

Comment: The legislation for this rule did not address petitions. Therefore, petitions should not be incorporated into the rule since that goes beyond the scope and intent of the legislation.

MPCA Question 12: According to the statute, the rules must account for any exposure of residents in environmental justice areas to facilities' air toxic emissions. How do you recommend accomplishing this?

Comment: The analyses proposed (screening or AERA) would already account for exposures outside a facility's property line, whether in an EJ area or not. If a facility passes the required analysis, then that should be adequate in addressing exposure.

MPCA Question 13 (Previously asked question): Should the MPCA limit/regulate air toxics where there are no health risk values established? Such as PFAS?

Comment: No. The legislation is not believed to grant MPCA authority to limit or regulate air toxics with no known toxicity data. Additionally, the inclusion of chemical with toxicity based on Minnesota Department of Health (MDH) risk assessment advice (RAA) should be excluded from any screening analysis because, as stated by the MDH, these values have a high degree of uncertainty, have been subjected to a less rigorous review, and have limited toxicity information, which may or may not be applicable to the inhalation pathway.

MPCA Question 14: Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this?

Comment: Yes. MPCA should be very clear on items that are excluded from the air toxics review. The following sources should be automatically excluded from this evaluation:

- If there is a NESHAP category for a source, the equipment subject to that NESHAP should be excluded (risk has already been evaluated by EPA). This should also include NESHAPs where compliance is demonstrated through compliance with an NSPS (e.g., NESHAP ZZZZ engines that follow NSPS IIII or JJJJ). Additionally, a unit that falls out of a NESHAP due to its size, fuel, or usage (e.g., small natural gas fired boilers) should be exempt.

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- Insignificant activities (IA) defined in MN Rule 7007.1300. Permittees are not required to track Insignificant Activities. Further, HAPs are not required to be calculated when determining if a source meets the IA activity threshold for 7007.1300 Subp. 3(F). Therefore, air toxics information may not even be known. This is especially true for registration permits that are not required to include IA's in their permit application.
- Option D Registration Permits that meet the reduced recordkeeping requirements.
- Pollutants for emission units that have met BACT (e.g., a unit that meets BACT for NOx).
- Back-up combustion fuels that are infrequently used due to curtailment, even if that fuel happened to be used the year that the air toxics evaluation is based on.
- Natural gas and/or propane fired sources, since these fuels are considered the best available fuels, and there is currently not a feasible alternative to them. This follows Wisconsin's NR445.07 methodology.
- Emergency generators and fire pumps should be excluded from the analysis. These units are necessary for the safety of the permitted facility and its employees. A facility cannot typically take additional operational restrictions on this emergency equipment.

Andrew Morley

How much effort do you expect would be required for screening threshold analyses (hours, cost, etc. to calculate air toxics emissions)?

See Chamber comments attached

October 17, 2024

Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155

To Whom It May Concern:

I write today on behalf of the Minnesota Chamber of Commerce (Chamber), a statewide organization representing more than 6,300 businesses and more than a half million employees throughout Minnesota, commenting on the proposed Air Toxics Regulations Rulemaking Feedback – Fall 2024. These comments are intended to supplement comments submitted by the Chamber on September 21, 2023 (the September 2023 Chamber Letter) and February 7, 2024 (the February 2024 Chamber Letter).

The Minnesota Pollution Control Agency (MPCA) offered a conceptual framework for the new air toxics regulation in a September 17, 2024 webinar. Chamber comments on the framework address the legislation's purpose to protect public health while maintaining the economic vibrancy of the seven-county metro. The comments are organized into four main topics commensurate with the MPCA's conceptual framework: rule exceptions and offramps; proposed screening approach and values; alternative options to Air Emissions Risk Analysis (AERA) modeling for a facility that does not pass screening; and the contents of a compliance protocol or air toxics reduction plan. The MPCA's specific Smart Comment questions and the Chamber's responses are incorporated into each question to the extent they are relevant to this response. Some of the Smart Comment questions are specific to individual facilities and the Chamber will not respond to those.

A common theme throughout these comments is to develop and use approaches incorporating actual air toxic emissions data and corresponding monitored ambient air toxic concentration data into the conceptual framework. This flexibility will help avoid a "one-size-fits-all" approach and the use of theoretical maximum emission rates applied across a diverse landscape of permitted facilities, some of which have already completed air toxics risk analyses, either through a state-required individual source assessment or pursuant to EPA's rigorous residual risk review for a major source of hazardous air pollutants.

1. Categorical Exemptions

The MPCA presented a "draft rules structure flowchart" that begins with a screening process where all facilities compare their calculated actual air toxics emissions against screening thresholds as the first step. The Chamber believes comparing air toxic emissions to screening thresholds can be a helpful screening step, but it should not come first in the screening process. This also is elaborated upon in response to MPCA's Smart Comment question number 14.

(14) Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this?

The Chamber believes those facilities that have undertaken an air toxics analysis through the MPCA and may also be subject to the U.S. Environmental Protection Agency's (EPA) health and environmental residual risk review for its Part 63 Maximum Achievable Control Technology (MACT) standards should be categorically exempt from the new air toxics regulation. Regarding the latter category of sources, the Clean Air Act directs EPA to assess any remaining health risks and, if necessary, further protect public health to an acceptable modeled risk for each MACT source category after implementing the technology-based standards, which is why this second phase of EPA's assessment is called "residual risk."[1]

The Chamber believes it would be inappropriate for a facility to be subject to an air toxics "double jeopardy" after it has already completed an expensive and comprehensive air toxics assessment under MPCA guidance and/or is subject to a MACT rule in 40 CFR 63 that has gone through EPA's residual risk review. The Chamber recommends inserting a categorical exclusion for these types of facilities ahead of the emissions screening step. Doing so will focus the rule's screening process and significantly improve the efficiency and cost of rule compliance for both the regulated community and the MPCA.

