MINNESOTA POLLUTION CONTROL AGENCY

Cumulative Impacts Rule

Pre-hearing Response to Comments

Revisor ID No. R-04805

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Introduction

This document contains the response to the public comments received during the pre-hearing public notice regarding the Minnesota Pollution Control Agency's (MPCA's) Notice of Intent to Adopt Rules With a Hearing (Notice) published May 18, 2026. There were 61 submissions to the Court of Administrative Hearings' eComments website or via U.S. mail by July 17, 2026, representing 182 total commenters. Some submissions included a compilation of individual comment letters and many of the submissions received included multiple components. The agency has provided its responses to those comments below, and where possible, has grouped similar comments together to provide a single response.

The MPCA will respond to comments received at the hearing and during the post-hearing comment period in a future response to comments document.

List of interested parties

The following is a list of interested parties who submitted written comments on the proposed rules during the public notice and comment period from May 18, 2026, through July 17, 2026.

Table 1. List of interested parties

Commenter ID	Date	Commenter Name	Organization Name	Notes
001	June 15, 2026	Sarah Horner	-	
002	June 15, 2026	Amy Westbrook	-	
003	July 1, 2026	Fen Swanson	Hamline Midway Coalition	
004	July 8, 2026	Amanda	-	Handwritten, transcribed by MPCA staff
005	July 8, 2026	Ben Karlgaard	-	Handwritten, transcribed by MPCA staff
006	July 8, 2026	Denise Rodriguez	-	Handwritten in Spanish, transcribed by MPCA staff, and translated by the MN Department of Administration's Enterprise Translations Office
007	July 8, 2026	Eva Peña	-	Handwritten, transcribed by MPCA staff
008	July 8, 2026	Jan Johnson	-	Handwritten, transcribed by MPCA staff
009	July 8, 2026	Jesus	-	Handwritten, transcribed by MPCA staff
010	July 8, 2026	Jody Guallpa	-	Handwritten, transcribed by MPCA staff
011	July 8, 2026	Margaret West	-	Handwritten, transcribed by MPCA staff
012	July 8, 2026	Sam	-	Handwritten, transcribed by MPCA staff

Commenter ID	Date	Commenter Name	Organization Name	Notes
013	July 8, 2026	Skye	-	Handwritten, transcribed by MPCA staff
014	July 9, 2026	Joanne Hill	-	
015	July 12, 2026	Jim Hoffenstein	-	
016	July 13, 2026	Amy Caucutt	-	Handwritten, transcribed by MPCA staff
017	July 13, 2026	Elliana Duval	-	
018	July 14, 2026	Charity Burns	-	Handwritten, transcribed by MPCA staff
019	July 15, 2026	Stephanie Hankerson	-	
020	July 16, 2026	Stephanie	-	Handwritten, transcribed by MPCA staff
021	July 16, 2026	Ben Gormen	-	Handwritten, transcribed by MPCA staff
022	July 16, 2026	Camry Kelly	-	Handwritten, transcribed by MPCA staff
023	July 16, 2026	Nels Paulsen	Conservation Minnesota	610 signatures of support
024	July 16, 2026	Sophie Longsworth	Coming Clean Network	
025	July 16, 2026	Elizabeth Bonin	-	
026	July 16, 2026	Leah Dunlevy	-	
027	July 17, 2026	Andrew Morley	Minnesota Chamber of Commerce	
028	July 17, 2026	Ryann Geldner	-	
029	July 17, 2026	Jeanne Norrgard	-	
030	July 17, 2026	Linnea Weum	University of Minnesota	
031	July 17, 2026	Leslie Myint	Minnesota Environmental Justice Table	
032	July 17, 2026	Evan Mulholland	Minnesota Center for Environmental Advocacy	
033	July 17, 2026	Fue Lee	Minnesota House of Representatives	
034	July 17, 2026	Sasha Lewis Norelle	Frontline Communities Protection Coalition	
035	July 17, 2026	Minnesota Public Health Association	Minnesota Public Health Association	
036	July 17, 2026	Beth Shaw	-	
037	July 17, 2026	Margaret Levin	Sierra Club North Star Chapter	Compiled individual comments, set 1 (51 letters)
038	July 17, 2026	Kathleen Schuler	Health Professionals for a Healthy Climate	
039	July 17, 2026	Margaret Levin	Sierra Club North Star Chapter	

Commenter ID	Date	Commenter Name	Organization Name	Notes
040	July 17, 2026	Lois Norrgard	-	
041	July 17, 2026	Kevin Pranis	Minnesota Building and Construction Trades Council	
042	July 17, 2026	Mike Karbo	American Petroleum Institute	
043	July 17, 2026	Todd Biewen	-	
044	July 17, 2026	Beth Shaw	-	
045	July 17, 2026	Monse Perez Barrios	Frontline Communities Protection Coalition	Compiled individual comments (51 letters), includes one letter in Spanish translated by the MN Department of Administration's Enterprise Translations Office
046	July 17, 2026	Ava Corey Gruenes	Health Professionals for a Healthy Climate	Compiled individual comments (14 letters)
047	July 17, 2026	Margaret Levin	Sierra Club North Star Chapter	Compiled individual comments, set 2 (5 letters)
048	July 17, 2026	Paula Maccabee	WaterLegacy	
049	July 17, 2026	Chris Freeman	Cordia Energy Center Minneapolis	
050	July 17, 2026	Madonna Ohse	-	
051	July 17, 2026	Ellen Florek	Minnesota Hospital Association	
052	July 17, 2026	Scarlett Blaeser	Prairie Island Indian Community	
053	July 17, 2026	Nikki Vilendrer	Mayo Clinic	
054	July 17, 2026	Amy Caron	Saint Paul-Ramsey County Public Health	
055	July 17, 2026	Evan Wilson	Metropolitan Airports Commission	
056	July 17, 2026	Mai Chong Xiong	Ramsey County District 6	
057	July 17, 2026	Lynn Reuvers	-	Handwritten, transcribed by MPCA staff
058	July 17, 2026	Ivan	-	Handwritten, transcribed by MPCA staff
059	July 17, 2026	Richa Bisht	-	Handwritten, transcribed by MPCA staff
060	July 17, 2026	Anthony Floyd	-	Handwritten, transcribed by MPCA staff
061	July 17, 2026	Mary Gorfine	-	Handwritten, transcribed by MPCA staff

Changes to the Proposed Rules

The MPCA appreciates the thoughtful and thorough comments that were received during the pre-hearing comment period for this rule. The MPCA has reviewed these comments and the suggested changes to the proposed rule. The MPCA has made modifications to the proposed rule as a result of comments received during the pre-hearing public comment period. Additionally, the MPCA has identified some parts of the proposed rule that require clarification, or that the agency would consider minor, non-substantive changes to the proposed rule that are needed based upon additional review of the proposed rule during the pre-hearing public comment period.

The MPCA does not believe that these potential modifications will result in rules that are "substantially different" as defined in Minn. R. 1400.2010, subp. 10 based on the criteria set forth in Minn. Stat. § 14.05, subd. 2(b).

The issue of substantial difference is addressed in detail with regard to each modification. In general, the Notice provided fair warning that these rule changes could result because it notified readers of the subject matter of the rule such that they could understand that their interests could be affected, the subject matter and issues in the Notice are the same as the subject matter and issues addressed in the modifications, and the effects of the modifications are not greatly different from the rules as originally proposed. All the modifications are within the scope of "Subject of Rules," and are related in general to Minnesota's air quality rules governing cumulative impacts analysis for permit decisions in environmental justice areas, all of which were announced in the Notice. The modifications are a logical outgrowth of the Notice and the comments submitted in response to the Notice.

Part 7007.6010 DEFINITIONS

Definition of Acute inhalation risk

> Subp. 4. **Acute inhalation risk.** "Acute inhalation risk" means the risk from one or more exposures to an air toxic within a short period that is evaluated using:
>
> A. the modeled maximum ambient air concentration of an air toxic occurring over one hour, up to and at the stationary source's fence line; or
>
> B. the modeled maximum air concentration of an air toxic that occurs over 24 hours, up to and at the stationary source's fence line.

1. During the pre-hearing public comment period on the proposed rule, the MPCA determined a typographical error exists in the definition of acute inhalation risk at part 7007.6010, subpart 4, item A. Item A defines one method of evaluating the period of time where an exposure to an air toxic may occur. Item A does not include the clarifying term "modeled" to describe the maximum air concentration of an air toxic while item B does include the term "modeled." Therefore, modifications are needed in this subpart.
2. The term "modeled" clarifies an otherwise broader definition. Without adding "modeled," the definition in Item A allows for other methods of evaluating exposure, such as monitoring. Monitoring for exposure durations has not historically occurred. It is reasonable to correct typographical errors because doing so provides clarity and prevents confusion for all interested persons.
3. The MPCA finds this modification does not make the proposed rule substantially different because the existing requirement remains the same and the change only corrects a typographical error without changing the subject matter or the effect of the proposed rule. This modification is within

the scope of the "Subject of Rules" Chapter 7007 as announced in the Notice. This modification is a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result because typographical errors are expected to be discovered during the pre-hearing comment period where the MPCA is reviewing the proposed rules alongside the comments provided.

Definition of Hazard index

> Subp. 23. **Hazard index.** "Hazard index" means the sum of more than one hazard quotient for multiple substances with ~~the same or~~ similar exposure periods or health endpoints. ~~It is assumed all noncarcinogens have the same or similar health endpoints during initial screening.~~ A hazard index equal to or less than 1~~, without rounding down to one significant figure,~~ poses no appreciable likelihood of adverse health effects to the general population.

4. During the pre-hearing public comment period on the proposed rule, the MPCA determined a typographical error as well as unclear language exists in the definition of hazard index at part 7007.6010, subpart 23. Therefore, modifications are needed in this subpart.

5. This definition includes information that is both redundant and unclear. The definition includes the use of "same or similar," which is redundant. The removal of "the same" does not change the meaning of the definition which provides for the simple summation of hazard quotients for the different exposure periods (i.e., acute, subchronic, chronic) that can be over different durations (e.g., subchronic inhalation risk refers to a period of 24 hours to one year). The MPCA proposes to address this redundancy by removing the redundant words from the definition. It is reasonable to remove redundant information and to correct unclear definitions because doing so simplifies the definition to provide clarity and prevents confusion for all interested persons.

6. The definition also refers to "health endpoints" but the use of the term hazard index in the proposed rules does not only apply to health endpoints. The term hazard index applies to health endpoints, multipathway risks, or inhalation risks, and is determined by considering the exposure period for those health endpoints, multipathway risks, and inhalation risks. The exposure period is the term that identifies how these different health endpoints, multipathway risks, and inhalation risks are summed to determine the hazard index (e.g., subchronic or chronic noncancer multipathway risks). The hazard index is not determined by summing the hazard quotients for a health endpoint, multipathway risk, or inhalation risk irrespective of the exposure period. The MPCA proposes to modify the definition to make this more clear by referring to the exposure period as well as the health endpoint. It is reasonable to correct definitions because doing so provides clarity and prevents confusion for all interested persons.

7. This definition includes information about "initial screening" that is not applicable to the proposed rules. The sentence regarding initial screening is a carry-over from existing MPCA guidance and refers to a process the MPCA uses as screening in the risk assessment screening spreadsheet (RASS) in the air emissions risk analysis (AERA) process outside the proposed rules. There is no "initial screening" step identified in the proposed rules. The MPCA proposes to modify the definition by removing the unnecessary sentence. It is reasonable to correct definitions because doing so provides clarity and prevents confusion for all interested persons.

8. The existing definition includes a description regarding rounding which is already identified elsewhere in the rules (see part 7007.6060, subpart 5, item D) and varies depending on which hazard index is calculated. Therefore, the description of rounding is unnecessary and may be incorrect depending on the circumstance. The MPCA proposes to address this by removing the reference to rounding from the definition. It is reasonable to correct definitions because doing so

provides clarity and prevents confusion for all interested persons.

9. The MPCA finds these modifications do not make the proposed rule substantially different because the existing requirements remain the same and the change only removed redundant information and corrects unclear information without changing the subject matter or the effect of the proposed rule. This modification is within the scope of the "Subject of Rules" Chapter 7007 as announced in the Notice. This modification is a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result because typographical errors and improvements for clarity are expected to be discovered during the pre-hearing comment period where the MPCA is reviewing the proposed rules alongside the comments provided.

Definition of Hazard quotient

> Subp. 24. **Hazard quotient.** "Hazard quotient" means the ratio of a single substance exposure level to an inhalation health benchmark for that substance derived from a similar exposure period. A hazard quotient equal to or less than 1~~, rounded to one significant figure,~~ poses no appreciable likelihood of adverse health effects to the general population.

10. During the pre-hearing public comment period on the proposed rule, the MPCA determined a typographical error exists in the definition of hazard quotient at part 7007.6010, subpart 24. The existing definition includes a description regarding rounding which is not applicable for this term. In practice, rounding only occurs when calculating a hazard index and so the description of rounding is unnecessary for a hazard quotient. Therefore, modifications are needed in this subpart to correct the definition to align with existing practice. It is reasonable to correct definitions because doing so provides clarity and prevents confusion for all interested persons.

11. The MPCA finds this modification does not make the proposed rule substantially different because the existing requirements remain the same and the change only corrects information without changing the subject matter or the effect of the proposed rule. This modification is within the scope of the "Subject of Rules" Chapter 7007 as announced in the Notice. This modification is a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result because typographical errors are expected to be discovered during the pre-hearing comment period where the MPCA is reviewing the proposed rules alongside the comments provided.

Definition of Permit

> Subp. 31. **Permit.** "Permit" means:
>
> A. any part 70 permit issued under part 7007.0200, subpart 2~~, or any state permit issued under part 7007.0250, subpart 5 or 6,~~ that authorizes new construction or facility expansion;~~ or~~
>
> ~~B. reissuance of an expiring permit described in item A.~~
>
> <u>B. any state permit issued under part 7007.0250, subpart 5 or 6, that authorizes new construction or facility expansion;</u>
>
> <u>C. any reissuance of an expiring part 70 permit issued under part 7007.0200, subpart 2; or</u>
>
> <u>D. any reissuance of an expiring state permit issued under part 7007.0250, subpart 5 or 6.</u>

12. During the pre-hearing public comment period, the MPCA received one comment regarding the definition of permit in part 7007.6010, subpart 31.

