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What additional questions do you have after attending/watching the Odor Management Rulemaking webinar?

Any definition of “objectionable odor” should be tied to objective, measurable criteria using standardized methodologies. Reliance on purely subjective determinations or complaint-driven assessments introduces significant variability and uncertainty, which undermines both enforceability and compliance. The Chamber encourages MPCA to adopt an approach that incorporates validated measurement techniques and trained assessors to ensure consistent and transparent application across facilities and jurisdictions.

The Chamber recommends that modeling not be used to quantify odors (slide 12). Not only is modeling a time-consuming and expensive task, but the results generated by the standard model (AERMOD) are only as good as the model inputs. Developing meaningful “odor rate” inputs with the necessary granularity is extremely challenging. In addition, the AERMOD model is poor at modeling fugitive sources, which are often associated with odor sources. In short, modeling provides no useful information about whether odors actually exist and is likely to be a wasteful exercise.

The Chamber questions the basis and necessity for the three parallel odor standards that the MPCA is considering (slides 18 to 20). Using a D/T threshold of 2 (slides 18 and 19) appears unreasonably stringent and inconsistent with odor programs in other jurisdictions, which typically use a D/T threshold of 7. Minn. Stat. 116.064(b) provides that an objectionable odor either (1) is, or can reasonably be expected to be, injurious to public health or welfare; or (2) unreasonably interferes with the enjoyment of life or the use of property of persons exposed to the odor. A D/T of 2, less than half of the lowest
threshold used in other parts of the United States., does not meet either criteria. We are aware of no evidence that such minor odors are, or can expected to be, “injurious to public health or welfare.” Moreover, the statute requires the odor to cause an “unreasonable interference” with the enjoyment of life or the use or property. The mere detection of an odor beyond ambient air should not be considered an unreasonable interference and the use of such a low standard sweeps too broadly. Instead, we recommend that the MPCA focus the regulations on addressing “objectionable odors,” not any “detectable” odor.

The Chamber notes that “Odor Standard 2” (slide 19) implies that, as part of the investigation required by Minn. Stat 116.064, Subd. 4, MPCA staff will make multiple site visits within 30 days to take odor measurements at multiple locations. The Chamber seeks to understand whether this is correct and if so, the procedure for scheduling such site visits. We also incorporate our comments above on why a 2:1 D/T is inappropriate.

The Chamber suggests establishing a single “Odor Standard” that involves (i) odor detected with a field olfactometer at a 7:1 ratio of fresh air to odorous air to indicate intensity, (ii) odor detected by MPCA staff three times in 30 days to indicate frequency, (iii) odor detected for a certain number of hours per day and days per week or month to satisfy the duration criteria and (iv) a process for determining whether the odor is “reasonably injurious to public health or welfare”, or “unreasonably interferes with the enjoyment of life or use of property” to indicate human impact. The statute requires that “duration” be considered in determining what is “objectionable.” An odor present for a few minutes a day should not qualify, much less something detected three times in 30 days. This component seems to be missing from the odor standards being considered by MPCA.

The legislature exempted a number of odor emitting facilities from the legislation, indicating that odors from such operations are not legally objectionable. MPCA's criteria for what is objectionable should consider those exemptions when evaluating complaints. If an odor referenced in a complaint is comparable to a statutorily exempted odor, the agency should treat that odor similarly to the exempted odor.

The Chamber understands that MPCA intends to use a "Nasal Ranger" field olfactometer to quantify odor intensity as part of the odor standard(s) (slides 18 to 20), while Minn. Stat 116.064, Subd. 4 (a) (3) requires the use of a "precision instrument capable of measuring odors in ambient air". The Chamber requests that MPCA justify how the "Nasal Ranger" satisfies the statute, given that this device relies on human subjectivity. The Chamber requests that the rule specify any training, certification, quality assurance, and documentation requirements that will apply if a field olfactometer is to be used to quantify odors as part of an investigation required by Minn. Stat 116.064, Subd. 4. The fact that an olfactory device, by its nature, is not a "precision instrument" contemplated by the statute is a further indication that a 7:1 D/T should be used. This D/T will better ensure that a detected odor is more likely objectionable within the terms of the statute and guard against the investigation of minor odors detected by the inherently subjective olfactory device.

The rule should also recognize that some facilities not subject to an exemption may have odors incidental to their operations that cannot be reduced below objectionable levels despite the full implementation of an odor management plan.

What outcomes would you like to see from the Odor Management Rule?
Time, cost, and regulatory uncertainty are key factors influencing business operations and planning. Accordingly, the Odor Management Rule should establish clear, objective thresholds for when corrective action is required and provide a predictable framework for how odor concerns are evaluated.

Where complaints lead to an investigation and the outcome determines that an odor is not objectionable, that determination should provide a defined level of regulatory certainty. In those circumstances, facilities should not be subject to repeated investigations based on similar complaints without new or materially different information.

Providing clear standards, defined outcomes, and appropriate limits on repetitive investigations will reduce uncertainty, support more efficient use of agency resources, and ensure a consistent and balanced approach to addressing odor concerns.

The MPCA should also consider a sunset provision for odor management plans. For example, it would not be unexpected if "objectionable odors" occur during one-off or temporary events, such as construction and demolition projects, remodeling, or change in operational practices. A business should be able to demonstrate that the detected odors were the result of one-time events and allowed to terminate the odor management plan.

[redacted]

The Chamber appreciates the complexity associated with investigating and responding to odor complaints, including the challenges posed by timing, variability in conditions, and limitations in available information.

Timely communication is critical to effective evaluation of odor concerns. Facilities often are not made aware of complaints until days or weeks after they are reported, which limits the ability to assess potential causes and determine whether the odor originated from the facility at the relevant time. The Chamber recommends that complaints be shared promptly with the suspected source to allow for meaningful and timely evaluation.

To the extent odor management plans are required, the rule should include clear protections for proprietary and confidential business information. While certain operational details may be necessary to evaluate odor concerns, requirements should be appropriately tailored to avoid unnecessary disclosure of sensitive information unrelated to the specific issue under review.

The Chamber also encourages clarity in statutory and regulatory terms that may have broad or subjective interpretation. For example, phrases such as "injurious to public health or welfare" should be clearly defined and supported by objective criteria to ensure consistent and predictable application.

Finally, the rule should be designed to integrate with existing regulatory and permitting frameworks, avoiding duplicative or overlapping requirements that could create additional complexity without improving environmental outcomes.