If the MPCA chooses not to add the source-wide categorical exclusion as a first step in the screening process, it at least should exclude all emissions units and pollutants at a facility that were already subject to MPCA's air toxics assessment or a MACT standard residual risk review. This approach will focus the rule's technical analysis on those activities and pollutants that have not otherwise been evaluated, which will also appropriately focus the rule's screening process and improve efficiency and cost of compliance.

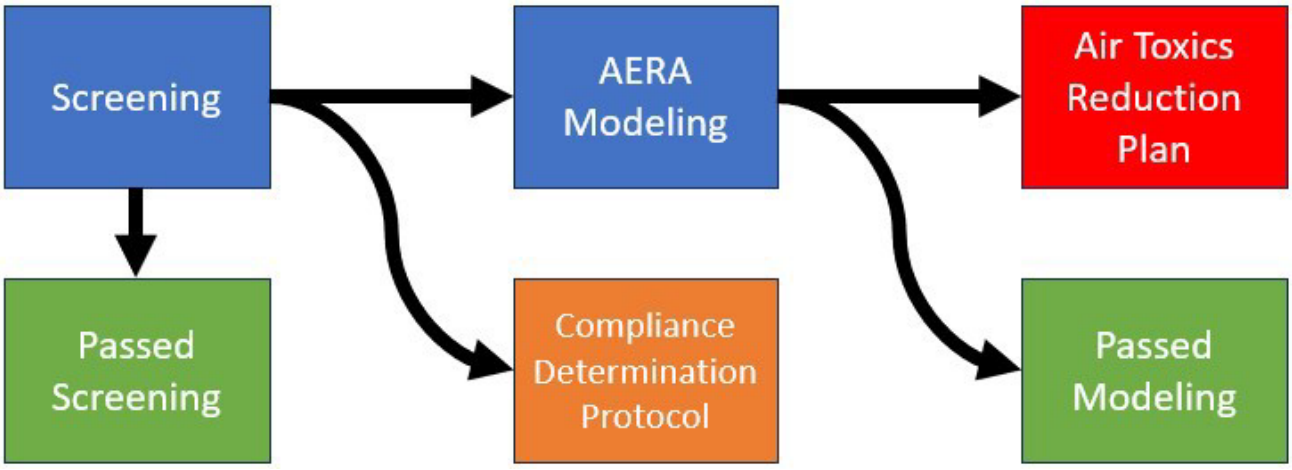
Beyond categorical exemptions for facilities and equipment that have completed air toxics analyses, the Chamber encourages MPCA to develop exemptions for sources based on de minimis emissions thresholds or source categories. For example, a facility may emit enough particulate matter to require a permit but has negligible air toxics emissions. Calculating emissions for comparison to screening criteria may require effort without any benefit. A de minimis threshold or low emitter categorical exemption (e.g., natural gas combustion less than a set threshold) would be beneficial and focus efforts on potential risks.

2. Proposed Screening Approach and Values

The MPCA's preliminary conceptual air emissions screening approach generally follows other federal and state air toxic program designs by proposing a screening tool to conservatively model the impact of actual emissions at ambient air receptors or locations. The results of the screening tool are used to determine: no further action; identifiable activities and pollutants that may require improvements (i.e., compliance protocol); or refined full facility modeling leading either to no further action or a toxic emissions reduction plan. Notwithstanding the need for the exclusions in Section 1 above, the MPCA's general framework (which is represented below to illustrate the Chamber's understanding) is a

[1] The EPA's residual risk rulemaking status for each MACT standard is found here: https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous#status.

reasonable first draft. There are key technical issues that need to be addressed to make this framework usable and effective. This addresses question 11 of the MPCA's Smart Comment questionnaire.



(11) How could a screening process be made easier? What support could be helpful?

First, the Chamber strongly supports the MPCA's recommendation to use actual emissions from the facility instead of a theoretical potential to emit (PTE) in the screening analysis to better indicate real-world impacts. However, as currently explained, the MPCA chooses to use a process of assigning a dispersion factor based on "arbitrary stacks" to model a stack emissions impact at the "fenceline," and then compare the modeled concentration at the fenceline to a "screening value." The Chamber is concerned that this overly conservative approach will not meaningfully screen out facilities from the process. Any effective screening process should provide for a prioritized and narrow list of facilities that will go to the next stage of the conceptual framework.

The Chamber recommends expanding the options and alternatives in the initial screening stage to improve the accuracy of the screening evaluation by first allowing the use of representative ambient air toxics monitoring data. Current toxics monitoring programs at well-controlled large industrial facilities in the 7-county metro area are more likely to have a well-documented history of quality-assured air monitoring data of specific pollutant impacts at their fenceline for comparison to the chosen screening values. The Chamber proposes that those facilities be able to use the monitored values for those pollutants for comparison to the screening threshold in place of the proposed screening spreadsheet default dispersion values. This supports the overarching goal of accurately representing health risks without penalizing facilities already highly controlled under existing toxics programs. In MPCA's March 2023 MNRISKS report, Section 4.6 informs how a model-monitor comparison of each pollutant result uses the metric of 'within a factor of two' for model performance. The Chamber believes the screening spreadsheet as currently envisaged by the MPCA will not meet this standard, and MPCA should not prohibit facilities with existing monitoring data for toxic pollutants to use that in lieu of a proposed screening emissions dispersion tool.

A second recommendation is to improve the dispersion factors used in the screening analysis by adding key user-specified parameters to reflect the stack characteristics and the level of dispersion that occurs. These dispersion parameters include GEP versus non-GEP stack dispersion and choosing urban versus

rural topography. These are simple, common parameters used in a screening dispersion model to simulate dispersion from a specific facility and stack.

Third, instead of using the distance to fenceline for the dispersion coefficient, the Chamber believes that the distance to the nearest resident or sensitive receptor should be used, particularly in the case of chronic (long-term) exposure to toxic pollutants. When chronic health values are considered assuming potential lifetime exposure, the screening approach should allow facilities to base the impacts at distances where this potential exposure could actually occur.