13. **WaterLegacy-048-02:** WaterLegacy stated, "MPCA should revise the definition of "permit" so that cumulative impacts analysis is not limited to permits for new construction, expansion, or reissuance

of a permit for new construction or expansion. (MPCA proposed rule 7007.6010, subp. 31).

MPCA's proposed rule defining "permit" is inconsistent with the cumulative impacts statute, which states that a permit "includes a permit required for new construction or facility expansion or the reissuance of an existing permit." Minn,. Stat. § 116.065, subp. 1(h) (emphasis added). The very next sentence of the statute states that "[t]his section applies to an application for a permit." Minn. Stat. § 116.065, subp. 2(a). MPCA lacks authority to constrict the application of cumulative impacts analysis beyond the inclusive definition of "permit" in statute.

Requested change to MPCA proposed rule 7007.6010, subp. 31: "Permit" means: ~~A.~~ any part 70 permit issued under part 7007.0200, subpart 2; any state permit issued under part 7007.0250, subpart 5 or 6, that authorizes new construction or facility expansion; or ~~B.~~ any reissuance of ~~an expiring~~ a part 7007 permit ~~described in item A~~, including reissuance under part 7007.0450.""

14. The MPCA agrees that the proposed definition at part 7007.6010, subpart 31 could be interpreted to mean that the proposed definition of permit applies only to reissuances of expiring permits that are authorizing new construction or facility expansion. The statute defines permit as "a major source air permit, as defined in Minnesota Rules, part 7007.0200, or a state air permit required under Minnesota Rules, part 7007.0250, subpart 5 or 6. Permit includes a permit required for new construction or facility expansion or the reissuance of an existing permit." Since the proposed item B refers to the proposed item A which is related to new construction or facility expansion, it is unclear that item B means all reissuances that are "a major source air permit, as defined in Minnesota Rules, part 7007.0200, or a state air permit required under Minnesota Rules, part 7007.0250, subpart 5 or 6" as specified in the statute. Therefore, part 7007.6010 has been revised to clarify the definition of permit as it relates to reissuance.
15. The MPCA is revising the definition of permit at part 7007.6010, subpart 31 such that reissuance permits clearly include any expiring part 70 permits under part 7007.0200, subpart 2 or any expiring state permit issued under part 7007.0250, subpart 5 or 6 as specified in statute.
16. The MPCA is also separating the proposed item A into two parts such that it is clear that permit means any part 70 permit issued under part 7007.0200, subpart 2 that authorizes new construction or facility expansion and any state permit issued under part 7007.0250, subpart 5 or 6 that authorizes new construction or facility expansion. It is reasonable to clarify the definition of "permit" to align the proposed rule with the text of the statute.
17. The MPCA finds this modification does not make the proposed rule substantially different. Specifying that the definition of permit includes all reissuances of part 70 permits issued under part 7007.0200, subpart 2 or state permits issued under part 7007.0250, subpart 5 or 6 as stated in Minn. Stat. § 116.065, subd. 1(h) makes the definition clearer. This modification is within the scope of the "Subject of Rules" Chapter 7007 as announced in the Notice. This modification is a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result because the modification is within the scope as announced in the Notice and the commenter requested the clarification when they commented on the rule.

Part 7007.6030 TRIBAL CONSIDERATIONS

Tribal coordination citation cross-reference correction

Subpart. 1. **Applicability.**

B. Subparts 3 to ~~5~~ 4 identifies the methods by which the commissioner must coordinate with Minnesota Tribal governments for a stationary source located outside Indian Country:

18. During the pre-hearing public comment period on the proposed rule, the MPCA determined that a typographical error exists in part 7007.6030, subpart 1, item B. This subpart identifies the process by which Minnesota Tribal government can elect to apply Minn. Stat. § 116.065 and the proposed rules to a requested permit action for a stationary source located in Indian Country as well as the methods the MPCA must use to coordinate with Minnesota Tribal governments for a stationary source located outside Indian Country. Subpart B incorrectly points to a nonexistent subpart 5 as the end of the range of subparts identifying the coordination methods. Therefore, modifications are needed in this subpart.
19. The MPCA also received one comment regarding this typographical error as well.
20. **Minnesota Chamber of Commerce-027-57**: The Minnesota Chamber of Commerce stated, "Typographical error: 7007.6030, subp. 1, B "Subparts 3 to 5 identifies ..." should be "Subparts 3 to 4 identify ...".”
21. The MPCA proposes to correct this typographical error by replacing the incorrect reference to subpart 5 with the correct reference to subpart 4. It is reasonable to correct typographical errors because doing so provides clarity and prevents confusion for all interested persons.
22. The MPCA finds this modification does not make the proposed rule substantially different. The existing requirement remains the same and the change only corrects a typographical error without changing the subject matter or the effect of the proposed rule. This modification is within the scope of the "Subject of Rules" Chapter 7007 as announced in the Notice. This modification is a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result because typographical errors are expected to be discovered during the pre-hearing comment period where the MPCA is reviewing the proposed rules alongside the comments provided.

Part 7007.6050 INITIAL ASSESSMENT.

Submittal citation cross-reference correction

Subp. 2. **Submission.**

A. An owner or operator must submit the initial assessment required by this part with the permit application according to part 7007.0500, subpart 6, item B~~, subitem (3)~~.

23. During the pre-hearing public comment period on the proposed rule, the MPCA determined a typographical error exists in part 7007.6050, subpart 2, item A. Item A establishes that the initial assessment must be submitted with the permit application. However, this item points to a subitem that does not exist in the proposed rule. Therefore, modifications are needed in this subpart.
24. The MPCA also received one comment regarding this typographical error as well.
25. **Minnesota House of Representatives-033-09**: Representative Fue Lee stated, "**7007.6050, subp. 2. Initial assessment**

    Line 32.10 refers to "subitem (3)" of part 7007.0500, subpart 6, item A," but no subitems are listed under that item at line 3.8 of the proposed rules."
26. The MPCA proposes to correct this typographical error by replacing the incorrect reference to subitem (3) with the correct reference to item B only. It is reasonable to correct typographical errors because doing so provides clarity and prevents confusion for all interested persons.
27. The MPCA finds this modification does not make the proposed rule substantially different. The existing requirement remains the same and the change only corrects a typographical error without

changing the subject matter or the effect of the proposed rule. This modification is within the scope of the "Subject of Rules" Chapter 7007 as announced in the Notice. This modification is a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result because typographical errors are expected to be discovered during the pre-hearing comment period where the MPCA is reviewing the proposed rules alongside the comments provided and the commenter requested the clarification when they commented on the rule.

Carbon monoxide emission rate threshold correction

Subp. 4. **Benchmarks for requiring cumulative impacts analysis.**

B. If the requested permit action includes facility expansion, the owner or operator must conduct a cumulative impacts analysis under part 7007.6090 if the facility expansion has the potential to emit, as calculated according to part 7007.1200, subpart 3:

(1) one or more of the following pollutants at a rate equal to or greater than the specified amount, in pounds per hour:

(g) CO emissions - ~~5.7~~ 5.70 pounds per hour;

28. During the pre-hearing public comment period on the proposed rule, the MPCA determined that a typographical error exists in part 7007.6050, subpart 4, item B, subitem (1), unit (g). This subpart identifies when an owner or operator must conduct a cumulative impacts analysis for a facility expansion based on identified emission rate thresholds. Unit (g) identifies the emission rate threshold for carbon monoxide (CO) emissions. Unit (g) does not include the correct number of digits following the decimal place for this emission rate. Therefore, modifications are needed in this subpart.

29. The CO emission rate threshold identified in unit (g) is based on the emission rate thresholds identified in Table 1 of Minn. R. 7007.1250 as discussed on Page 87 of the SONAR for the proposed rule. The MPCA proposes to correct this typographical error by replacing the incorrect emission rate threshold of 5.7 pounds per hour with the correct emission rate threshold of 5.70 pounds per hour. It is reasonable to correct typographical errors because doing so provides clarity and prevents confusion for all interested persons.

30. The MPCA finds this modification does not make the proposed rule substantially different because the existing requirement remains the same and the change only corrects a typographical error without changing the subject matter or the effect of the proposed rule. This modification is within the scope of the "Subject of Rules" Chapter 7007 as announced in the Notice. This modification is a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result because typographical errors are expected to be discovered during the pre-hearing comment period where the MPCA is reviewing the proposed rules alongside the comments provided.

Part 7007.6060 PETITION PROCESS

Notification when a petition is voided

Subpart 4. **Completeness review**.

E. If the petition does not comply with subparts 1 to 3 and the petitioners fail to remedy all of the deficiencies identified in item D, subitem (2), within 15 calendar days, the petition is void and the commissioner must notify the petitioners' representative and the owner or operator of the stationary source that the petition is void.

31. The MPCA received two comments during the pre-hearing comment period regarding the notification identified in part 7007.6060, subpart 4, item E. This subpart identifies that the commissioner must notify the petitioner's representative when a petition is void when the petitioners fail to remedy all deficiencies identified by the commissioner regarding their petition.

32. **Minnesota Chamber of Commerce-027-29**: The Minnesota Chamber of Commerce stated, "g. The proposed rule (7007.6060, subp. 4, E) requires MPCA to notify the petitioners' representative that the petition is void if the petition does not comply with subparts 1 to 3 and the petitioners fail to remedy all of the deficiencies identified in item D, subitem (2), within 15 calendar days. The Chamber requests that MPCA also send the same notification to the permittee."

33. **Cordia Energy Center Minneapolis-049-26**: Cordia Energy Center Minneapolis stated, "j. The proposed rule (7007.6060, Subp. 4, E) requires MPCA to notify the petitioners' representative that the petition is void if the petition does not comply with subparts 1 to 3 and the petitioners fail to remedy all of the deficiencies identified in item D, subitem (2), within 15 calendar days. Cordia requests that the MPCA also send the same notification to the permittee."

34. The MPCA proposes to modify the proposed rule to provide the same notification to the owner or operator of the stationary source at the same time it provides notification to the petitioners' representative.

35. It is reasonable to provide notice to the owner or operator of the stationary source when determining a petition is void as the MPCA already provides dual notification to these parties when determining whether the petition complies with part 7007.6060, subparts 1 to 3. It is reasonable to provide this notification so that all interested parties are made aware when a petition has been deemed void.

36. The MPCA finds this modification does not make the proposed rules substantially different. Specifying that the notification when a petition is determined void must also be provided to the owner or operator of the stationary source provides clarity for both the petitioners and the owner or operator of the stationary source regarding this determination. This modification is within the scope of the "Subject of Rules" Chapter 7007 as announced in the Notice. This modification is a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result because the modification is within the scope as announced in the Notice because the modification is within the scope as announced in the Notice and the commenter requested the change when they commented on the rule.

Part 7007.6070 DETERMINATION OF NEED

Determination of need citation cross-reference correction

> Subpart 3. **Determining need for cumulative impacts analysis**. In determining whether a cumulative impacts analysis is required under subpart 1 or 2, the commissioner must:

37. During the pre-hearing public comment period on the proposed rule, the MPCA determined a typographical error exists in part 7007.6070, subpart 3. This subpart identifies the commissioner must consider a list of information sources and evaluate the impacts expected to occur from a requested permit action in determining whether a cumulative impacts analysis is required. Part 7007.6070, subpart 1 and subpart 2 identify the circumstances where the commissioner must or may require a cumulative impacts analysis. Subpart 3 incorrectly identifies only subpart 1 instead of both subpart 1 and 2 as the potential circumstances where the commissioner may determine a cumulative impacts analysis is required. Subpart 3, item A also clearly identifies information connected to determinations under subpart 2, item A (determinations based on material evidence)

and item B (determinations based on the petition process) that the commissioner must consider in determining whether a cumulative impacts analysis is required. Therefore, modifications are needed in this subpart.

38. Additionally, the MPCA received 13 comments expressing concern regarding decision criteria for the determinations regarding whether to require a cumulative impacts analysis, whether a proposed permit action may substantially impact the environment or health of residents of an environmental justice area, and whether to grant a petition based on material evidence provided. These comments are responded to directly under the "Decision criteria and statutory obligation" subheading under the "General comments" section of this document. The MPCA believes this typographical error is at least partly responsible for the commenters' statements regarding the lack of decision criteria for these determinations. Without corrections the proposed rule does not clearly identify the information, and the criteria used to evaluate that information, that the MPCA must use to determine whether to require a cumulative impacts analysis.

39. The MPCA proposes to correct this typographical error by replacing the incorrect reference identifying only subpart 1 with the correct reference to both subpart 1 or subpart 2. It is reasonable to correct typographical errors because doing so provides clarity and prevents confusion for all interested persons.

40. The MPCA finds this modification does not make the proposed rule substantially different because the existing requirement remains the same and the change only corrects a typographical error without changing the subject matter or the effect of the proposed rule. This modification is within the scope of the "Subject of Rules" Chapter 7007 as announced in the Notice. This modification is a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result because typographical errors are expected to be discovered during the pre-hearing comment period where the MPCA is reviewing the proposed rules alongside the comments provided and the commenters requested the clarification when they commented on the rule.

Part 7007.6080 PUBLIC PARTICIPATION.

Translation and interpretation services

Subp. 5. **Public meeting requirements.**

C. For a public meeting required under subpart 4, the owner or operator must:

(3) provide language interpretation services, translations services, and translated written materials upon request <u>if requested at least 10 calendar days in advance of the public meeting</u>.

<u>(4) provide written translated materials in the language that was used in the public notice required under subpart 7, item A, subitem (3)</u>

41. During the pre-hearing public comment period, the MPCA received one comment regarding the requirement to provide interpretation services, translations services, and translated written materials upon request for public meetings required under part 7007.6080, subpart 4.

42. **Minnesota Chamber of Commerce-027-33:** "k. The proposed rule (7007.6080, subp. 5, C (3)) requires the following: 'provide language interpretation services, translation services, and translated written materials upon request.' Providing language interpretation service upon any request could lead to significant costs and even time delays, depending on when the request is made. For example, what if the request were made during the public meeting? A better way to frame this

requirement would be 'provide written translated materials in the language that was used in any public notice posted (see Subp. 7, A (3))' and 'provide language interpretation services, translation services, and/or translated materials if requested at least 2 weeks in advance of the public meeting'."

