

Notice of Intent to Adopt Rules With a Hearing

Minnesota Pollution Control Agency

Proposed New Rules Governing Cumulative Impacts Analysis for Permit Decisions in Environmental Justice Areas, *Minnesota Rules* chapter 7007; Revisor's ID Number R04805; Court of Administrative Hearings Docket Number 21-9003-39398

Introduction. This notice is the Minnesota Pollution Control Agency's (MPCA's or the Agency's) legal notice of its intent to adopt legislatively mandated rule amendments after a hearing, following the procedures in the rules of the Court of Administrative Hearings (CAH)—*Minnesota Rules* parts 1400.2200 to 1400.2240—and the Administrative Procedure Act—*Minnesota Statutes* § 14.131 to 14.20. The purpose of this rulemaking project, known as the Cumulative Impacts rule, is to comply with *Minnesota Statutes* § 116.065, intended to remedy Minnesotans' disproportionate exposure to pollutants. The statute defines environmental justice (EJ) areas and requires the MPCA to conduct a rulemaking process to address the cumulative impacts of pollution during permitting processes.

This notice provides you the opportunity to submit your comments on this rule to the presiding Administrative Law Judge (ALJ), either orally at the hearing or in writing at any time before the close of the hearing record. If the proposed rules affect you in any way, the MPCA encourages you to participate in the rulemaking process.

Public Hearing. The Agency will hold a virtual public hearing on the above-named rules on **September 1, 2026, beginning at 3:00 p.m.** and continuing until the ALJ adjourns the hearing, which will be no earlier than 6:00 p.m.

You can participate in the virtual hearing, which will be conducted via WebEx by an ALJ from the Court of Administrative Hearings, as follows:

For a video and audio connection, join the hearing through an internet connection:

- Web link: <https://minnesota.webex.com/>
- Meeting Number (access code): 2489 628 3607
- Password: heTwtPM3333 (43898763 when dialing from a phone or video system)

For audio-only connection, join the virtual hearing by telephone:

- Call: 1-415-655-0003 (this is not a toll-free number)
- Access code: 2489 628 3607
- Password: 43898763

The Agency will schedule additional days of hearing if necessary. All interested or affected parties will have an opportunity to participate by submitting either oral or written comments, statements, or arguments; the ALJ will weigh all comments equally, regardless of how they are submitted. Statements may be submitted without appearing at the hearing.

If the public hearing is postponed or rescheduled, the Agency will post a notice of the change to the Cumulative Impacts rule website at <https://www.pca.state.mn.us/get-engaged/cumulative-impacts-rulemaking> and send the notice of change to the GovDelivery list for the Cumulative Impacts rule, as well as the parties listed in its Additional Notice Plan.

Administrative Law Judge. Judge Kimberly Middendorf will conduct the hearing. The ALJ can be reached by contacting William Moore, Rules Coordinator, at the CAH: 600 North Robert St., P.O. Box 64620, St. Paul MN 55164-0620, phone 651-361-7893 and email william.t.moore@state.mn.us.

Subject of Rules. The proposed rules are about cumulative impacts analysis for permit decisions in EJ areas. As required by *Minnesota Statutes* § 116.065, the rules would apply as follows:

- a) This section applies to an application for a permit by a facility that:
 - 1) is located in or within one mile of a census tract that is part of an EJ area; and
 - 2) is located:
 - i. in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington; or
 - ii. in a city of the first class.
- b) The commissioner must enter into consultation, consistent with *Minnesota Statutes* § 10.65, regarding the application of this section to permit applications located in Indian Country. After consultation, the Tribal government with jurisdiction over the applicable EJ area may elect that the facility seeking the permit action be subject to this section and must so notify the commissioner in writing.

Some people have exposure to more or multiple kinds of pollution. Some people are more vulnerable to the health impacts of pollution. These groups of people may be more severely affected by air pollution, and many may live in identified EJ areas.¹ Information from cumulative impacts analysis can help the MPCA identify what these impacts are, how they affect people, and what the MPCA can do to help mitigate these effects.

¹ <https://www.pca.state.mn.us/about-mpca/mpca-and-environmental-justice> This tool has been updated to reflect the statutory definition.

This rulemaking is needed to enact the cumulative impacts analysis requirements as directed by statute, which include rules that will:

- 1) Establish benchmarks to assist the commissioner's determination regarding the need for a cumulative impacts analysis.
- 2) Establish the required content of a cumulative impacts analysis and provide sources of public information that an applicant can access regarding environmental stressors present in an EJ area.
- 3) Define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact.
- 4) Establish the content of a community benefit agreement and procedures for entering into community benefit agreements, which must include:
 - I. active outreach to residents of the affected EJ area designed to achieve significant community participation;
 - II. considerations other than or in addition to economic considerations, but with priority given to considerations that directly impact the residents of the EJ area; and
 - III. at least one public meeting held within the affected EJ area.
- 5) Establish a petition process and form to be submitted to the agency by EJ area residents to support the need for a cumulative impact analysis.
- 6) Establish a process through consultation as defined in *Minnesota Statutes* § 10.65 by which a Tribal government can elect to apply this section to a permit application.
- 7) Establish methods for holding public meetings and handling public comments.

The MPCA encourages all comments on the need for and reasonableness of the rules proposed, the Agency's legal authority to adopt them, and whether the MPCA has met its requirements under the Administrative Procedure Act.