The level of effort required to analyze emissions in a screening tool is much less than completing full dispersion modeling. The Chamber may have additional comments on the screening process as MPCA releases details or options.

A topic absent from the MPCA September air toxics webinar and discussion was the treatment of non-point source, known as fugitive sources, and insignificant activities. Fugitive emissions from sources in the metro area are expected to not be significant as compared to those from industrial sources in greater Minnesota, and fugitive emissions are not accurately represented in a dispersion model. The air toxics regulation should focus on point source emissions, consistent with multiple other state air toxics programs. If fugitive emissions are included in screening, the Chamber expects that their representation in the screening tool should follow the current MPCA air modeling best practices manual.

The MPCA also did not address how insignificant activities are treated under the rule. “Insignificant activities” under Minn. R. 7007.1300 should be excluded under the air toxics regulation, consistent with the legislative authority and consistency to focus on permitted sources under Minn R. 7007. Specifically, Subpart 5 of Minn. R. 7007.1300 provides de minimis levels of toxic air pollutants for an emissions unit to qualify as an insignificant activity.

(1) How much effort do you expect would be required for screening threshold analyses (hours, cost, etc. to calculate air toxics emissions)?

If only EI units were included (excludes IAs), the Chamber expects the impact to be negligible. If IAs are included, the effort could be up to a hundred hours. Recent modeling showed some IAs have outsized impact on results that requires substantial effort to address in the screening process. Individual commenters may have additional information.

(13) Should the MPCA limit/regulate air toxics where there are no health risk values established, such as PFAS?

The Chamber strongly believes that any air toxics regulatory program should be based on sound science and that the rule should only regulate pollutants for which risk values have been established through a formal regulatory review and approval process. As noted in the September 2023 Chamber Letter, many existing health risk benchmarks have not been adopted by rule. To the extent the MPCA plans to rely on such benchmarks to support further regulation of air toxics, the Chamber believes such benchmarks should first be adopted through a rulemaking process that ensures transparency and full public participation.

(3) Would facilities that are over screening thresholds prefer to submit a permit amendment, develop a compliance determination protocol, or both?

The currently available information from MPCA on the differences between a compliance demonstration protocol as opposed to a permit amendment limits the Chamber's ability to respond. Additional information on how the review and approval process differs, how the proposed changes would be enforced, and the facility's potential risks to weigh between the two options is needed to better answer this question. This reinforces the need for a stakeholder committee to address rule specifics, as requested in the Chamber's initial comment letter.

(4) If you work for a facility, what actions would you be willing to take to stay below screening thresholds (move/change stacks, other operational changes, etc.)? Or would you opt to do an AERA instead?

This question is best addressed in individual facility comments, but the Chamber believes it is likely that facilities will opt for AERA, unless a facility has specific units with PTE values greatly exceeding actual emissions.

(5) If you have a registration or general permit, would it be possible to track operating hours for each emissions unit or is it more reasonable to track hours of operation on a total facility level?

Most facilities already do track at the EU level for most units. Again, this response is best provided by individual facilities.

3. AERA Modeling Options and Alternatives

Current AERA modeling practices require total facility PTE modeling of all sources (both listed and insignificant) for all chemicals of potential interest (COPI) in their inventory with corresponding inhalation health benchmark values in the MPCA Risk Analysis Screening Spreadsheet (RASS). The RASS is a screening spreadsheet that sums each individual toxic pollutant risk value (represented by the highest modeled concentration for every pollutant) and compares the total to a screening level of 1.0 to determine if a facility would pose a potential risk to human health. If MPCA plans to incorporate AERA modeling into a rule, the Chamber would recommend additions and alternatives to the current approach.

First, as mentioned in Item 2, the Chamber supports the use of actual emissions in the screening approach to assess more realistic health impacts and support maintaining that approach in the refined AERA refined modeling step. Additionally, providing facilities the option to include their toxics ambient monitoring values instead of modeled values in the RASS would more accurately reflect the actual human health risks.

The public webinar was unclear if the proposed health screening levels in step 1 would be the same as the inhalation benchmark values in the RASS, or some fraction of the value (e.g., a significance level approach like the significant impact level in the major New Source Review program). The Chamber discourages using different health benchmark levels for the screening step 1 and AERA step 2. Additionally, maintaining a consistent, rule-promulgated, list of health benchmark levels for both

evaluations is vital for companies to plan for existing and future operational needs. Currently, MPCA updates the RASS on an annual basis, typically, without any notice of the proposed updates or opportunity to provide public comment before they are rolled out silently on their website. If the Air Toxics rule is going to use the AERA guidance as a refined total facility modeling approach, then the RASS needs to be held to a higher standard before its use.

The Chamber believes that incorporating the full AERA as the next step in the screening flow chart is too far of a leap between analyses. If the screening step plans to evaluate individual pollutants, then a reasonable next step is to evaluate those pollutants that exceed a health screening level, or the top five pollutants contributing to an overall facility screening risk, using the refined modeling approach. The MPCA already has a screening step like this in the AERA program for chemicals of potential interest (COPI) that are less than 0.1 of a chronic non-cancer quotient and a cancer risk value less than $1.0x10^{-6}$ (1 in 1 million). The Chamber would propose this type of winnowing of the COPI list to be efficient with agency and company resources.

An additional path after the screening step prior to an AERA would be evaluating a facility's impacts within the MPCA's MNRISKS statewide modeling. MNRISKS uses actual toxics inventory emissions from permitted point sources, area sources, mobile sources, and less quantifiable unpermitted sources to model annual average concentrations to compare with chronic non-cancer and cancer health benchmarks. The resulting data covers the entire geographic area of the air toxics rule and can be parsed out by specific source to identify its impacts on specific census tracts. It is possible using available information systems to evaluate the MNRISKS model results of a selected pollutant in a defined geography and identify the specific modeled facility contributions to that pollutant modeled risk. Using the existing MNRISKS results, the COPI that did not meet a proposed screening threshold could be further assessed for likely real-world impacts and excluded from any further AERA step.