43. The MPCA agrees that it would be beneficial to establish more specific details regarding when an owner or operator must provide interpretation services, translations services, and translated written materials. Therefore, the MPCA is proposing modifications to this subpart.

44. The MPCA proposes to modify subitem (3) with a qualifier to identify the owner or operator must provide these services or materials when requested at least 10 calendar days in advance of a public meeting.

45. As explained in the SONAR for the proposed rule (p. 110), the proposed rule establishes that the owner or operator provide language interpretation services, translations services, and translated written materials because one criteria for determining whether a census tract is an environmental justice area is the percentage of residents with limited English proficiency, see Minn. Stat. § 116.065, subd. 1(e)(1)(iii), and without these services those residents may not be able to participate in these public meetings. As a result, the MPCA is proposing to clarify when these services and materials have to be provided.

46. The MPCA proposes to establish a 10 calendar day timeframe for these requests. During the rulemaking process for the proposed rule, the MPCA was also required to provide translation services and translated materials upon request for any public meetings for the rulemaking as identified in Minn. Stat. § 116.065, subd. 6(d). In public notices for rulemaking public meetings, the MPCA asked that interested persons request language interpretation services and specified a deadline to request those services. It is reasonable to establish a timeframe for requesting these services so that it is clearly identified for all interested persons when the owner or operator must provide these services and materials for a specific language. It is also reasonable to provide owners and operators 10 days notice to obtain translation services so they are provided enough time to be able to comply with the translation and interpretation requirements identified in the proposed rule.

47. The MPCA also proposes to add a new subitem (4) to require the owner or operator to provide written translated materials in the language used in the public notice for the public meeting. The existing requirement at part 7007.6080, subpart 7, item A, subitem (3) already requires the owner or operator to provide notice in a non-English newspaper or periodical in a language representative of the residents of the environmental justice area. It is reasonable to require that written materials for public meetings required under this part also be provided in that previously identified representative language. This provides more certainty to both the owners or operators, as well as the residents of the environmental justice area, regarding whether translated materials will be provided.

48. Additionally, this revision is consistent with the reasoning included in the SONAR (p.110) for subpart 5, item C, subitem (3) regarding only providing materials upon request because it is not expected for the owners or operators to be responsible for the cost of complying with this requirement if the services is not needed. If it is already determined that there is a language representative of the environmental justice area, and that language is used to provide notice of a public meeting, then it is reasonable to provide written materials in that language for those public meetings as well.

49. The MPCA finds these modifications do not make the proposed rule substantially different. Specifying the timeframe for when an owner or operator must provide interpretation services, translations services, and translated written materials, and when to provide translated written

materials by default makes the requirement clearer. This modification is within the scope of the "Subject of Rules" Chapter 7007 as announced in the Notice. This modification is a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result because the modification is within the scope as announced in the Notice and the commenter requested the change when they commented on the rule.

Response to comments report clarification

Subp. 8. **Public comments.**

D. The owner or operator must respond in writing to all comments and must maintain a record of the public participation process, including any public meeting. The record must include:

(1) a list of the commenters;

(2) issues raised by the commenters;

(3) comments received; and

(4) the owner's or operator's written responses to the comments.

E. An owner or operator must provide ~~the~~ a report containing the information required under item D to the commissioner within 30 calendar days after the end of the comment period and at least 45 calendar days before the subsequent public meeting required under subpart 4.

50. During the pre-hearing public comment period on the proposed rule, the MPCA determined unclear language exists in the requirement for the owner or operator to provide a report regarding response to comments identified in part 7007.6080, subpart 8, item E. Therefore, modifications are needed in this subpart.

51. Subpart 8, item E refers to the owner or operator providing information regarding a record of the public participation process identified under subpart 8, item D. However, the existing language references item D as a report, while the text of item D requires the owner or operator to respond to comments received and keep a record of the specified information. Additionally, requirements in subpart 9 (see lines 56.18, 57.3, and 57.9 in the proposed rule) refer to the report required under subpart 8, item E. This may be confusing to interested persons as the existing rule language could be interpreted as either item D or item E being the report referenced in these locations.

52. The MPCA proposes to modify subpart 8, item E to correct this unclear language by making it clear that item E is the requirement to provide a report that contains the information identified in item D. It is reasonable to correct unclear requirements because doing so provides clarity and prevents confusion for all interested persons.

53. The MPCA finds this modification does not make the proposed rule substantially different because the existing requirements remain the same and the change only corrects information without changing the subject matter or the effect of the proposed rule. This modification is within the scope of the "Subject of Rules" Chapter 7007 as announced in the Notice. This modification is a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result because improvements for clarity are expected to be discovered during the pre-hearing comment period where the MPCA is reviewing the proposed rules alongside the comments provided

Posting recording of public meetings

Subp. 5. **Public meeting requirements.**

C. For a public meeting required under subpart 4, the owner or operator must:

(2) include a video and audio recording of the entirety of the public meeting that is made available online for the public to view. The recording must be available within ~~15~~ 5 calendar days after the public meeting until at least the close of the public notice and comment period for the draft permit required under part 7007.0850; and

54. During the pre-hearing public comment period on the proposed rule, the MPCA received one comment highlighting that the public comment period may end on the same day that the owner or operator posts the recording of the public meeting.

55. **Frontline Communities Protection Coalition-034-21:** The Frontline Communities Protection Coalition stated, "Subp. 5. **Public meeting requirements** - We support the requirement of video and audio recordings of public meetings being made available online. In item (G), we recommend stating that the Commissioner may require the fact sheet to be edited if information is inaccurate or portrayed in a biased manner. Given that the facility owner or operator will be running the public outreach and meetings, it is essential that the MPCA holds them accountable to presenting accurate information.

    We do want to point out a concern about subpart 5, item (C), subitem (2) which outlines the requirements for making audio and video recordings of public meetings available. This section states that 'the recording must be made available within 15 calendar days after the public meeting until at least the close of the public notice and comment period…'. However, subpart 8, item (A) states that public comment periods must remain open for at least 15 days after the date of the public meetings. This creates the possibility that a comment period could end 15 days after a public meeting when the recordings have only been posted for a day. In order to remedy this, we recommend shortening the timeline for uploading the audio and video recordings of public meetings to 7 days."

56. The MPCA appreciates the commenter drawing attention to an unreasonable timeframe to watch the recording, assess the content, and leave a public comment. Under the proposed rule language, there is a possibility that the public will be provided with only one day to make a comment informed by the recorded public meetings. With this in mind, the MPCA proposes to require the owner or operator to post the recorded webinar within 5 days of the public meetings. This change is reasonable because it will provide the public with at least 10 calendar days to post public comments while having access to the recording of the public meetings, fulfilling its stated purpose in SONAR page 110.

57. By reducing the timeframe for the required days to post the recording, the Agency also avoids extending the permitting process. The alternative of increasing the number of calendar days that the owners or operators must keep the public comment period open in order to allow the public to use the recordings to inform their comments may extend total length of the permitting process. The possible extension conflicts desires described comments left by multiple commenters (see comments and response to comments for permitting efficiency and timeliness).

58. The MPCA finds this modification does not make the proposed rule substantially different because the existing requirements remain the same and the change only modifies when the recording of a public meeting must be posted without changing the subject matter or the effect of the proposed rule. This modification is within the scope of the "Subject of Rules" Chapter 7007 as announced in the Notice. This modification is a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result because the commenter requested the change when they commented on the rule.

Part 7007.6090 CUMULATIVE IMPACTS ANALYSIS

Acceptable risk levels

Subp. 5. **Air emissions risk analysis.**

D. An owner or operator must use the following acceptable risk levels in an air emissions risk analysis under this subpart:

(1) cancer risk of 1 in 100,000 (rounded to one significant figure);

(2) hazard quotient of 1 (rounded to one significant figure) for acute, subchronic, and chronic inhalation risk;

(3) hazard quotient of 1 (rounded to one significant figure) for farmer noncancer multipathway risk, ~~farmer cancer,~~ urban gardener noncancer multipathway risk, ~~urban gardener cancer,~~ and resident noncancer multipathway risk.; ~~, and resident cancer multipathway risk; and~~

(4) risk of 1 in 100,000 (rounded to one significant figure) for farmer cancer multipathway risk, urban gardener cancer multipathway risk, and resident cancer multipathway risk; and

~~(4)~~ (5) hazard index of 1 (without rounding down to one significant figure) for acute, subchronic, and chronic noncancer health endpoints.

59. During the pre-hearing public comment period on the proposed rule, the MPCA determined typographical errors and unclear language exists in part 7007.6090, subpart 5, item D. Item D establishes the acceptable risk levels, identified in subitems (1) to (4), used within the air emission risk analysis.

60. The MPCA also received one comment regarding the use of hazard index and whether it uses a single pollutant or is additive across multiple pollutants with reference to part 7007.6100, subpart 2, item A, subitem (2). This subitem references the acceptable risk levels identified in part 7007.6090, subpart 5, item D.

61. **Frontline Communities Protection Coalition-034-32**: the Frontline Communities Protection Coalition stated, “Item (A), subitem (2) - There is contradictory information related to risk estimates and rounding. In the rule, the decision making framework is a hazard index that is not rounded to 1 significant figure. However in the SONAR the final risk estimate is rounded 1 significant figure. If the language in the SONAR describes the actual comparison MPCA plans on using to determine a substantial adverse impact, it needs to be very transparent that the actual comparison value is 1.4 since that would round to 1. Massachusetts Department of Environmental Protection (DEP) cumulative impacts program spreadsheet [https://www.mass.gov/info-details/cumulative-impact-analysis-in-air-quality-permitting] uses more than one significant figure which makes the actual comparison value transparent and it avoids the actual acceptable risk and hazard level being 1.4 (in 100,000 for cancer).

    MPCA does not explicitly state that cancer risk calculations are not single pollutant estimates in the rule or in the SONAR. In order to meet the intent of the cumulative impacts statute, the inhalation and multipathway cancer risk estimates must be additive across the carcinogenic pollutants emitted by a facility. Furthermore, as outlined earlier, we believe the static cancer risk threshold proposed (1.0 per 100,000) does not meet the cumulative nature of an analysis required by this legislation and establishes a benchmark that almost no facility would meet. We proposed developing a different threshold that is dynamic and evaluates the risk being added by the facility to an EJ area in the

context of the risk that already exists from other stationary and non-stationary sources. As previously stated, we have developed a concrete proposal and would be happy to work with the MPCA to implement it."

62. The MPCA proposes to modify the proposed rule to correct typographical errors and provide clarification regarding unclear rule language that exists in part 7007.6090, subpart 5, item D.

63. Subitem (1) contains the requirement for cancer risk. Subitem (1) does not clarify whether rounding is allowed for cancer risk calculations. Therefore, a modification is needed to this subitem.

64. The MPCA proposes to modify subitem (1) to clarify that rounding is allowed for the acceptable risk level for cancer risk. Without modification, subitem (1) does not identify whether rounding is allowed, however the SONAR (p. 137) makes it clear that rounding is intended for item D, subitems (1) to (4), "Item D, subitems (1) to (4) require clarification on rounding and significant figures due to the precision in the data included in a final air emissions risk analysis (AERA) risk estimate." Because the rules do not state that rounding is allowed, it is reasonable to modify this subpart to clarify this. It is reasonable to clarify this requirement because doing so provides clarity and prevents confusion for all interested persons.

65. The MPCA finds this modification does not make the proposed rules substantially different because the existing requirements remain the same and the changes only clarifies requirements without changing the subject matter or the effect of the proposed rule. This modification is within the scope of the "Subject of Rules" Chapter 7007 as announced in the Notice. This modification is a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result because improvements for clarity are expected to be discovered during the pre-hearing comment period where the MPCA is reviewing the proposed rules alongside the comments provided.

66. Subitem (3) contains the requirement for hazard quotient for farmer noncancer, farmer cancer, urban gardener noncancer, urban gardener cancer, and resident noncancer, and resident cancer multipathway risk. However, subitem (3) identifies the incorrectly uses the same terminology for the acceptable risk level for both cancer and noncancer risks. Therefore, a modification is needed to this subitem.

67. The MPCA proposes to modify subitem (3) to split the cancer and noncancer risks identified into two separate subitems, subitem (3) and subitem (4). Without the modification, the existing subitem (3) refers to both cancer and noncancer risks. Cancer and noncancer have different definitions that apply. For this reason, modifications are needed in this subpart to separate and clarify between cancer and noncancer risks into separate subitems. It is reasonable to clarify this requirement because doing so helps prevent confusion for all interested persons.

68. The MPCA finds this modification does not make the proposed rules substantially different because the existing requirements remain the same and the changes only clarifies requirements without changing the subject matter or the effect of the proposed rule. This modification is within the scope of the "Subject of Rules" Chapter 7007 as announced in the Notice. This modification is a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result because improvements for clarity are expected to be discovered during the pre-hearing comment period where the MPCA is reviewing the proposed rules alongside the comments provided.

69. The existing subitem (4) contains the requirement for hazard index for acute, subchronic, and chronic noncancer health endpoints. The MPCA proposes to renumber subitem (4) to be new subitem (5). This is to allow for the new subitem (4) described above to be listed after similar

requirements. It is reasonable to renumber requirements to provide consistency in the organization of rule language.

70. The MPCA finds this modification does not make the proposed rules substantially different because the existing requirements remain the same and the changes only clarifies requirements without changing the subject matter or the effect of the proposed rule. This modification is within the scope of the "Subject of Rules" Chapter 7007 as announced in the Notice. This modification is a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result because improvements for clarity are expected to be discovered during the pre-hearing comment period where the MPCA is reviewing the proposed rules alongside the comments provided and the commenter requested the clarification when they commented on the rule.

Part 7007.6115 MODIFYING COMMUNITY BENEFIT AGREEMENTS.

Modifying a community benefit agreement citation cross-reference correction

> Subp. 2. **Modifying a community benefit agreement; other changes.**
>
> A. An owner or operator of a stationary source that enters into a community benefit agreement with the commissioner may request a change to the community benefit agreement, other than a time extension under subpart 1, by submitting a written request to the commissioner. The request must include:
>
> (1) a description of the change requested;
>
> (2) reasons for modifying the community benefit agreement;
>
> (3) a description of how the owner or operator will comply with the requirements of item ~~C~~ D to prepare the modified community benefit agreement; and
>
> (4) a copy of the notice required under item D.