Statutory Authority. *Minnesota Statutes* § 115.03 assigns the MPCA the authority to adopt rules regarding the discharge of pollutants, and *Minnesota Statutes* § 116.065 requires the Commissioner of the MPCA to adopt rules to implement cumulative impacts analysis for permit decisions in EJ areas. The content of the rule is specified in the law.

Publication of Proposed Rules. A copy of the proposed rules is published with this Notice in the *State Register* and may also be viewed electronically at <https://www.pca.state.mn.us/get-engaged/cumulative-impacts-rulemaking>, as well as <https://minnesotaoah.granicusideas.com/>.

Statement of Need and Reasonableness. The Statement of Need and Reasonableness (SONAR) contains a justification for the proposed rules, a description of who will be affected by the proposed rules, and an estimate of the probable cost of the proposed rules. As of May 18,

2026, the SONAR may be viewed electronically at <https://www.pca.state.mn.us/get-engaged/cumulative-impacts-rulemaking> and <https://minnesotaoah.granicusideas.com/>. To obtain paper copies of the SONAR or other rulemaking documents for the cost of reproduction, contact the Agency Contact Person listed below.

Agency Contact Person. The contact person for questions about the rulemaking process, requests for paper copies of the rule documents, or accessibility accommodations is Katie Izzo, Rule Coordinator, at the MPCA: 520 Lafayette Rd., St. Paul MN 55155, phone 651-757-2595 and email katie.izzo@state.mn.us. **Please note that comments must be submitted according to the instructions in the Public Comment section of this Notice; you may not submit rulemaking comments by email.**

Public Comment. You and all interested or affected parties, including representatives of associations and other interested groups, will have an opportunity to participate. The ALJ will accept your views orally at the hearing or in writing at any time before the close of the hearing record, and consider all comments equally regardless of how they are submitted. If the proposed rules affect you in any way, the Agency encourages you to participate. All evidence that you present should relate to the proposed rules.

Submit written comments or information by:

- 1) electronic submittal via the CAH's eComments website at <https://minnesotaoah.granicusideas.com/>;
- 2) U.S. Mail or in-person delivery to the attention of Judge Kimberly Middendorf regarding CAH docket number 21-9003-39398, 600 N. Robert St., P.O. Box 64620, St. Paul MN 55164-0620; or
- 3) fax to the attention of Judge Kimberly Middendorf regarding CAH docket number 21-9003-39398, at 651-539-0310.

You can review frequently asked questions about the CAH eComments website at https://mn.gov/oah/assets/ecomments-faq_tcm19-82012.pdf.

You may submit written comments in response to this Notice until **4:30 p.m. on July 17, 2026**; this deadline will allow MPCA staff to prepare a response to comments in time for the public hearing, at which time the eComments will reopen.

You may also submit written material to the ALJ to be recorded in the record during the hearing and for 20 days after the hearing ends (until **4:30 p.m. on September 21, 2026**), by any of the methods listed above. After the post-hearing comment period, there is a five-working-day

rebuttal period during which the MPCA and any interested person may respond in writing to any of the information submitted. No one may submit new evidence during the five-day rebuttal period.

The CAH must receive all comments and responses submitted to the ALJ no later than 4:30 p.m. on the due dates. Again, please note that you may not submit rulemaking comments by email.

All comments or responses received are public data and will be available for review at <https://minnesotaoah.granicusideas.com/> and the Agency's website at <https://www.pca.state.mn.us/get-engaged/cumulative-impacts-rulemaking>.

Hearing Procedure. The rule hearing procedure is governed by *Minnesota Statutes* § 14.131 to 14.20, and by the rules of the CAH, *Minnesota Rules* parts 1400.2000 to 1400.2240. You should direct questions about the rule hearing procedure to the ALJ through William Moore, the CAH Rules Coordinator listed in the Administrative Law Judge section of this Notice.

Modifications. The MPCA may modify the proposed rules either as a result of public comment or as a result of the rule hearing process. It must support modifications by data and views submitted during the public comment and rule hearing process. The adopted rules may not be substantially different than these proposed rules unless the Agency follows the procedure under *Minnesota Rules* part 1400.2110. If the final rules are identical to the proposed rules originally published with this Notice in the *State Register*, the MPCA will publish a Notice of Adoption in the *State Register*; if the final rules are different from the proposed rules, the Agency must publish a copy of the changes in the *State Register*.

Adoption Procedure After the Hearing. After the close of the hearing record, the ALJ will issue a report on the proposed rules. If you would like to be notified of the date the ALJ's report will become available, you can make this request at the hearing or in writing to the ALJ. You may also ask to be notified of the date that the MPCA adopts the rules and the rules are filed with the Secretary of State, or register to receive notice of future rule proceedings, by requesting this at the hearing or by writing to the Agency Contact Person listed above.

Lobbyist Registration. *Minnesota Statutes* chapter 10A requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Direct questions about this requirement to the Campaign Finance and Public Disclosure Board at Centennial Building Suite #190, 658 Cedar St., St. Paul MN 55155, phone 651-539-1180 or 1-800-657-3889.

Alternative Format/Accommodation. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request or if you

need an accommodation to make this hearing accessible, please contact the Agency Contact Person listed above.

Order. I order that the rulemaking hearing be held at the date, time, and location listed above.

[Date]

Katrina Kessler, Commissioner
Minnesota Pollution Control Agency