(2) If you've previously completed a risk assessment (AERA), what was the cost range for this work? How much time did it take?

Recent estimates on modeling were about $100,000 and approximately 8 months and that did not include the effort to prepare modeling protocol and receive approval.

(8) After completing a risk assessment, if a facility cannot comply with an air toxics reduction plan, what are reasonable alternatives?

The Chamber supports the use of actual data to address real world risks. If the AERA/modeling exercise does not lead to the ability to demonstrate compliance and believes data refinement (e.g., stack tests) and/or some sort of ambient monitoring approach to identify actual exceedances and possible issues is the next logical step.

(10) Should petitions be allowed and if so, what actions should be allowed to be petitioned for? Please share any example you might have.

The Chamber supports the use of real-world data. Thus, to the extent there is a petition process, it must be supported by actual monitored exceedances of health risk values or comparable public health data. A

petition process that would require a facility to complete an AERA-style analysis or make operational changes if the underlying screening data do not indicate real world risks is unnecessary.

(12) According to the statute, the rules must account for any exposure of residents in environmental justice areas to facilities' air toxic emissions. How do you recommend accomplishing this?

The Chamber understands that MPCA is considering establishing these rules independent of the specifically mandated Cumulative Impact Analysis requirements. The MPCA can best serve the intent of Article 8 by focusing exclusively on the Cumulative Impacts requirements and not pursuing independent air toxics rules without clear legislative authority. The Cumulative Impacts Process is intended to address "exposure of residents in environmental justice areas."

If MPCA elects to proceed with separate air toxics rules, the approach outlined above is the best way to address exposures in environmental justice areas: to proceed with gathering actual air monitoring data and to then address monitored impacts that are of concern.

4. Compliance Protocol and Air Toxics Reduction Plan

The Chamber was unclear on the general scope and contents of the compliance protocol and air toxics reduction plan from the webinar, in turn limiting accuracy when responding to the specific questions. The reasonableness of any timeline for development or implementation of a plan would be dependent on the source under consideration. In addition, the presentation did not clarify the differences between agency approval for a compliance determination plan and 'formal approval' for the air toxics reduction plan. The Chamber assumes a formal approval would involve more stakeholders and thus require a much longer timeline for development.

Another topic discussed in the open dialogue but not fully understood was the potential triggers for a new toxics analysis in the future after this initial round. Are these toxics reduction plans and compliance protocols going to be permanent or flexible? Can future project or operational changes allow reductions to a previously approved plan or protocol? Knowing more details around these issues would make responses to questions 3, 4, and 6 more useful.

(6) How much time is reasonable to <u>develop</u> an air toxics reduction plan? Eight weeks, six months, or one year? Why?

Developing an air toxics reduction plan would likely be greater than one year, given the nature of the process. Sources likely will be evaluating possible limits, changes in operations, or other measures and then will be engaged in ongoing modeling analysis of the results of possible changes.

(7) How much time is reasonable to <u>comply</u> with an air toxics reduction plan? Why?

This will vary widely depending on the nature of the requirements and the need for additional analysis and whether actual physical modification is necessary at a facility, but likely exceed a year.

Thank you for the opportunity to provide comments and participate in this rulemaking. As the Chamber indicated in its initial comment letter, this process is important enough to warrant the MPCA

establishing a stakeholder committee of interested parties to advise on the proposed rules prior to issuance. Such a process could resolve significant issues and avoid a rule challenge, and the Chamber welcomes the opportunity to participate in such a process.

The Chamber also welcomes an opportunity for further discussion on these comments. Please feel free to contact me to set up such a discussion.

Sincerely,

Andrew Morley
Director, Environmental Policy
Minnesota Chamber of Commerce and Industry

October 17, 2024

Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155

To Whom It May Concern:

I write today on behalf of the Minnesota Chamber of Commerce (Chamber), a statewide organization representing more than 6,300 businesses and more than a half million employees throughout Minnesota, commenting on the proposed Air Toxics Regulations Rulemaking Feedback – Fall 2024. These comments are intended to supplement comments submitted by the Chamber on September 21, 2023 (the September 2023 Chamber Letter) and February 7, 2024 (the February 2024 Chamber Letter).

The Minnesota Pollution Control Agency (MPCA) offered a conceptual framework for the new air toxics regulation in a September 17, 2024 webinar. Chamber comments on the framework address the legislation's purpose to protect public health while maintaining the economic vibrancy of the seven-county metro. The comments are organized into four main topics commensurate with the MPCA's conceptual framework: rule exceptions and offramps; proposed screening approach and values; alternative options to Air Emissions Risk Analysis (AERA) modeling for a facility that does not pass screening; and the contents of a compliance protocol or air toxics reduction plan. The MPCA's specific Smart Comment questions and the Chamber's responses are incorporated into each question to the extent they are relevant to this response. Some of the Smart Comment questions are specific to individual facilities and the Chamber will not respond to those.

A common theme throughout these comments is to develop and use approaches incorporating actual air toxic emissions data and corresponding monitored ambient air toxic concentration data into the conceptual framework. This flexibility will help avoid a "one-size-fits-all" approach and the use of theoretical maximum emission rates applied across a diverse landscape of permitted facilities, some of which have already completed air toxics risk analyses, either through a state-required individual source assessment or pursuant to EPA's rigorous residual risk review for a major source of hazardous air pollutants.

1. Categorical Exemptions

The MPCA presented a "draft rules structure flowchart" that begins with a screening process where all facilities compare their calculated actual air toxics emissions against screening thresholds as the first step. The Chamber believes comparing air toxic emissions to screening thresholds can be a helpful screening step, but it should not come first in the screening process. This also is elaborated upon in response to MPCA's Smart Comment question number 14.

(14) Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this?