71. During the pre-hearing public comment period on the proposed rule, the MPCA determined that a typographical error exists in part 7007.6115, subpart 2, item A, subitem (3). This subpart identifies how an owner or operator may request changes to a community benefit agreement. Subitem (3) incorrectly points to item C, which identifies requirements for the commissioner, instead of item D that identifies the notice requirements applicable to the owner or operator. Therefore, modifications are needed in this subpart.

72. The MPCA proposes to correct this typographical error by replacing the incorrect reference to item C with the correct reference to item D. It is reasonable to correct typographical errors because doing so provides clarity and prevents confusion for all interested persons.

73. The MPCA finds this modification does not make the proposed rule substantially different because the existing requirement remains the same and the change only corrects a typographical error without changing the subject matter or the effect of the proposed rule. This modification is within the scope of the "Subject of Rules" Chapter 7007 as announced in the Notice. This modification is a logical outgrowth of the Notice and comments process and the Notice provided fair warning that this rule change could result because improvements for clarity are expected to be discovered during the pre-hearing comment period where the MPCA is reviewing the proposed rules alongside the comments provided.

General comments

The MPCA received 316 general comments that were not specific to any rule part, which are identified

and responded to below.

General support for the proposed rule

74. The MPCA received 77 comments that expressed general support for the proposed rule, for specific requirements identified in the proposed rule, and/or the goals of the proposed rule. These comments are identified and responded to below.

75. Some commenters included a summary/overview of their comments alongside their comments expressing general support. In some cases, commenters also included statements expressing support for adopting more stringent rules or improvements to the proposed rules identified elsewhere in their comments. While these summary/overview statements are also identified alongside the commenter's general support, the more detailed comments provided by the commenter are responded to elsewhere in this document.

76. **Karlgaard-005-03:** Ben Karlgaard stated, "This rulemaking process is really important. I really appreciate the MPCA's dedication to community participation and thorough analysis of existing conditions in EJ communities. I hope you can strengthen these rules even further to fully exert this law's power and protect vulnerable communities."

77. **Hill-014-01:** Dr. Joanne Hill stated, "Public Comment on the Proposed Cumulative Impacts Rule Submitted by: Dr. Joanne Hill, DNP, MPH, MSN, PHN, CHES, CRNA, APRN. I support the MPCA's proposed Cumulative Impacts Rule because it acknowledges what Environmental Justice communities have lived with for generations."

78. **Hankerson-019-02:** Stephanie Hankerson stated, "I am a Hamline-Midway resident of more than 30 years and have dedicated my career to environmental education, gardening, and community organizing focused on creating healthier, greener neighborhoods. I am writing to encourage the State of Minnesota to adopt the Cumulative Impacts (CI) rule in the strongest form possible to provide meaningful protections for communities that have lived for decades with the health burdens associated with nearby industrial pollution."

79. **Conservation Minnesota-023-01:** Conservation Minnesota stated, "Conservation Minnesota submits this letter and petition on behalf of 610 of our members who support the MPCA's adoption of new cumulative impacts rules. Neighborhoods near highways, industrial facilities, or power plants — often home to low-income families and communities of color — face disproportionate and chronic exposure to harmful air, which over time can contribute to asthma, heart disease, and other serious health issues. Our members, representing communities across the state, signed on to the following statement: "I support the MPCA implementing rules that improve the air quality for all communities in Minnesota." We urge the agency to adopt rules that prioritize protecting Minnesotans from harmful air pollution and address the disproportionate exposure faced by overburdened communities. The full letter and list of signers is attached."

80. **Conservation Minnesota-023-02:** Conservation Minnesota stated, "Neighborhoods near highways, industrial facilities, or power plants—often home to low-income families and communities of color—face disproportionate and chronic exposure to harmful air. Over time, these cumulative impacts can lead to asthma, heart disease, and other serious health issues.

    At Conservation Minnesota we work to protect Minnesotans and the places they love from pollution. As you consider the adoption of new cumulative impacts rules, we encourage you to take action that prioritizes protecting Minnesotans from harmful air pollution.

    We have collected 610 signatures from our members across the state who are concerned about disproportionate exposure to pollutants in several communities. Members have signed on with this

statement: “I support the MPCA implementing rules that improve the air quality for all communities in Minnesota.”

Thank you for your consideration.”

81. **Coming Clean Network-024-02**: Coming Clean Network stated, “The Coming Clean Network’s Cumulative Impacts/Mandatory Emissions Reduction (CI/MER) Team works to ensure assessment of cumulative impacts, and adoption and effective implementation of policies to reduce and eliminate them through mandatory emission reductions and requiring safer substitutes https://comingcleaninc.org/projects/ci-mer. We do so through comments, testimony, sign on letters, organizing assistance and all tools available in the advocacy toolbox, as well as proactively through development and promotion of our own messaging, Community Guide (The Community Guide to Cumulative Impacts — Coming Clean, Inc.), and principles.

    The team supports and mobilizes environmental organizations and directly impacted community members to speak and submit comments to federal, state and local governmental agencies tasked with regulating pollution, to ensure that these bodies hear from people most affected by new methods and policies, listen to their concerns and implement their recommendations. Our long-term goals are to reduce harm from cumulative impacts and to require mandatory emissions reductions, in alignment with the Louisville Charter for Safer Chemicals.

    Similarly, we support community-centered work, and the Proposed Permanent Rules Relating to Cumulative Impacts Analysis in Environmental Justice Areas could be improved and strengthened to center that work. This policy involves multiple units of government coordinating programs to provide more efficient and protective services to overburdened communities. Moreover, when health and environmental protections are developed and implemented to protect the most overburdened communities, everyone is simultaneously protected.

    For all of these reasons, we support cumulative impacts reduction work and appreciate the opportunity to comment on these proposed rules. As Team Leaders, Kathleen Curtis and Sophia Longsworth submit these comments on behalf of the Team.”

82. **Dunlevy-026-05**: Leah Dunlevy stated, “By strengthening the law even further, we have the power to decrease discriminatory pollution and health disparities, support our state’s climate resiliency, and build a better future for all Minnesotans. I sincerely thank you for the opportunity to provide feedback.”

83. **University of Minnesota-030-01**: The University of Minnesota stated, “The University of Minnesota appreciates the opportunity to engage in this rulemaking process and respectfully submits these comments regarding the draft Cumulative Impacts rules published on May 18, 2026. We sincerely thank the Minnesota Pollution Control Agency staff and leadership for their hard work, extensive stakeholder engagement, and continued dedication to environmental justice. We hope you will take our comments under meaningful consideration as you finalize these rules.”

84. **Minnesota Environmental Justice Table-031-01**: The Minnesota Environmental Justice Table stated, “The MN Environmental Justice Table (MNEJT) is an organization dedicated to empowering Minnesotans, and especially frontline communities, to advocate for environmental justice and systemic protections that build safe, healthy, regenerative, and sustainable communities.

    We appreciate the considerable work and thought that went into the draft rules. The rules clearly uplift the importance of community participation through the multiple rounds of public engagement present in the petition process and stages leading up to and including the development of the community benefits agreement. The MN Environmental Justice Table (MNEJT) is an organization

dedicated to empowering Minnesotans, and especially frontline communities, to advocate for environmental justice and systemic protections that build safe, healthy, regenerative, and sustainable communities.

We appreciate the considerable work and thought that went into the draft rules. The rules clearly uplift the importance of community participation through the multiple rounds of public engagement present in the petition process and stages leading up to and including the development of the community benefits agreement."

85. **Frontline Communities Protection Coalition-034-01**: The Frontline Communities Protection Coalition stated, "We are members of the Frontline Communities Protection Coalition (FCPC), a group of environmental and frontline community organizations, working to address environmental injustice at a systemic level and support fights for environmental justice across the state. We were involved in creating and passing the cumulative impacts law in 2023 and have been engaging in the rulemaking since then. We appreciate the opportunity to submit comments on the Cumulative Impacts (CI) rules and rulemaking process.

    The Cumulative Impacts (CI) law and rulemaking represent an important step forward in addressing the disproportionate burden of pollution that environmental justice communities face in Minnesota. This law was passed due to the advocacy and organizing of frontline communities who have suffered from this disproportionate burden for decades. To fulfill the intention of the CI law, these rules must properly address the existing cumulative impacts burden in many communities while regulating proposed new sources of pollution. Transparency, accountability, and community leadership are essential to the implementation of this law. We hope you will strongly consider our feedback as one of the coalitions that helped to shape and pass this law.

    General Feedback

    In the following detailed comment letter, we have clearly laid out where the regulation aligns with the intent of the statute and where we feel it falls short, and we have provided the relevant evidence. We begin the letter with descriptions of definitions that we believe require additional clarity that would reduce the risk of legal challenges. In the regulation we would prefer to see improved transparency with discrete metrics for decision-making around requiring a cumulative impacts analysis and defining substantial adverse impacts. As written, we believe the MPCA Commissioner would have too much discretion leading to inconsistent outcomes and uncertainty for communities and industry. **Overall, and importantly, our three main issues of concern are around permit reissuances, lack of a full analysis of cumulative impacts in the cumulative impacts analysis, and the fact that there is no criteria to reject a community benefits agreement**. And finally, we believe that consideration of the full stationary source as opposed to only the requested permit action should be required where possible to meet the intent of the cumulative impacts statute.

    Effective implementation of this law should reduce pollution burden and improve health outcomes in EJ communities and give EJ communities a greater role in decisions regarding industrial facilities in their neighborhoods. Reducing the environmental pollution burden in EJ areas will contribute to assuring that all communities have access to clean air, soil, and water."

86. **Frontline Communities Protection Coalition-034-44**: The Frontline Communities Protection Coalition stated, "**Conclusion**

    Thank you again for the opportunity to comment on the proposed draft rules for the cumulative impacts law. While there are parts of the rule we support, we have significant concerns about key pieces of the rule. We believe that the current proposed rules fail to fulfill the intention of the

cumulative impacts law we helped to pass, and may lead to further lack of trust with the MPCA from environmental justice communities. We hope that our feedback is strongly considered and that the rules are amended to provide more certainty to all parties involved and ensure that the voices of environmental justice communities are being heard and acted upon."

87. **Minnesota Public Health Association-035-01**: The Minnesota Public Health Association stated, "The Minnesota Public Health Association (MPHA) has served as Minnesota's independent, nonpartisan, statewide voice for public health since 1907 and represents health professionals in public health, medicine, nursing, community health, and more. At MPHA, public health workers from multiple disciplines and sectors come together around shared values and goals. We engage and develop our members and partners to mobilize the community to protect and improve the public's health.

    Minnesota Public Health Association writes in support of the Cumulative Impacts Law (MN Statutes §116.065) which requires air permitting decisions to evaluate cumulative pollution in Environmental Justice (EJ) communities. The American Public Health Association (APHA) states: "Achieving health equity requires assessment of cumulative environmental health burdens within a social determinants of health framework to address EJ as a structural public health issue." The effective implementation of this law should reduce pollution burden and improve health outcomes in environmental justice (EJ) communities and give EJ communities more say in decisions about what goes into their neighborhoods.

    Minnesota communities across the state are impacted by a variety of exposures, many of which build on each other and can cause deleterious effects on one's health. MPHA is particularly concerned about the impacts in compact urban and rural areas, which can face higher rates of exposures depending on the industries in their areas. We are especially concerned that communities of color, American Indian and lower income communities are exposed to higher levels of pollution from traffic, industrial sources, waste incinerators and fossil fuel infrastructure, putting their health at risk. MPHA believes it is essential to protecting Minnesotans' health to consider cumulative impacts.

    The Cumulative Impacts (CI) Law and MPCA's Statement of Need and Reasonableness (SONAR) support the need for consideration of cumulative impacts in air permitting decisions. Air pollution contributes to Minnesota's significant health disparities and improving air quality is critical in reducing health inequities in the areas currently covered by the statute: Twin Cities, Duluth and Rochester regions, and tribal governments who may opt in.

    While we largely support the proposed rules as written, we share a few comments and recommendations to strengthen the proposed rules and monitor health impacts."

88. **Sierra Club North Star Chapter (compiled comments, set 1)-037-01**: Brett Smith stated, "Dear Judge Middendorf, I urge you to adopt strong Cumulative Impact Rules which include careful and strong provisions for public participation. As a citizen, teacher, parent, and grandparent, and advocate for justice in all phases of life, I am aware that in many places around our country, people are exposed to very different levels of pollution and health risks. The job of the MPCA is to ensure that all people in the state have a clean and healthy environment. The job is not simply to make sure that each permit to pollute meets the criteria for that activity. If a source of pollution is permitted in an area already impacted by pollution, the effect on the people living there may be different than if the permit were issued in an area with no pollution present. The cumulative impact is what is important, not the level of each individual source. This is obvious. Please adopt strong rules to ensure that cumulative impacts are considered when permitting decisions are made. Brett Smith Saint Paul, MN"

89. **Sierra Club North Star Chapter (compiled comments, set 1)-037-10**: William Diederich stated, “Dear Judge Middendorf, To do the right things now to insure a better future - the profit is insuring there is a future environment we can all live in. William Diederich Saint Paul, MN”

90. **Sierra Club North Star Chapter (compiled comments, set 1)-037-11**: Laurel Ostrow stated, “Dear Judge Middendorf, This is so important to me and to all of us. We need to keep our planet and our state clean and our communities strong and equal. Laurel Ostrow Saint Paul, MN”

91. **Sierra Club North Star Chapter (compiled comments, set 1)-037-13**: Sally Downing stated, “Dear Judge Middendorf, This action is overdue in poor communites [sic]. Please model the cumulative impacts analysis after the New Jersey law. Sally Downing Minneapolis, MN”

92. **Sierra Club North Star Chapter (compiled comments, set 1)-037-16**: Cheryl Gerth stated, “Dear Judge Middendorf, Strengthen and implement a strict plan for protecting the air, water and land, not to mention neighborhoods from wanton pollution driven by greedy industry. As a lifelong resident of Minnesota, I take pride in our beautiful state and do not wish it to be exploited. Cheryl Gerth Coon Rapids, MN”

93. **Sierra Club North Star Chapter (compiled comments, set 1)-037-18**: Rich Femling stated, “Dear Judge Middendorf, My wife has asthma and relies on clean air to take walks with me. She needs to bring her inhaler with her when we walk. I'm writing in to ask you to rigorously apply the Frontline Communities Protection Act so that industry can not exploit loopholes Communities Protection Act so that industry can not exploit loopholes. Thank you for crafting a strong law to protect my children and vulnerable communities across the state. Rich Femling Roseville, MN”

