



August 30, 2024

Ms. Emily Schnick
Industrial Division
Minnesota Pollution Control Agency
520 Lafayette Road N.
St. Paul, Minnesota 55155

Dear Ms. Schnick,

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, we appreciate the opportunity to submit this letter in response to the Minnesota Pollution Control Agency's (MPCA or Agency) request for comments regarding the draft wastewater permit for 3M's Chemical Operations manufacturing facility located in Cottage Grove.

The Chamber welcomes the opportunity to share its point of view regarding the proposed draft wastewater permit. The Chamber is genuinely concerned with the requirements set forth in the draft wastewater permit and the potential precedent that these permit requirements may set and be used for other facilities throughout the state.

The first concern is that the PFAS requirements in the draft permit are based on water quality criteria that have been calculated by the MPCA without rulemaking. A key difference between water quality *criteria* and water quality *standards* is that the standards are subject to EPA approval while the criteria are not. Moreover, although the criteria are subject to review and comment as they apply to the draft permit, there has been no process followed until this point. Subjecting those values to comment in a permit specific context cannot substitute for following a standard rulemaking process, with all of the procedural steps involved. While Minnesota Rules may allow MPCA to take this action, the concern is the process does not comply with basic due process protections. Rulemaking would help establish binding, enforceable requirements. Bypassing the rulemaking process and adopting regulatory values that are only subject to review on an individual permit basis has the potential to create substantial risk of inconsistent, arbitrary decisions.

Another concern of the Chamber is the stringent water quality based effluent limits for PFAS that are included in the draft permit. There is no evidence provided by the MPCA that the limits in the draft permit can be met, even with the most advanced treatments systems currently available. The levels are so low that it will be difficult to accurately and routinely measure and provide adequate data to the agency.

In regard to stipulations in the draft permit, another area of concern for the business community is the availability of commercial laboratories to be able assist other potential water quality effluent permittee's in obtaining the level of testing that may be required. The draft permit allows only 3 weeks for reporting and lab capacity issues may make the timely receipt of data to comply with the reporting deadlines very problematic. Given the complexities of PFAS analytical methods and increasing demands on commercial laboratories, such

laboratories are unlikely to be able to consistently turn around PFAS samples in time for permittee's to meet MPCA's requirement to submit monthly reports in 21 days.

The MPCA should also consider all alternatives available to allow permittee's to obtain compliance. Some of the options should include variances, compliance schedules and non-numeric controls. Practical options for variances should include a statewide variance, as well as a watershed by watershed approach. Non-numeric limits as an alternative also do not raise the measurability, attainability and process problems as numeric limits pose. Non-numeric could avoid legal, technical and policy problems and lead to better water quality outcomes.

Thank you for the opportunity to provide comments on the Draft Permit and to stress the important precedence this draft permit could have on the business community and future economic development in Minnesota.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Kwilas". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

Tony Kwilas
Director, Environmental Policy