The Chamber believes those facilities that have undertaken an air toxics analysis through the MPCA and may also be subject to the U.S. Environmental Protection Agency's (EPA) health and environmental residual risk review for its Part 63 Maximum Achievable Control Technology (MACT) standards should be categorically exempt from the new air toxics regulation. Regarding the latter category of sources, the Clean Air Act directs EPA to assess any remaining health risks and, if necessary, further protect public health to an acceptable modeled risk for each MACT source category after implementing the technology-based standards, which is why this second phase of EPA's assessment is called "residual risk."[1]

The Chamber believes it would be inappropriate for a facility to be subject to an air toxics "double jeopardy" after it has already completed an expensive and comprehensive air toxics assessment under MPCA guidance and/or is subject to a MACT rule in 40 CFR 63 that has gone through EPA's residual risk review. The Chamber recommends inserting a categorical exclusion for these types of facilities ahead of the emissions screening step. Doing so will focus the rule's screening process and significantly improve the efficiency and cost of rule compliance for both the regulated community and the MPCA.

If the MPCA chooses not to add the source-wide categorical exclusion as a first step in the screening process, it at least should exclude all emissions units and pollutants at a facility that were already subject to MPCA's air toxics assessment or a MACT standard residual risk review. This approach will focus the rule's technical analysis on those activities and pollutants that have not otherwise been evaluated, which will also appropriately focus the rule's screening process and improve efficiency and cost of compliance.

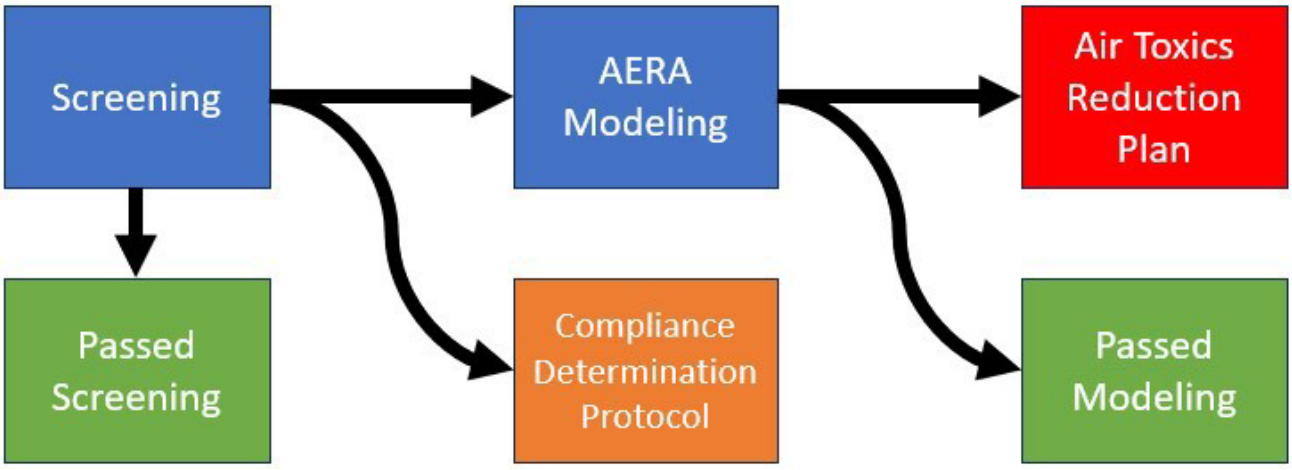
Beyond categorical exemptions for facilities and equipment that have completed air toxics analyses, the Chamber encourages MPCA to develop exemptions for sources based on de minimis emissions thresholds or source categories. For example, a facility may emit enough particulate matter to require a permit but has negligible air toxics emissions. Calculating emissions for comparison to screening criteria may require effort without any benefit. A de minimis threshold or low emitter categorical exemption (e.g., natural gas combustion less than a set threshold) would be beneficial and focus efforts on potential risks.

2. Proposed Screening Approach and Values

The MPCA's preliminary conceptual air emissions screening approach generally follows other federal and state air toxic program designs by proposing a screening tool to conservatively model the impact of actual emissions at ambient air receptors or locations. The results of the screening tool are used to determine: no further action; identifiable activities and pollutants that may require improvements (i.e., compliance protocol); or refined full facility modeling leading either to no further action or a toxic emissions reduction plan. Notwithstanding the need for the exclusions in Section 1 above, the MPCA's general framework (which is represented below to illustrate the Chamber's understanding) is a

[1] The EPA's residual risk rulemaking status for each MACT standard is found here: https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous#status.

reasonable first draft. There are key technical issues that need to be addressed to make this framework usable and effective. This addresses question 11 of the MPCA's Smart Comment questionnaire.



(11) How could a screening process be made easier? What support could be helpful?

First, the Chamber strongly supports the MPCA's recommendation to use actual emissions from the facility instead of a theoretical potential to emit (PTE) in the screening analysis to better indicate real-world impacts. However, as currently explained, the MPCA chooses to use a process of assigning a dispersion factor based on "arbitrary stacks" to model a stack emissions impact at the "fenceline," and then compare the modeled concentration at the fenceline to a "screening value." The Chamber is concerned that this overly conservative approach will not meaningfully screen out facilities from the process. Any effective screening process should provide for a prioritized and narrow list of facilities that will go to the next stage of the conceptual framework.

The Chamber recommends expanding the options and alternatives in the initial screening stage to improve the accuracy of the screening evaluation by first allowing the use of representative ambient air toxics monitoring data. Current toxics monitoring programs at well-controlled large industrial facilities in the 7-county metro area are more likely to have a well-documented history of quality-assured air monitoring data of specific pollutant impacts at their fenceline for comparison to the chosen screening values. The Chamber proposes that those facilities be able to use the monitored values for those pollutants for comparison to the screening threshold in place of the proposed screening spreadsheet default dispersion values. This supports the overarching goal of accurately representing health risks without penalizing facilities already highly controlled under existing toxics programs. In MPCA's March 2023 MNRISKS report, Section 4.6 informs how a model-monitor comparison of each pollutant result uses the metric of 'within a factor of two' for model performance. The Chamber believes the screening spreadsheet as currently envisaged by the MPCA will not meet this standard, and MPCA should not prohibit facilities with existing monitoring data for toxic pollutants to use that in lieu of a proposed screening emissions dispersion tool.