94. **Sierra Club North Star Chapter (compiled comments, set 1)-037-21**: Mary Blitzer stated, “Dear Judge Middendorf, I'm a mom who lives in Minneapolis. My children have had asthma attacks and it is so scary. When your child can't breathe clean air is not abstract in any way. Having to always have an inhaler with you is more stressful than you might think. I'm writing in to ask you to rigorously apply the Frontline Communities Protection Act so that industry can not exploit loopholes. Thank you for crafting a strong law to protect my children and vulnerable communities across the state. Mary Blitzer Minneapolis, MN”

95. **Sierra Club North Star Chapter (compiled comments, set 1)-037-24**: Priscilla Trinh stated, “Dear Judge Middendorf, Karen Clark has been a great champion of these laws. Let's honor her legacy and continue holding industry accountable! I'm writing in to ask you to rigorously apply the Frontline Communities Protection Act so that industry can not exploit loopholes. Thank you for crafting a strong law to protect vulnerable communities across the state. Priscilla Trinh Eden Prairie, MN”

96. **Sierra Club North Star Chapter (compiled comments, set 1)-037-25**: Denise Marlowe stated, “Dear Judge Middendorf, It is imperative that all is done to protect all communities from pollution. We know that communities of color are impacted more by pollying [sic] companies. All people deserve the same protection. Denise Marlowe Inver Grove Heights, MN”

97. **Sierra Club North Star Chapter (compiled comments, set 1)-037-26**: Christopher Greffin stated, “Dear Judge Middendorf, I'm a resident of St. Paul concerned about pollution from industry in my community. I urge the Minnesota Pollution Control Agency (MPCA) to create strong clear, strong rules without loopholes so we can all live safer and healthier. Christopher Greffin Saint Paul, MN”

98. **Sierra Club North Star Chapter (compiled comments, set 1)-037-27**: Megan Brennan stated, “Dear Judge Middendorf, I'm a resident of Minneapolis. I struggle year-round with severe environmental allergies that are getting worse due to climate change. People like me with allergies are more sensitive to chemicals and pollution. I'm writing to urge the MPCA to create strong, clear rules to

regulate harmful pollution. People deserve a say in what goes on in their neighborhoods, including any facilities that may be creating pollution that harms their health. Let's help our more vulnerable neighbors by requiring these facilities to reach out to local community organizations. Megan Brennan Minneapolis, MN"

99. **Sierra Club North Star Chapter (compiled comments, set 1)-037-29**: Curtis Coffer stated, "Dear Judge Middendorf, I urge MPCA to create strong, clear rules without loopholes for industry to exploit. Curtis Coffer Saint Paul, MN"

100. **Sierra Club North Star Chapter (compiled comments, set 1)-037-33**: Charles Skinner stated, "Dear Judge Middendorf, I and so many others live in the environment. Please work to protect it. Thank you. Charles Skinner Northfield, MN"

101. **Sierra Club North Star Chapter (compiled comments, set 1)-037-34**: Rebecca Cramer stated, "Dear Judge Middendorf, I am an elder living with cancer now for the past two years. Thank you for crafting legislation addressing the inequities of the past related to public health; it is right and proper that low income, disenfranchised communities ought to be offered repair from the polluted air and soil of industrial activities and the lack of tree canopy and urban food production. Lets raise the air and water quality and soil productivity standards for all of us, especially for the future generations. Rebecca Cramer Saint Paul, MN"

102. **Sierra Club North Star Chapter (compiled comments, set 1)-037-35**: Tom Brown stated, "Dear Judge Middendorf, I am a white 75 yr old renter who has been fortunate to live my whole life in neighborhoods free from pollution and the adverse health effects caused by such pollution. Too many members of our wider community, , especially the BIPOC community, have not been so lucky. It is past time to correct this inequity. I believe the Cumulative Impacts Law passed in 2023 is exactly what is needed. With much needed input from the affected communities and strong evaluations of the adverse impacts of the polluting facilities we can create more just, equitable, and much healthier neighborhoods for all of us. And we will be blessed with healthy strong children- now who doesn?t [sic] wish for that?! Thank you. Tom Brown St Paul, MN"

103. **Sierra Club North Star Chapter (compiled comments, set 1)-037-36**: J Pults stated, "Dear Judge Middendorf, I am a retired person who spends most of my time outdoors. I care deeply about the environment; the air we breathe, climate change, and water quality. MPCA rules, regulations and interpretations must be a stringent and effective as feasible so as to protect our health and indeed our world. J Pults Stillwater, MN"

104. **Sierra Club North Star Chapter (compiled comments, set 1)-037-37**: Jenna Yeakle stated, "Dear Judge Middendorf, I am a public health professional living in Duluth. I also live with asthma. With strong impact analysis, community health protections and engagement processes, the cumulative impacts law can improve lives. Lives like mine. I live less than 3 miles away from polluting industrial facilities, like Minnesota Power's Hibbard biomass burning power plant. I urge the Commission to: - include a clear definition of substantial adverse impacts - model the cumulative impacts analysis after the New Jersey law - ensure clarity with the community benefit agreement process, including being able to opt out and for the Commission to deny a CBA - ensure that public participation processes are thorough and that applying facilities must be required to reach out to local community organizations. Jenna Yeakle Duluth, MN"

105. **Sierra Club North Star Chapter (compiled comments, set 1)-037-38**: Catherine McGinnis stated, "Dear Judge Middendorf, I am a mom and a family doc and have lived in communities with local polluting companies that affect health. It is important to have strong rules without loopholes , and a clear definition of substantial adverse impacts, as well as an obvious process surrounding the CBA.

thank you. Catherine McGinnis Hutchinson, MN”

106. **Sierra Club North Star Chapter (compiled comments, set 1)-037-40**: Niki Grant stated, “Dear Judge Middendorf, Hello, and thank you for your time and consideration. It's important to me as a Minnesotan that ALL Minnesotans are afforded the same access to clean air, water, and earth, and that polluters are held accountable. Please create strong regulations that accomplish this, and do not leave loopholes for corporations to exploit. I believe in your ability to do good, and hope to see it realized. Thank you. Niki Grant South Saint Paul, MN”

107. **Sierra Club North Star Chapter (compiled comments, set 1)-037-42**: Cora Preston stated, “Dear Judge Middendorf, As someone who lives near the St Paul Brass Foundry and is concerned about the cumulative impact of this industry in my environmental justice neighborhood, this is very important to me. Cora Preston Saint Paul, MN”

108. **Sierra Club North Star Chapter (compiled comments, set 1)-037-43**: Cindy Winters stated, “Dear Judge Middendorf, As a retired public health professional that focuses on systems, policy and environmental changes, I am well aware of the health impacts of BIPOC and low income communities. For far too long we have ignored the evidence of the harms done to these individuals and the communities they live in. I fully support strengthening the rules that protect the health and ultimately the livelihoods of the BIPOC and low income communities. Cindy Winters Mankato, MN”

109. **Sierra Club North Star Chapter (compiled comments, set 1)-037-44**: Phoenix Muchowski stated, “Dear Judge Middendorf, As a resident of Minnesota and a lover of the outdoors I urge you to fully apply the Frontline Communities Protection Act so that industries cannot exploit any loopholes. The current draft for the FCPA appears to fall short of the necessary protections, however other states such as New Jersey have passed similar laws without loopholes. If you would consider strengthening the FCPA and closing the loopholes it would be a huge benefit for all residents of Minnesota. Phoenix Muchowski Ramsey, MN”

110. **Sierra Club North Star Chapter (compiled comments, set 1)-037-45**: Cheryl Gerth stated, “Dear Judge Middendorf, As a lifelong Minnesota resident, it is extremely important to me that our MPCA adopt strong and effective rules making sure that BIPOC and lower-income communities receive equal protection from corporations looking for loopholes to cause damage to their immediate environment. It is your job to protect all Minnesotans from dangerous air and water pollution. Cheryl Gerth Coon Rapids, MN”

111. **Sierra Club North Star Chapter (compiled comments, set 1)-037-46**: Kim Zeller stated, “Dear Judge Middendorf, ACCOUNTABILITY IS MEGA-IMPORTANT FOR KEEPING OUR ENVIRONMENT SAFE. IT MAY BE THE DIFFERENCE BETWEEN OUR WORLD SURVIVING OR NOT. Kim Zeller Champlin, MN”

112. **Sierra Club North Star Chapter (compiled comments, set 1)-037-47**: Marcy Leussler stated, “Dear Judge Middendorf, Please create strong, clear rules, without loopholes for industry to exploit. Neighbors need a say to protect their community from pollution by industries. Neighborhood input is essential. Marcy Leussler Minneapolis, MN”

113. **Sierra Club North Star Chapter (compiled comments, set 1)-037-48**: Priscilla Trinh stated, “Dear Judge Middendorf, Karen Clark has been a great champion of these laws. Let's honor her legacy and continue holding industry accountable! I'm writing in to ask you to rigorously apply the Frontline Communities Protection Act so that industry can not exploit loopholes. Thank you for crafting a strong law to protect vulnerable communities across the state. Priscilla Trinh Eden Prairie, MN”

114. **Sierra Club North Star Chapter (compiled comments, set 1)-037-49**: Anne Doyle Smit stated, “Dear Judge Middendorf, I grew up hearing loons calling from a nearby lake, frogs trilling from the

woods, enjoying the blue of wild irises & the crunch of fall leaves underfoot. This inspired a wish to preserve our wild places for future generations. I urge you to create clearcut rules to protect our environment from industry's exploitation. These rules must be explicit enough that industries cannot find loopholes to exploit. Also, the rules need to require clear definition of substantial adverse impacts to the environment, & the analysis of those cumulative impacts should be modeled after the New Jersey law. Thank you for the chance to provide this input. I hope these guidelines will strengthen our environmental rules, protect affected communities, and provide future Minnesotans my experience of clean water, clear air, the blue of wild irises, and the magical calls of loons at night. Anne Doyle Smit Wabasha, MN"

115. **Sierra Club North Star Chapter (compiled comments, set 1)-037-50**: Edward Cohen stated, "Dear Judge Middendorf, Hello, When one group is subjected to environmental hazards, we are all harmed. I -urge MPCA to create strong, clear rules without loopholes for industry to exploit *Please include a clear definition of substantial adverse impacts *Model the cumulative impacts analysis after the New Jersey law *The community benefit agreement (CBA) process needs clear criteria for community members to express if they do not want a CBA, or for the agency Commissioner to deny the proposed CBA. *Public participation must be robust and facilities must be required to reach out to local community organizations Thank you. Edward Cohen Rochester, MN"

116. **Health Professionals for a Healthy Climate-038-01**: Health Professionals for a Healthy Climate stated, "Health Professionals for a Healthy Climate (HPHC) appreciates the opportunity to comment on the proposed cumulative impacts rules. HPHC is a multidisciplinary network of hundreds of health professionals across Minnesota working to protect and improve human health by promoting climate health.

INTRODUCTION

HPHC writes in support of the Cumulative Impacts Law (MN Statutes §116.065) and the need for permitting decisions to consider cumulative pollution impacts in Environmental Justice (EJ) communities. The Minnesota House Select Committee on Racial Justice affirms that "government sanctioned policies and practices have facilitated an unequal playing field and created barriers for BIPOC communities." [MN House Select Committee on Racial Justice. (2020). House select committee on racial justice: Report to the legislature. https://www.house.leg.state.mn.us/comm/docs/AtTtQOzOW0_0kfobUfMQrw.pdf] They note the "Minnesota Paradox," in which white people in our state experience a high quality of life, whereas BIPOC families experience persistent racial disparities. The effective implementation of this law should reduce pollution burden and improve health outcomes in EJ communities and gives EJ communities greater agency in decisions about what goes into their neighborhood.

HPHC's July 2022 report, CLIMATE JUSTICE & PUBLIC HEALTH IN MINNESOTA - Equitable Solutions to the Climate Crisis describes underlying structural inequities that result in a higher burden of environmental and climate impacts borne by BIPOC communities and proposes policy solutions to address these inequities and provide resources needed to mitigate and adapt to climate change.

Per our report: "Institutional racism has resulted in people of color being more likely to live in neighborhoods with concentrated poverty and with gaps in education, employment, generational wealth, housing and health care access. These neighborhoods are known as environmental justice communities. They are also sacrifice communities, because pollution is more likely to be situated in these communities, including hazardous waste landfills, petrochemical plants, industrial facilities, waste incinerators, fossil fuel infrastructure, and high traffic roads and highways."

Our report identified several policy goals to address underlying conditions that would result in

better health outcomes for EJ communities. Among our recommendations was to: "Reduce the environmental pollution burden in MPCA-identified EJ areas of concern and assure that all communities have access to clean air, soil, and water by cleaning up current pollution sources and considering cumulative impacts in siting and permitting of new industrial facilities." HPHC helped to pass the 2023 Cumulative Impacts (CI) Law to fulfill this policy goal with respect to air pollutants.

The CI Law and MPCA's Statement of Need and Reasonableness (SONAR) support the need for consideration of CI in air permitting decisions. MPCA notes that the percentage of people who live with air pollution above risk guidelines on a statewide basis is 36%, while 78% of people of color and Indigenous people live in areas that exceed the risk guidelines. MPHA and MDH's Life and Breath Reports document the impact of living with air pollution on health, including more premature deaths, hospitalizations, and emergency room visits in the Twin Cities, Duluth and Rochester. The SONAR notes that these adverse health outcomes were higher in EJ areas, where people "… are historically and statistically exposed to more pollution and/or multiple kinds of pollution." The Minnesota Department of Health has identified significant health disparities between people of color and white people in infant and maternal mortality, heart disease, cancer, asthma, diabetes and other illnesses. We agree with MPCA that air pollution contributes to Minnesota's significant health disparities, and that improving air quality is important in reducing health inequities."

117. **Health Professionals for a Healthy Climate-038-20**: Health Professionals for a Healthy Climate stated, "HPHC appreciates the opportunity to submit comments and recommendations in support of the effective implementation of Minnesota's groundbreaking cumulative impacts law and its anticipated contribution to social and health equity."