A second recommendation is to improve the dispersion factors used in the screening analysis by adding key user-specified parameters to reflect the stack characteristics and the level of dispersion that occurs. These dispersion parameters include GEP versus non-GEP stack dispersion and choosing urban versus

rural topography. These are simple, common parameters used in a screening dispersion model to simulate dispersion from a specific facility and stack.

Third, instead of using the distance to fenceline for the dispersion coefficient, the Chamber believes that the distance to the nearest resident or sensitive receptor should be used, particularly in the case of chronic (long-term) exposure to toxic pollutants. When chronic health values are considered assuming potential lifetime exposure, the screening approach should allow facilities to base the impacts at distances where this potential exposure could actually occur.

The level of effort required to analyze emissions in a screening tool is much less than completing full dispersion modeling. The Chamber may have additional comments on the screening process as MPCA releases details or options.

A topic absent from the MPCA September air toxics webinar and discussion was the treatment of non-point source, known as fugitive sources, and insignificant activities. Fugitive emissions from sources in the metro area are expected to not be significant as compared to those from industrial sources in greater Minnesota, and fugitive emissions are not accurately represented in a dispersion model. The air toxics regulation should focus on point source emissions, consistent with multiple other state air toxics programs. If fugitive emissions are included in screening, the Chamber expects that their representation in the screening tool should follow the current MPCA air modeling best practices manual.

The MPCA also did not address how insignificant activities are treated under the rule. “Insignificant activities” under Minn. R. 7007.1300 should be excluded under the air toxics regulation, consistent with the legislative authority and consistency to focus on permitted sources under Minn R. 7007. Specifically, Subpart 5 of Minn. R. 7007.1300 provides de minimis levels of toxic air pollutants for an emissions unit to qualify as an insignificant activity.

(1) How much effort do you expect would be required for screening threshold analyses (hours, cost, etc. to calculate air toxics emissions)?

If only EI units were included (excludes IAs), the Chamber expects the impact to be negligible. If IAs are included, the effort could be up to a hundred hours. Recent modeling showed some IAs have outsized impact on results that requires substantial effort to address in the screening process. Individual commenters may have additional information.

(13) Should the MPCA limit/regulate air toxics where there are no health risk values established, such as PFAS?

The Chamber strongly believes that any air toxics regulatory program should be based on sound science and that the rule should only regulate pollutants for which risk values have been established through a formal regulatory review and approval process. As noted in the September 2023 Chamber Letter, many existing health risk benchmarks have not been adopted by rule. To the extent the MPCA plans to rely on such benchmarks to support further regulation of air toxics, the Chamber believes such benchmarks should first be adopted through a rulemaking process that ensures transparency and full public participation.

(3) Would facilities that are over screening thresholds prefer to submit a permit amendment, develop a compliance determination protocol, or both?

The currently available information from MPCA on the differences between a compliance demonstration protocol as opposed to a permit amendment limits the Chamber's ability to respond. Additional information on how the review and approval process differs, how the proposed changes would be enforced, and the facility's potential risks to weigh between the two options is needed to better answer this question. This reinforces the need for a stakeholder committee to address rule specifics, as requested in the Chamber's initial comment letter.

(4) If you work for a facility, what actions would you be willing to take to stay below screening thresholds (move/change stacks, other operational changes, etc.)? Or would you opt to do an AERA instead?

This question is best addressed in individual facility comments, but the Chamber believes it is likely that facilities will opt for AERA, unless a facility has specific units with PTE values greatly exceeding actual emissions.

(5) If you have a registration or general permit, would it be possible to track operating hours for each emissions unit or is it more reasonable to track hours of operation on a total facility level?

Most facilities already do track at the EU level for most units. Again, this response is best provided by individual facilities.

3. AERA Modeling Options and Alternatives

Current AERA modeling practices require total facility PTE modeling of all sources (both listed and insignificant) for all chemicals of potential interest (COPI) in their inventory with corresponding inhalation health benchmark values in the MPCA Risk Analysis Screening Spreadsheet (RASS). The RASS is a screening spreadsheet that sums each individual toxic pollutant risk value (represented by the highest modeled concentration for every pollutant) and compares the total to a screening level of 1.0 to determine if a facility would pose a potential risk to human health. If MPCA plans to incorporate AERA modeling into a rule, the Chamber would recommend additions and alternatives to the current approach.

First, as mentioned in Item 2, the Chamber supports the use of actual emissions in the screening approach to assess more realistic health impacts and support maintaining that approach in the refined AERA refined modeling step. Additionally, providing facilities the option to include their toxics ambient monitoring values instead of modeled values in the RASS would more accurately reflect the actual human health risks.

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evaluations is vital for companies to plan for existing and future operational needs. Currently, MPCA updates the RASS on an annual basis, typically, without any notice of the proposed updates or opportunity to provide public comment before they are rolled out silently on their website. If the Air Toxics rule is going to use the AERA guidance as a refined total facility modeling approach, then the RASS needs to be held to a higher standard before its use.

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petition process that would require a facility to complete an AERA-style analysis or make operational changes if the underlying screening data do not indicate real world risks is unnecessary.

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If MPCA elects to proceed with separate air toxics rules, the approach outlined above is the best way to address exposures in environmental justice areas: to proceed with gathering actual air monitoring data and to then address monitored impacts that are of concern.

4. Compliance Protocol and Air Toxics Reduction Plan

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(6) How much time is reasonable to <u>develop</u> an air toxics reduction plan? Eight weeks, six months, or one year? Why?

Developing an air toxics reduction plan would likely be greater than one year, given the nature of the process. Sources likely will be evaluating possible limits, changes in operations, or other measures and then will be engaged in ongoing modeling analysis of the results of possible changes.

(7) How much time is reasonable to <u>comply</u> with an air toxics reduction plan? Why?

This will vary widely depending on the nature of the requirements and the need for additional analysis and whether actual physical modification is necessary at a facility, but likely exceed a year.