118. **Sierra Club North Star Chapter-039-01**: The Sierra Club North Star Chapter stated, "We are writing on behalf of the Sierra Club North Star Chapter, representing over 50,000 members and supporters in Minnesota, to comment on the Cumulative Impacts draft rules.

The Sierra Club supported the passage of the law in 2023, which was led by impacted community residents and organizations. Our members and volunteer leaders have been engaging in the rule making process. The successful implementation of the new law will be an important step forward for environmental justice and we appreciate the consideration that has gone into the draft rules. We would like to see them strengthened in areas including:

- Definition of "substantial adverse impacts" needs to be objective and should be clarified.
- The cumulative impacts analysis approach should be modeled more closely on the New Jersey Cumulative Impacts rules, which are more comprehensive and understandable.
- Communities need clear criteria to be able to express if they do not want a Community Benefits Agreement (CBA), or under what circumstances the agency Commissioner should deny a proposed CBA. Communities need a framework for negotiation with a facility owner or operator.
- Facilities must be required to reach out to local community organizations and ensure that public participation in the process is robust."

119. **Biewen-043-01**: Todd Biewen stated, "I am writing in support of the MPCA's draft Cumulative Impacts Analysis Rule. After reviewing the draft rule language and the Statement of Need and Reasonableness, these observations summarize my support of this proposed new rule."

120. **Biewen-043-02**: Todd Biewen stated, "1) MPCA has statutory authority for environmental regulations in Minnesota. 2) The Minnesota legislature has directed MPCA to complete this rulemaking. 3) The legislature gave MPCA this direction because it recognizes Minnesota's air program is deficient in its treatment of air toxics and harmful pollutants in metro communities."

121. **Biewen-043-04**: Todd Biewen stated, “6) The rules as drafted are reasonable. 7) The MPCA has studied cumulative impacts rules and regulations in other states, and has incorporated already established features of these rules into Minnesota's proposed rules.”

122. **Frontline Communities Protection Coalition (compiled comments)-045-02**: Mike Maleska stated, “Greetings, My name is Mike Maleska (he/him), civic activist, retired taconite miner, and former United Steelworkers Local Union 6860 President.

Aside from the fugitive silica dust emissions in the taconite processing plants and wind-blown tailings reservoirs, northeastern Minnesota has 70 years' worth of airborne mercury gases blowing from the grate/kiln smokestacks at all 7 (soon 8) processing facilities.

Since retiring, I have done water sampling in this region, with my sample info becoming part of the MPCA database. The former LTV taconite plant near Babbitt continues to pollute the BWCA via the Kawishiwi River and the WICOLA (White Iron Chain of Lakes) after being idled 25 years ago. Pit sumps from all mines deliver literally tons of sulfates and mercury directly into the public waterways of all three watersheds here annually. The Keetac (USS) taconite plant near my home polluted Hay Creek until the wild rice in Hay Lake has all but perished. That pollution continues to the Mississippi River and the Gulf of Mexico. The United Taconite Fairlane tailings reservoir near Forbes has leaked sulfates and mercury into the St. Louis River and thus the Fond du Lac Band Reservation since about 1965.

The addition of cumulative impacts consideration would fortify science-based decision-making with respect to enforcement of existing environmental regulations that have favored polluters for several decades. I'm not fond of the requirement that all 100 petitioners must live in an affected area (38.10–.13). Those areas commonly include economically challenged people. Response mandates found at 55.14 would ensure public confidence in the process. Sections 63.7–.9 would bring much-needed facts to the public. Reinstate the MPCA Citizens Board as it was when first implemented.

I stand in favor of the recommendations. The daily dose of mercury for human consumption is zero. Please consider that fugitive mercury in NE Minnesota from the short smokestacks at all of the taconite processing facilities has never been regulated. Neither has the sulfate and mercury pumped out of the mine pits 24/7/365 for 70 years. Monitoring only has handcuffed regulation and enforcement.”

123. **Frontline Communities Protection Coalition (compiled comments)-045-15**: Dr. Joanne Hill stated, “I support the MPCA’s proposed Cumulative Impacts Rule because it acknowledges what Environmental Justice communities have experienced for generations. However, I respectfully urge the Administrative Law Judge and the MPCA to strengthen the rule by requiring that cumulative health impacts carry significant weight in permit decisions—not simply be documented.”

124. **Frontline Communities Protection Coalition (compiled comments)-045-36**: April Graves stated, “I support the intent of the cumulative impacts law, but the proposed rules must be strengthened if they are to fulfill the promise of environmental justice.”

125. **Frontline Communities Protection Coalition (compiled comments)-045-40**: April Graves stated, “Throughout my career in public health, I have seen that prevention is far more effective than responding after harm has occurred. We cannot improve health equity if we continue permitting additional pollution in communities already carrying disproportionate environmental burdens. The cumulative impacts law is an important opportunity to change that trajectory, but only if the rules are clear, evidence-based, and centered on the lived experiences of impacted communities. I urge the MPCA to strengthen these rules by requiring meaningful cumulative impacts analyses, establishing objective standards for decision-making, and ensuring that community voices have real

influence over decisions that affect their health, environment, and future."

126. **Frontline Communities Protection Coalition (compiled comments)-045-41**: Kathleen Raynier stated, "I'm a 77-year-old woman living in Seward, which I regard as a relatively privileged neighborhood. I'm in pretty good health. Is there anyone in the state of Minnesota who cannot clearly see the effects of particulate air pollution?

Yesterday and today, we have been staying inside our homes because of the poor air quality. I am retired, but many others must go outside to work, putting their health at risk. Given this reality, there is no reason not to adopt the strongest possible cumulative impacts rules and eliminate HERC's harmful pollution as soon as possible. This is your job, and I believe it is mine to remind you to accomplish it."

127. **Frontline Communities Protection Coalition (compiled comments)-045-42**: Kate Wolford stated, "Greetings, My name is Kate Wolford, and I have lived and worked in Minnesota for 20 years. I chose to stay here after retirement because I deeply value the state's strong civic culture, diverse and vibrant communities, and its open spaces, parks, and natural environment.

Unfortunately, some communities in our state experience disproportionate levels of pollution and its negative impacts on health and quality of life."

128. **Frontline Communities Protection Coalition (compiled comments)-045-46**: Diane Dobitz stated, "I urge the MPCA to listen closely to the people and communities most affected by industrial pollution. Their lived experiences should guide your decisions. Please reject rules or proposals that would weaken protections, increase exposure, or place children at greater risk. Health is wealth, and the well-being of Minnesotans—especially our youngest residents—must be the priority.

Thank you for your service and for the responsibility you carry. I hope you choose a path that protects the bodies, minds, and futures of all who call Minnesota home.

With respect, Diane Dobitz"

129. **Frontline Communities Protection Coalition (compiled comments)-045-54**: Katy Wortel stated, "I am a senior Minnesota resident who cares deeply about the health and well-being of vulnerable Minnesotans and future generations of Minnesotans. I worked on issues related to garbage incinerators and incinerator ash facilities during the 1990s. I am concerned that the proposed environmental rules are not strong enough to protect these populations. As you consider the cumulative impacts rules, I urge you to evaluate all of the environmental impacts within the affected area of any facility under review."

130. **Frontline Communities Protection Coalition (compiled comments)-045-58**: Gaye Guyton stated, "Hello, I am a retired teacher and the mother of three who lives in Minnetonka. I care deeply about the health and well-being of all Minnesotans—our air, our water, and our climate—and I support strong environmental regulations to safeguard everyone's right to live a healthy life.

In the past, some of our state's communities have been overlooked as certain industries have moved in and caused environmental harm. That is why I was encouraged to hear about the 2023 Cumulative Impacts Law. Finally, Minnesotans living in environmental justice communities across the metro area would benefit from stronger pollution regulations.

However, I am concerned that the proposed cumulative impacts rules do not go far enough—or are not specific enough—to protect the air, water, climate, and public health of those already living with high concentrations of pollution. For example, when permits are reissued to existing facilities, they should be required to meet the same standards as new facilities. The rules should also better define

what "substantial adverse impact" means. Will public health risks be considered alongside environmental impacts? There should also be a meaningful way for communities to participate in Community Benefit Agreements so that those agreements accurately reflect the understanding between communities and facility owners.

Strengthening the rules with clearer definitions, stronger criteria, and measurable benchmarks will increase transparency, reduce uncertainty, and help avoid unnecessary conflict and legal costs over time.

Every day, I am grateful to live in Minnesota, where we value our beautiful lakes, rivers, forests, and our neighbors—no matter where they live. It would be wonderful if the protections established by the 2023 law could eventually be expanded statewide.

The 2023 Cumulative Impacts Law is an important step toward advancing environmental justice for everyone. However, I join others in urging you to strengthen these rules by adding more robust analysis, clearer criteria, and stronger benchmarks."

131. **Frontline Communities Protection Coalition (compiled comments)-045-87**: Tom Glaser stated, "Please maintain strong regulatory protections for environmental justice communities in the final rules."

132. **Frontline Communities Protection Coalition (compiled comments)-045-88**: Eric W Larson stated, "I am a retired physician and a long-time resident of Edina with a strong interest in maintaining a healthy environment. This is even more important to me now that I am a grandfather. I want us all to preserve and improve our environment for future generations. To my knowledge, my community is not an environmental justice (EJ) area, but I am speaking in support of protecting the many communities across Minnesota that experience disproportionate pollution burdens and the resulting health impacts. I am concerned about both health and safety."

133. **Frontline Communities Protection Coalition (compiled comments)-045-101**: Janiece Watts stated, "As an environmental justice advocate, I have engaged with this law and rulemaking process in several ways, and I am deeply invested in ensuring these rules are understood and used to their fullest extent to bring accountability and meaningful action for Environmental Justice communities."

134. **Frontline Communities Protection Coalition (compiled comments)-045-113**: Antonia Adan stated, "To the Minnesota Pollution Control Agency (MPCA), My name is Antonia, and I live in the Erickson neighborhood of South Minneapolis, which is considered an Environmental Justice (EJ) area in the Twin Cities. It is extremely important that we uplift and invest in the MPCA's Cumulative Impacts rulemaking process to ensure that we are creating safe and healthy communities for our families."

135. **Frontline Communities Protection Coalition (compiled comments)-045-124**: Chelsey Blanke stated, "Please ensure that this law truly protects my neighbors and the communities most impacted by pollution. Thank you, Chelsey"

136. **Frontline Communities Protection Coalition (compiled comments)-045-127**: Melissa Zimerman stated, "My name is Melissa Zimmerman, and I am an Owatonna resident who has spent the past several years participating in environmental review processes, public advocacy, and community engagement around major infrastructure projects. I appreciate the effort the MPCA has made to incorporate meaningful community participation throughout the cumulative impacts process. Requiring public participation plans, multiple public meetings, advance notice, opportunities for public comment, and discussions around Community Benefit Agreements are all important steps in the right direction."

137. **Frontline Communities Protection Coalition (compiled comments)-045-133**: The Owatonna East Side Corridor Residents stated, "Independent Preparation of the Cumulative Impacts Analysis:

Owatonna East Side Corridor (ESC) Residents is a community organization representing residents affected by the proposed East Side Corridor project in Owatonna, Minnesota. We advocate for transparent government, meaningful public participation, and informed environmental decision-making.

We appreciate that the proposed rules require a cumulative impacts (CI) analysis for certain facilities. However, because a Project Proposer has a financial interest in obtaining a permit, responsibility for preparing the cumulative impacts analysis should not rest solely with the applicant."

138. **Frontline Communities Protection Coalition (compiled comments)-045-136**: The Owatonna East Side Corridor Residents stated, "2. Triggering a Cumulative Impacts Analysis:

For nearly four years, our community has participated in the environmental review process for a development-driven transportation project. Throughout that process, we repeatedly raised concerns about the cumulative impacts of the proposed roadway and the future growth and development it is intended to support. Despite credible evidence of potential long-term environmental and public health impacts, a cumulative impacts (CI) analysis was not required because the project did not meet the proposed triggering criteria.

We support requiring CI analyses for new permits, major expansions, facilities with recent enforcement actions, and projects supported by credible community petitions. However, we believe the proposed rules should be strengthened to ensure that communities experiencing cumulative impacts today are not left without meaningful protections."

139. **Frontline Communities Protection Coalition (compiled comments)-045-179**: Kathy Stuebner stated, "This is Kathy Stuebner, resident of Plymouth, she/her pronouns. I have been involved with my church in working towards shutting down the HERC. I applaud the rules in general as a huge step in the right direction. Too many impacts have been allowed affecting the north side of Minneapolis."

140. **Frontline Communities Protection Coalition (compiled comments)-045-191**: Janet Court stated, "I'm 86 years old, I have lived my whole life in the twin cities area, the last 45 years in Minneapolis. I developed asthma when I lived in Philips and Elliot Park neighborhoods. I currently live in Powderhorn. I have lived in neighborhoods experiencing high levels of pollution much of my life. This is also true of my children and grandchildren. My youngest son has COPD. Pollutants from traffic, businesses and industry combine to cause chronic illness year after year the illnesses get worse. Unfortunately our current federal government seems to be favoring our early death. We are begging you to create as strong as possible regulations to protect people especially in low income communities. Also please prioritize listening to these communities. They understand what it is like for them and the illnesses they have been diagnosed with better than any outsider. Thank you for your efforts, I know staff at the MPCA have been working on this issue for many years. I have talked with many compassionate concerned staff over the last several years. We are counting on you."

141. **Frontline Communities Protection Coalition (compiled comments)-045-195**: Anne Englert stated, "I appreciate that these draft rules require a great deal of information in the initial assessment as well as the cumulative impacts analysis, which will provide a more thorough understanding of how polluting facilities negatively affect their surrounding communities. Hopefully they will result in better, more just decisions about where those facilities are built, how they are permitted to operate, and whether they need to be decommissioned. Thank you very much for inviting and reading my comments."

142. **Frontline Communities Protection Coalition (compiled comments)-045-202**: Christie Manning stated, “In closing, the Frontline Communities Protection Act is meant to protect Minnesotans who have long borne the first and worst of industrial pollution. Of course the law is only as strong as the rules that implement it. Please change the proposed rules to give communities a better shot at protection from pollution by allowing the law to apply to currently existing facilities, creating clear and objective guidelines, and reducing the burden on communities in the petition process. Let's do the right thing and give all Minnesota communities - like the families in the Southport neighborhood of Saint Paul - a chance to live without pollution.”

143. **Sierra Club North Star Chapter (compiled comments, set 2)-047-01**: Stuart Knappmiller stated, “We live in St Paul. We have a heat pump and an air purifier for our inside air. My children have had asthma attacks and it is so scary. I'm writing to ask you to rigorously apply the Frontline Communities Protection Act so that industry can not exploit loopholes. Thank you for crafting a strong law to protect all who breathe air across our state.”

144. **Sierra Club North Star Chapter (compiled comments, set 2)-047-04**: Bryan Wyberg stated, “I believe it is important to consider the sum total of the resulting impacts whenever the MPCA is tasked with writing rules to control pollution. It is simply logical for the MPCA to consider the reality of what those impacted by a proposal will experience. Wouldn't it be silly to consider each source of pollution on its own without consideration of the resulting combination of multiple pollution sources affecting an area and the population. It is time to put people at the center of the rulemaking process. If the cumulative impact is highly negative for a given population, it is not fair to ignore the cumulative effects. So it seems clear to me that we need to take a modern, scientifically defensible and simply logical approach to first writing a proposed rule. Look at the big picture. Make sure to analyze the reality the affected population will live. It is also important that the new rules be very clear and free of loopholes industry can hide in.”

145. **Sierra Club North Star Chapter (compiled comments, set 2)-047-05**: Susan Dragsten stated, “I am almost 80 and have seen drastic changes in our environment since I was a child. The number of bugs and consequently birds have dropped and I firmly believe environmental pollution is a main cause. In addition, poor communities and inner city residents have shouldered much of the fallout from polluting factories and facilities in their midst. One factory may not be that much of a problem but when numerous polluting industries are located in near proximity to each other, the cummulative [sic] effects can be devastating. For these and many other reasons I am urging the MPCA to create strong rules without loopholes that industry can not dodge.”

146. **Minnesota Hospital Association-051-12**: the Minnesota Hospital Association stated, “MHA supports the Legislature's goal of ensuring meaningful environmental justice review and community engagement. At the same time, the final rule must recognize the critical public health role hospitals play and avoid creating unintended barriers to projects necessary to maintain safe, reliable, and resilient healthcare services.

Thank you for your consideration of these comments. MHA looks forward to continuing to work with MPCA to develop an approach that advances environmental justice objectives while preserving hospitals' ability to provide uninterrupted care to Minnesota patients and communities.”

147. **Minnesota Hospital Association-051-23**: The Minnesota Hospital Association stated, “**Conclusion**

MHA respectfully requests that MPCA incorporate these amendments into the final rule. Together, these revisions would preserve meaningful environmental justice protections while providing hospitals with greater regulatory certainty and ensuring that critical healthcare infrastructure

projects necessary to protect patients and communities can proceed in a timely manner. The recommended amendments are fully consistent with the Legislature's environmental justice objectives and appropriately recognize the unique public health mission that Minnesota hospitals fulfill every day."

148. **Prairie Island Indian Community-052-01**: Prairie Island Indian Community stated, "The Prairie Island Indian Community ("Community") Tribal members are Mdewakanton, which means born of the water. As Dakota Oyate (people), we also are caretakers of our history and sacred lands. To fulfill our responsibilities to Ina Maka (Mother Earth), we all must come together to protect Mni Sota - the land where the water reflects the skies.

The Community submits the following comments on Minnesota Pollution Control Agency's ("MPCA") proposed changes to Minnesota Rules chapter 4007 for the permitting requirements of facilities within Environmental Justice ("EJ") areas. We graciously thank MPCA for their continued dedication toward protecting our shared lands and wish to identify some existing concerns to further those efforts."

149. **Prairie Island Indian Community-052-12**: Prairie Island Indian Community stated, "Air quality is an environmental justice issue where measurable and immediate improvements are achievable. This rule presents a critical opportunity to protect the health of the Community by ensuring that cumulative impacts are not only assessed but actively reduced. The Community urges MPCA to adopt permanent rules that provide clear, enforceable protection for overburdened communities and prevents further environmental harm.

The Community sincerely thanks the MPCA for the opportunity to comment on the proposed permanent rules relating to cumulative impacts analysis of permitting in Environmental Justice areas and your willingness to hear our concerns."

150. **Mayo Clinic-053-01**: Mayo Clinic stated, "Thank you for the opportunity to provide comments on the proposed Cumulative Impacts Rule, as proposed on May 18, 2026, in response to Minn. Stat. 116.065. Mayo Clinic appreciates the extensive engagement the Minnesota Pollution Control Agency (MPCA) has undertaken throughout this rulemaking process and recognizes the important goals underlying this effort.

For more than 150 years, Mayo Clinic has been committed to putting the needs of the patient first. As the world's largest integrated nonprofit medical group practice, Mayo Clinic provides care to approximately 1.3 million patients each year, including many with the most serious and complex medical conditions. We recognize that environmental quality is an important determinant of health and share the goal of improving health outcomes and reducing environmental burdens experienced by communities across Minnesota. Caring for patients from across the state, including those who travel to our Rochester campus, reinforces our understanding that healthy communities and healthy people are fundamentally connected.

We view ourselves as collaborative partners and responsible stewards for the communities we serve. We are committed to working with the MPCA, community and local government stakeholders, and other partners to ensure that implementation of this rule advances environmental justice while supporting continued access to essential healthcare services.

We support the goals of the proposed rule but respectfully request greater clarity regarding the scope and required elements of a cumulative impacts assessment, including the methodologies, documentation, and evidentiary standards that will be expected of permit applicants. As currently drafted, the proposed rule leaves uncertainty regarding how these assessments will be conducted and evaluated. Additional specificity would promote consistent implementation, improve

transparency for applicants and communities alike, and provide greater predictability throughout the permitting process."

151. **Metropolitan Airports Commission-055-01**: Metropolitan Airports Commission stated, "The Metropolitan Airports Commission (MAC) appreciates the opportunity to submit comments regarding the Minnesota Pollution Control Agency's (MPCA) proposed Cumulative Impacts Analysis (CIA) rules, published on May 18, 2026 ("the Proposed Rules" or "the Rules"). The MAC submits these comments with appreciation for all the thoughtful work the MPCA has put into the rule promulgation process. In providing these comments, our intent is to help improve the final rules in a way that balances the laudable goal of mitigating historically disproportionate environmental impacts with reasonable requirements for businesses that provide critical economic growth and stability to our area.

    The MAC is the owner and operator of the Minneapolis-St. Paul International Airport ("MSP"), as well as a system of six general aviation airports in the Twin Cities metropolitan area. At the MAC, we take pride in operating the airports under our jurisdiction in an efficient, fiscally responsible, safe and secure manner, while maintaining a strong commitment to stakeholder and community relations. Thus, we have every incentive to maintain and develop facilities and property in a way that takes into careful consideration federal, state and local requirements and minimizes, to the greatest extent possible, the impact on communities, the environment and stakeholders who operate at our facilities."

152. **Reuvers-057-03**: Lynn Reuvers stated, "Minnesota Pollution Control Agency – what a wonderfully important job you have. Please take our air cleanliness very seriously and prioritize it above industrial clout. And please remember you represent everybody, but especially those less able to advocate for themselves. Of course we need all kinds of new facilities – just make sure we have clear guidelines to analyze environmental stressors and their impacts. Require responsibility too. Clean air for everyone."

153. **Bisht-059-04**: Richa Bisht stated, "I am grateful for the opportunity to share my thoughts with you. I appreciate the work you are doing to keep us all healthy, and am hopeful that our recommendations will be heard by you!"

MPCA RESPONSE

154. The MPCA appreciates the statements of support for the proposed rule.

Support for comments provided by other commenters

155. The MPCA received 35 comments expressing support for comments submitted by people/groups other than the commenter. Commenters expressed support for comments submitted by others as identified and responded to below.

156. **Amanda-004-04:** Amanda stated, "I want my family to be able to walk outside and have peace. I want my students to be able to grow and enjoy a green future. I support the Front-Line Communities Protection Coalition's public comments, which has recommendations and data."

157. **Peña-007-03:** Eva Peña stated, "Additionally, I would like to share that I fully support public comments. Please listen to my fellow community members who write comments and consider us."

158. **Johnson-008-02:** Jan Johnson stated, "In addition to these points, I want to express my full support for the public comments and technical amendments submitted by the Frontline Community Protection Coalition. Thanks for the opportunity to have my say."

159. **Jesus-009-02:** Jesus stated, "In addition to these points, I want to express support for the

Frontline Communities Protection Coalition's public comments, which include additional recommendations and data."

160. **Guallpa-010-02:** Jody Guallpa stated, "I'd also like to express my support for the Frontline Communities Protection Coalition's public comments. I hope to hear from you!"

161. **West-011-03:** Margaret West stated, "I want to express support for the Frontline Communities Protection Coalition."

162. **Sam-012-02:** Sam stated, "I want to express my full support for the public comments and technical amendments sent by the FCPC. Which includes more data-driven recommendations to strengthen these rules. Thank you for the opportunity to provide feedback. I hope you take our community voices with the utmost seriousness."

163. **Skye-013-03:** Skye stated, "In addition to the points I articulated, I want to convey my full support for public comments and recommendations made by the Frontline Communities Protection Coalition and our communities as a whole. Thank you for the opportunity to provide feedback. I hope you take into heart our community's voices."

164. **Burns-018-03:** Charity Burns stated, "In addition to these points above, I want to express support for the Frontline Communities Protection Coalition's public comments, which include additional recommendations and data."

165. **Hankerson-019-09:** Stephanie Hankerson stated, "Thank you for considering these comments. I also support the public comments submitted by the Frontline Communities Protection Coalition, which include additional recommendations and supporting data that would further strengthen the proposed rule."

166. **Gormen-021-02**: Ben Gormen stated, "We support the work of the Frontline Communities Protection Coalition in representing the voices of our communities in this issue. We look forward to seeing how this work can be improved for a healthier, more sustainable Minnesota!"

167. **Kelly-022-02**: Camry Kelly stated, "We support the work of the Frontline Communities Protection Coalition in representing the voices of our communities in this issue. We look forward to seeing how this work can be improved for a healthier, more sustainable Minnesota!"

168. **Coming Clean Network-024-14**: The Coming Clean Network stated, "Thank you for reviewing and considering the improvements we outlined above. Please take the voices of the community seriously and take the necessary steps to safeguard their health."

169. **Dunlevy-026-04**: Leah Dunleavy stated, "Finally, I want to express my full support for the public comments and technical amendments submitted by the Frontline Communities Protection Coalition, which include additional data-driven recommendations to strengthen these rules."

170. **Norrgard-029-05**: Jeanne Norrgard stated, "Thank you again for the opportunity to provide input on this important topic. Besides my public comments, I fully support the Frontline Communities Protection Coalition's public comments, data and recommendations."

171. **Minnesota Environmental Justice Table-031-11**: Minnesota Environmental Justice Table stated, "In addition to these points, we want to express support for the Frontline Communities Protection Coalition's public comments, which include additional recommendations and data. Thank you for holding this public comment process, and we look forward to following developments in this rulemaking."

172. **Minnesota Center for Environmental Advocacy-032-01**: The Minnesota Center for Environmental Advocacy stated, "Minnesota Center for Environmental Advocacy (MCEA) uses law

and science to protect Minnesota's environment, natural resources, and the health of its people. MCEA is part of the Frontlines Community Protection Coalition (FCP Coalition) and supports and incorporates the full comment submitted today by the FCP Coalition."

173. **Sierra Club North Star Chapter-039-02**: The Sierra Club North Star Chapter stated, "For further detailed recommendations, please refer to the joint comments submitted by the Frontline Communities Protection Coalition which we endorse and strongly support."

174. **Frontline Communities Protection Coalition (compiled comments)-045-01**: The Frontline Communities Protection Coalition stated, "This submission is a collection of individual public comments from community members who took the time and effort to learn about Minnesota's Cumulative Impacts Law and share their perspectives through the Frontline Communities Protection Coalition's comment form.

Each comment included in this submission was individually written by the commenter and reflects their own personal experiences, concerns, and hopes for the future of their communities. These comments represent the time, care, and dedication of Minnesotans who believe deeply in protecting public health, advancing environmental justice, and ensuring that communities most impacted by pollution have their voices heard.

We respectfully ask that each comment be reviewed with the utmost care and consideration. Behind every submission is a person, a family, and a community member who took the time to participate in this important rulemaking process because they care about the future of Minnesota and the health and well-being of generations to come.

Together, these comments demonstrate the collective commitment, experiences, and values of community members across the state who are invested in creating strong Cumulative Impacts rules that meaningfully protect Minnesotans.

Thank you for your time, consideration, and for the opportunity to submit these community voices as part of this important process. On behalf of the Frontline Communities Protection Coalition and the communities we represent, we appreciate your careful review and consideration of these comments."

175. **Frontline Communities Protection Coalition (compiled comments)-045-25**: Natasha Villanueva stated, "In addition to these points, I support the Frontline Communities Protection Coalition's public comments, which include additional recommendations and supporting data."

176. **Frontline Communities Protection Coalition (compiled comments)-045-98**: Beth Daniels stated, "I am writing because I am deeply concerned about the impacts of pollution on the lives and health of our community members. I support the public comments and technical amendments submitted by the Frontline Communities Protection Coalition, including their data-driven recommendations to strengthen these rules. I appreciate the opportunity to provide feedback. This is what makes Minnesota work!"

177. **Frontline Communities Protection Coalition (compiled comments)-045-102**: Beth Daniels stated, "I fully support the work of FCPC and amplify their comments here. Thank you for reading and considering my comments with sincerity and seriousness."

178. **Frontline Communities Protection Coalition (compiled comments)-045-105**: Julie Bode stated, "In addition to these concerns, I want to express my full support for the public comments and technical amendments submitted by the Frontline Communities Protection Coalition. Their recommendations include additional data-driven approaches to strengthen these rules, and I encourage the MPCA to carefully consider them as part of the final rulemaking process. Thank you

for your time, consideration, and commitment to protecting Minnesota communities."

179. **Frontline Communities Protection Coalition (compiled comments)-045-108**: Jo Holub stated, "In addition to these points, I support the Frontline Communities Protection Coalition's public comments, which include additional recommendations and data to strengthen these rules. Thank you for the opportunity to provide feedback. I appreciate the seriousness and attentiveness given to listening to our communities' voices."