Thank you for the opportunity to provide comments and participate in this rulemaking. As the Chamber indicated in its initial comment letter, this process is important enough to warrant the MPCA

establishing a stakeholder committee of interested parties to advise on the proposed rules prior to issuance. Such a process could resolve significant issues and avoid a rule challenge, and the Chamber welcomes the opportunity to participate in such a process.

The Chamber also welcomes an opportunity for further discussion on these comments. Please feel free to contact me to set up such a discussion.

Sincerely,

Andrew Morley
Director, Environmental Policy
Minnesota Chamber of Commerce and Industry

Amanda Hinson

How much effort do you expect would be required for screening threshold analyses (hours, cost, etc. to calculate air toxics emissions)?

Are we actually testing air emissions or are we calculating it by the products used? If we have the technology, there should be real-time testing and data reporting that is technology-based and doesn't take human man hours.

If you've previously completed a risk assessment (AERA), what was the cost range for this work? How much time did it take?

Does not apply to me.

Would facilities that are over screening thresholds prefer to submit a permit amendment, develop a compliance determination protocol, or both?

Develop a compliance determination protocol. How do we justify going over thresholds if that's a known hazard? A facility needs to stay under the threshold, and that may mean not expanding.

If you work for a facility, what actions would you be willing to take to stay below screening thresholds (move/change stacks, other operational changes, etc.)? Or would you opt to do an AERA instead?

Does not apply to me.

If you have a registration or general permit, would it be possible to track operating hours for each emissions unit or is it more reasonable to track hours of operation on a total facility level?

Track operating hours and emissions as it is for a true scientific method of observation and real time data.

How much time is reasonable to develop an air toxics reduction plan? Eight weeks, six months, or one year? Why?

The plan should be developed within weeks. As more facilities make those plans, the MPCA should be able to share resources on plans that successfully reduce the toxics.

How much time is reasonable to comply with an air toxics reduction plan? Why?

The facility that can't comply immediately to reduce toxics shouldn't be in operation. Before operating, there needs to be a plan. During operation, if the toxics are over the plan, the facility needs to have a reduction plan- including stopping operation until it's ready to comply. If the facility is processing pollutants and hazardous materials from other facilities, and the production is required to stop on one end, there needs to be communication and warning to other facilities prior to the reduction plan. For example- if you see your facility is going to be over threshhold next week, you immediately contact the sources and tell them to find other facilities. Ultimately, everyone needs to be more transparent and stop looking to overproduce. Communicate as though you're in heavy traffic- give signals well in advance.

After completing a risk assessment, if a facility cannot comply with an air toxics reduction plan, what are reasonable alternatives?

Shut them down.

1. *What kind of public notices would you like to see required by these rules?*
2. *When above screening thresholds and making changes to the facility?*
3. *When a risk assessment is completed?*
4. *When a risk reduction plan is required?*
5. *Other times?*

1. Public notice of when there is anyone getting an air toxics permit.

2. Above screening thresholds and making changes to the facility- as soon as known- immediately send notice.

3. Risk assessment- give a published public notice in the newspaper within two weeks.

4. Risk reduction plans should be given notice within the local newspaper within the month.

5. Yearly publication of the full information of local industry air emissions and violations.

Should petitions be allowed and if so, what actions should be allowed to be petitioned for? Please share any example you might have.

- Petitions can't be unallowed- 1st Amendment.
- Petitions should be considered as they come.

How could a screening process be made easier? What support could be helpful?

Screening process shouldn't be made easier.

According to the statute, the rules must account for any exposure of residents in environmental justice areas to facilities' air toxic emissions. How do you recommend accomplishing this?

The environmental justice areas should include rural Minnesota- which lacks resources and often has migrant populations that are unfamiliar with their rights and can't speak up due to language barriers. Rulemaking should consider these areas have been used as "dumping grounds" for major industries and have created toxic environments no American would live in. There environments create a human capacity issue- not enough people want to live there and can't supply the workers for the facility nor resources like grocery stores. The human population should be a priority in any city, and industry should be second. Agriculture rules should be reconsidered due to their bigger facilities with concentrated air toxics. All areas that have low standards or lack enforcement are susceptible to abuse and to losing long-time residents, creating a need for migrants, thus making a justice issue with people being used for production and forced to live in inhumane conditions. The answer is enforcement. Local politicians don't want to enforce due to relationships and interconnected economies. The use of writ of mandamus needs to be more accessible to community members to see enforcement.

Should the MPCA limit/regulate air toxics where there are no health risk values established, such as PFAS?

Yes.

Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this?

No. Only small (40 au or under) farms.

Any other feedback you would like to share?

Thank you for thinking about rule changes. Please include rural Minnesota.

Abbey Linsk

How much effort do you expect would be required for screening threshold analyses (hours, cost, etc. to calculate air toxics emissions)?

See uploaded file.

October 18, 2024

Yolanda Letnes
Minnesota Pollution Control Agency
520 Lafayette Road North
Saint Paul, MN 55155-4194

RE: Comments of the American Chemistry Council on Minnesota Pollution Control Agency Request for Comments for Proposed Rulemaking for Air Toxics Regulations (Minnesota Session Law - 2023, Chapter 60, Article 8, Section 5).

Submitted electronically

Dear Ms. Letnes,

The American Chemistry Council (ACC) appreciates the opportunity to submit comments to Minnesota Pollution Control Agency (MPCA) on its request for comments in advance of its proposed rulemaking for regulating facilities that emit air toxics in Minnesota, as outlined in Minnesota Session Law - 2023, Chapter 60, Article 8, Section 5 (H.F. No. 2310). ACC appreciates MPCA's thoughtful approach to potentially significant regulatory requirements that address air emissions from facilities in the state.

ACC member companies play a critical role in Minnesota's economy, contributing to innovation, job creation, and the production of essential products that support various sectors, including agriculture, healthcare, transportation, and technology. Through several chemical manufacturing facilities located within the state, ACC and its members directly and indirectly support thousands of jobs and generate significant economic output and essential products for the state and country as a whole.

As responsible stewards of environmental health and safety, our members are committed to adhering to stringent regulations and continuously improving practices to reduce emissions and mitigate environmental impacts. We demonstrate this commitment to strong sustainability goals and environmental/health and safety policies through ACC's Responsible Care® program, under which ACC members work to continually improve their systems for addressing health, safety, and environmental performance. Additionally, our members' facilities are subject to numerous existing local, state, and federal statutory and regulatory requirements, including permit conditions approved by state regulators and administered under the Clean Air Act (CAA), Clean Water Act, Resource Conservation and Recovery Act, and others. Through operating regulatory and voluntary programs, ACC members recognize the important role that industry can play in our surrounding communities as corporate stewards of the local environment.

For these reasons, ACC appreciates MPCA's overall goal to implement regulations aimed at reducing air toxics emissions. ACC believes that appropriately designed emissions requirement are an essential component for public health and we recognize the importance of scientifically-supported and technically feasible clear emissions standards for facility operations. As such, we believe it is crucial that any new regulatory requirements strike a balance between protecting public health and enabling the continued viability of critical industries.

As MPCA moves forward, we urge the state to consider not only existing requirements, but also the potential economic impacts of new regulations on industries that are vital to the state's economy. Regulatory certainty and a balanced approach will ensure that industries can continue to operate, innovate, and provide high-quality jobs while meeting environmental goals. Collaboration between the state, industry, and community stakeholders is key to achieving these outcomes. We welcome the opportunity to provide comments for MPCA's consideration during this rulemaking process.

A. MPCA Should Avoid Duplication of Federal Requirements.

ACC encourages MPCA to adopt technically feasible and consistent monitoring and reporting requirements. While we recognize the importance of transparency and data collection, we caution that requirements that are overly burdensome or duplicative may hinder the ability of facilities to operate efficiently. MPCA should thoughtfully consider the creation of any new air emissions requirements and associated reporting schedules, which should be designed to provide meaningful data without imposing unnecessary administrative burdens.

As stated above, ACC strongly believes that any new state-level requirements should not duplicate or conflict with existing federal regulations under the CAA. Several current federal standards and regulatory programs provide rigorous controls of potential emissions with comprehensive monitoring and reporting requirements. Any new requirements from MPCA risk overlapping provisions that could lead to unnecessary inefficiencies, increased costs, and avoidable confusion for industry stakeholders, all while yielding little to no additional public health or environmental benefits.

ACC member facilities in the state already operate under many federal programs that address emissions of hazardous air pollutants (HAPs), including:

- **National Emission Standards for Hazardous Air Pollutants (NESHAPs)**: Under CAA Section 112, EPA applies NESHAPs that are designed to control emissions of HAPs from specific industrial source categories. NESHAPs establish technology-based standards for new and existing sources to ensure that emission levels reflect the best available control technologies. NESHAPs provide emissions standards for both major sources (stationary sources with 10 tons per year for a single HAP or 25 tons per year of any combination of HAPs) and smaller area sources, which comprise entities below major source HAP thresholds. NESHAPs provide a comprehensive regulatory structure to address existing emissions that is periodically updated.
    - **Maximum Achievable Control Technology (MACT)**: MACT standards, are established in the first step of regulating HAPs. These standards are based on the performance of the best-controlled similar sources in an industry.
    - **Residual Risk:** EPA conducts a onetime review to determine if imposition of additional requirements are needed to address residual risk from source category HAP emissions.
    - **Periodic Technology Reviews:** After the promulgation of NESHAPs, EPA periodically reviews the requirements, at least every eight years, and updates them as appropriate.
- **Title V Operating Permits**: CAA Title V mandates that any major source of air pollution, including those with HAP emissions, obtain operating permits. These permits consolidate all applicable federal and state air quality regulations and ensure that facilities comply with air toxics emission standards through monitoring, recordkeeping, and reporting.

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Together, these federal programs establish a comprehensive framework to regulate sources of industrial air emissions in the state, including chemical manufacturing facilities. As such, we urge MPCA to first consider the vast array of regulatory programs that already address state air emissions and avoid duplicative requirements that would result in unnecessary burdens on regulated facilities.

B. Screening Values and Regulatory Thresholds

To help ensure the rule is effective and manageable for both regulators and industry, ACCs recommends that MPCA provide clear and science-based guidelines on emission thresholds.

We firmly believe that any air toxics regulatory program must be grounded in sound science. Therefore, we also assert that regulations should apply only to pollutants with risk values that have been formally reviewed and approved through a regulatory process. Many of the health risk benchmarks referenced in the current regulation have not been officially adopted by rule. If the MPCA intends to rely on these benchmarks for further regulation of air toxics, we believe they should first be adopted through a transparent rulemaking process that allows for full public input and participation.

These thresholds should prioritize the principles of best available science and risk-based decision-making, using toxicological data and risk assessments to meaningfully address risk in an appropriate and technologically feasible manner.

C. Compliance Issues

It is critical that MPCA include clear, reasonable, and achievable permit and enforcement mechanisms in any future rulemaking. Future regulatory compliance timelines must be realistic and provide sufficient time for facilities to implement the necessary control technologies. We also ask that the MPCA provide support and clear, detailed guidance during the compliance phase to facilitate smooth transitions for affected facilities.

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ACC appreciates the MPCA's efforts to address air emissions in the state and we appreciate a collaborative approach to developing regulations that protect public health and the environment while supporting a thriving economy. We encourage the MPCA to consider the importance of Minnesota's chemical manufacturing sector and to adopt regulations that are both effective and economically sustainable. We welcome further dialogue on this issue and look forward to continued participation as the regulatory process moves forward.

ACC appreciates MPCA's consideration of these comments. If you have any questions or need further clarification, please feel free to contact me at (202) 249–7039 or abbey_linsk@americanchemistry.com.

Sincerely,

Abbey Linsk
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