180. **Frontline Communities Protection Coalition (compiled comments)-045-111**: Alex Brundieck stated, "I appreciate all the work the MPCA does for Minnesotans, and I also want to express my support for the Frontline Communities Protection Coalition's public comments. Thank you for taking the time to listen to community voices."

181. **Frontline Communities Protection Coalition (compiled comments)-045-116**: Antonia Adan stated, "In conclusion, I want to express my full support for the public comments and technical amendments submitted by the Frontline Communities Protection Coalition, which include additional data-driven recommendations to strengthen these rules. Thank you for your time and consideration. We hope that community voices are deeply valued and meaningfully considered as decisions are made that directly impact our quality of life here in Minnesota."

182. **Frontline Communities Protection Coalition (compiled comments)-045-119**: Hannah Resendiz Olson stated, "As a member of Health Professionals for a Healthy Climate, I also express my support for the comments and amendments submitted by the Frontline Communities Protection Coalition. Thank you for the opportunity to provide feedback. I hope you take our voices with the seriousness and consideration they deserve."

183. **Health Professionals for a Healthy Climate (compiled comments)-046-01**: Health Professionals for a Healthy Climate stated, "In addition to our organizational letter and the collaborative Frontline Communities Protection Coalition letter, Health Professionals for a Healthy Climate submits 13 personalized comments from some of our members, below.

    To make it easier for you to view new information shared in each comment, we have italicized the personalized portions of their comments and have used standard text for the portions that came from our guiding template, which summarized some of the recommendations submitted in our existing comments.

    Thank you so much for the opportunity to submit these comments."

184. **Health Professionals for a Healthy Climate (compiled comments)-046-02**: Sheila Weigman stated, "As an environmental engineer and health practitioner, I find a definite need to allow more openness and flexibility in the ability of a community to accept or reject Community Benefits Agreements. An unfair CBA could saddle a community with years of objectionable impacts. Situations where the Commissioner must deny a permit must be defined and mandated.

    There are many situations we have seen when communities continued to live with the impacts of permitted industries and facilities polluting for years with no or little acknowledgment of the many years of air emissions that affect their health and welfare, such as Northern Iron, and we want Cumulative Impact Analysis required in these cases. The case of Northern Iron continues to be a major concern.

    I hope you consider the recommendations submitted in the comments by Health Professionals for a Healthy Climate and the Frontline Communities Protection Coalition.

185. **Health Professionals for a Healthy Climate (compiled comments)-046-04**: Hannah Resendiz

Olson stated, “I hope you consider the recommendations submitted in the comments by Health Professionals for a Healthy Climate and the Frontline Communities Protection Coalition.”

186. **Health Professionals for a Healthy Climate (compiled comments)-046-46**: Ava Corey-Gruenes stated, “*I want to support the comments written by Health Professionals for a Healthy Climate and the Frontline Communities Protection Coalition, and provide my perspective on the issue of Community Benefit Agreements, which is informed by my decade of engagement in environmental justice advocacy, BA and MA in Gender and Women’s Studies, and experience working in reproductive justice before transitioning to full-time work at the intersection of environmental and public health.*”

187. **Ohse-050-04**: Madonna Ohse stated, “In addition to these points, I want to express my full support for the public comments and technical amendments submitted by the Frontline Communities Protection Coalition, which include additional data-driven recommendations to strengthen these rules. Thank you for the opportunity to provide feedback. I hope you take our community's voices with the utmost consideration.”

188. **Mayo Clinic-053-03**: Mayo Clinic stated, “Additionally, we would ask that the MPCA consider the feedback provided by the Minnesota Hospital Association regarding the unique role hospitals play in operating life-saving equipment. Hospitals are regulated by the state and federal governments to maintain this critical infrastructure, and so recognition of this is appreciated. This equipment is used, maintained, and updated to meet the needs of patients who come to us for care.

We appreciate the thoughtful work that has gone into developing this proposed rule and remain committed to engaging constructively throughout the rulemaking process. We believe that clear, predictable, and well-defined implementation standards will strengthen the rule, improve its effectiveness, and better serve both Minnesota communities and organizations providing essential public services.

Thank you for your consideration of these comments. We look forward to continuing to work collaboratively with the MPCA and other stakeholders as this important rulemaking moves forward.”

189. **Ramsey County District 6-056-10**: Commissioner Xiong stated, “In addition to these points, I want to express my support for the Frontline Communities Protection Coalition’s public comments, led and organized by Comunidades Organizando el Poder y la Acción Latina (COPAL) and the Minnesota Environmental Justice Table, which include additional recommendations and data.

Thank you for considering my comments and for strengthening these rules so that Minnesota’s environmental justice communities have genuine power, meaningful protection, and enforceable benefits.”

190. **Ivan-058-03**: Ivan stated, “All in all, I’d love to see my future health held as important by many people who have say in the building around me. I would additionally like to support the comment of the frontline communities protection coalition. Thank you for this opportunity.”

MPCA RESPONSE

191. The MPCA notes the commenters’ statements of support for comments provided by other individuals and organizations. The MPCA acknowledges and appreciates the efforts of other individuals and organizations who engaged in the rulemaking process and encouraged/enabled others to participate as well.

General pollution impacts

192. The MPCA received 98 comments that expressed general concern toward the pollution impacts

within designated environmental justice areas. Commenters expressed the desire to live in healthy communities, free of pollution and the impact of large pollutant industries.

193. **Hamline Midway Coalition-003-02:** The Hamline Midway Coalition stated, "Hamline Midway Coalition (HMC) represents district 11 of Saint Paul and is home to a vibrant, diverse community located in the heart of Saint Paul. We occupy a unique geographic context in which we are surrounded on all sides by major highways, industry, and railways and thus are no stranger to cumulative impacts: our communities experience disproportionately high levels of air pollution and poor air quality scores that contribute to negative health impacts such as high rates of asthma emergency department visits and exacerbate existing social and health inequities."

194. **Amanda-004-01:** Amanda stated, "My name is Amanda, and I live in a designated Environmental Justice area in Minneapolis. I am invested in MPCA's Cumulative Impacts rulemaking because the health of thousands and millions of people, my family, my neighbors, my community are impacted and with different diseases that already make it hard to live in our society, adding an [exuberant] amount of pollution to our air is NOT OKAY! It kills and with my asthma that was triggered by pollution, it makes it hard to live a good quality of life."

195. **Karlgaard-005-01:** Ben Karlgaard stated, "My name is Ben, and I live in an Environmental Justice area in Duluth. I am writing this comment about the MPCA's Cumulative Impacts rulemaking because air pollution is really important to me and my neighbors. I live not very far from I-35, and I can smell pollutants from the highway often, particularly on hot and high-traffic days. I love this neighborhood because it is affordable, and I want to stay because I love my community and neighbors."

196. **Rodriguez-006-01:** Denise Rodriguez stated, "My name is Denise Rodriguez, and I currently live in Minneapolis, Minnesota. Every day, as someone who is environmentally conscious, I try to help protect the environment through my daily choices. I avoid unnecessary consumption, recycle, and reuse items because I see what is happening to my planet—our planet. However, everything I do does not feel like enough. It is only one small grain of sand in an entire ocean. It is frustrating to see dark skies and notice unpleasant odors. I wonder what we are leaving behind for future generations and what conditions will be like in one decade or 5 decades. What I do may not seem like much. Meaningful change will happen when factories make truly serious changes. I wonder how many factories actually follow all the rules and requirements for operating. How many truly consider all the harm they cause, not only to their communities but also to the world? How many of us stop to think about the kind of world we are living in and everything we breathe each day? And, remember, what you can do may not seem like much, but it matters."

197. **Peña-007-01:** Eva Peña stated, "My name is Eva Peña, and I live in the city of Mounds View. My family lives in the neighboring city of New Brighton. Both of those cities are designated Environmental Justice (EJ) areas. Currently, my home sits next to a highway and so does my grandma's. I have recognized many invisible impacts of this. One of those being poor air quality. Last summer, the air quality was so poor that I was experiencing frequent migraines. I am not a person that regularly gets migraines, so this was especially alarming. Additionally, I have many family members including my partner that have asthma. Therefore, I worry about how poor air quality may impact them."

198. **Jesus-009-01:** Jesus stated, "My name is Jesus, and I live in the East Philips Neighborhood, Minneapolis. I care about the MPCA's Cumulative Impacts rulemaking because my family members spend a significant chunk of summer gardening and walking in Minneapolis. My grandma gardens, my stepfather gardens, my nephew fishes, and we all spend time outdoors in Minneapolis. I'm worried that they are exposing themselves to worsening air quality, increased traffic pollution, and

dangerous waste dropped by traveling commuters and commercial drivers. Unfortunately, it's been this way for as long as I remember, and it's not just East Philips, I see it in North Minneapolis, in St. Paul, and many other places. I hope my family members can live in a city that changes for the better. A Minnesota that doesn't allow our streets to be polluted and our air to be contaminated. Where our waters are clean and our wildlife are taken into account."

199. **Guallpa-010-01:** Jody Guallpa stated, "My name is Jordy Guallpa, and I live in a designated Environmental Justice area in Eagan. I spend a lot of my time walking in the parks close to my house. Unfortunately, there is a very noisy street close to the central park, nearby the stores in Yankee Doodle road. It's hard to spend peaceful time without hearing cars and traffic noise. It's hard to drive to a further area in Eagan or in the Metro area to not hear noise. It would be great to have that in my area. This is why I am writing to see if it's possible to reduce this noise pollution by implementing more tunnels and investing in electrical vehicles. This would make my community more peaceful. Thank you for taking the time to read this."

200. **Skye-013-01:** Skye stated, "My name is Skye, and I live and work in Cedar Riverside, an Environmental Justice area in Minneapolis. I am heavily involved in both Cedar Riverside and other communities which make me invested in MPCA's Cumulative Impacts rulemaking. I care about the health and well-being of myself, my loved ones, and the communities I am involved with. In Cedar Riverside, we continue to grapple with the pollution from both I-94 and I-35 W; many of us [are] suffering from asthma, illness, and other issues. I want my beloved Cedar Riverside and South Minneapolis to have more healthy food, community spaces, and clean air to improve quality of life and empower the residents of this diverse community. The people living in these communities and breathe the air should be the ones deciding their fate, not just giant companies."

201. **Caucutt-016-05:** Amy Caucutt stated, "I love my community and want to keep it clean as it grows. I also want citizens to feel ownership of their town as I do."

202. **Burns-018-01:** Charity Burns stated, "My name is Charity Burns. I am a resident of Duluth, living in Duluth Heights (zip code 55811). While my neighborhood is not in a designated environmental justice area, I frequently go into EJ areas to buy groceries, walk my dog, and volunteer at a church that hosts community dinners. The EJ areas in Duluth are centrally located and high-traffic areas frequented by families.

One of the things that I enjoy most about Duluth is the easy access to nature. Throughout the city, there are a number of parks and trailheads, enabling Duluthians to hike and appreciate nature in every season. If air pollution in Duluth is not checked, the pristine nature that Duluth is famous for will be ruined."

203. **Stephanie-020-01** "My name is Stephanie, and I live in a designated EJ area in Rochester. Every day, I bike or run in the area and am impacted by pollution from Highway 52 and 37th St; RPV; and Mayo Clinic. My mom recently passed away from lung cancer and as a doctor, I know there is a direct link between pollution and cancer rates. I cannot begin to explain how traumatizing it is to lose a loved one from cancer, and I think it is of utmost importance to work towards minimizing exposures that contribute to these cancer rates."

204. **Bonin-025-01:** Elizabeth Bonin stated, "I live in North Minneapolis – one of the heaviest polluted areas of the state. Our community has a high concentration of asthma and cancer, especially among children. Knowing that, I'm extremely cognizant of how these rules could improve the health of the Northside. My area is exposed to pollution from the Hennepin Energy Recovery Center (HERC), highway 94, and highway 55."

205. **Dunlevy-026-01:** Leah Dunlevy stated, "My name is Leah Dunlevy and I am a resident of South

Minneapolis. Three years ago, I learned that my neighbors in North Minneapolis were forced to live, breathe, and play in the smog of an incinerator, absorbing the pollution of an entire city's burning trash — waste they didn't generate — including mine. We already know what Minnesota looks like without a cumulative impact assessment and have seen it play out in our state time and time again. Maps of redlining align with maps of environmental toxicity. Big polluters move into Black, brown, Indigenous and working-class neighborhoods, where they stay for decades poisoning the people that live there. Incinerators are built, despite local opposition, in overburdened areas like North Minneapolis where they remain 40 years later. In my comment, I focus on the HERC because it is what I have worked most closely on and also because it was a major impetus for the passage of the cumulative impacts law. However, HERC is certainly not the only discriminatory polluter in our state, and I have heard countless stories from residents of East St. Paul and South Minneapolis, who too, have been asked to bear the burden of pollution that should never have been there in the first place. I am also holding those stories close in my submission of this comment. After three years of organizing around the shutdown of the HERC and nearly a decade of work on environmental issues, I have come to the conclusion that it is impossible to make progress on the climate crisis when our state's regulatory agencies permit certain neighborhoods to become dumping grounds for big polluters. Six out of Minnesota's seven trash incinerators are located next to environmental justice communities. We would not be burning trash at all in this state if certain communities weren't treated as disposable. In fact, we would likely already be on our way to better solutions to the waste crisis altogether."

206. **Norrgard-029-01:** Jeanne Norrgard stated, "Hello, my name is Jeanne and I appreciate this opportunity to provide my public comments on the MPCA's proposed rules on the Cumulative Impacts Analysis for Industry now under consideration. I live in Bloomington, zip code 55431. While I am not currently directly impacted by the most adverse health effects of industry, I do live within a mile of 35W, and I am also impacted by the negative environmental consequences of bad air quality on hot and smoky days such as today. In addition, Bloomington sends our city's trash to the Hennepin Energy Recovery Center (HERC) and I am very upset personally that my trash is burned downtown and directly affects the air quality of people living in a designated Environmental Justice (EJ) area in Minneapolis and also that the resultant toxic ash is being sent to a landfill in the south metro. I would like to see the HERC closed as soon as possible, and alternative efforts made to deal more justly and environmentally with our trash."

207. **University of Minnesota-030-03:** The University of Minnesota stated, "**Background**

As a public land-grant institution, the University holds a unique constitutional responsibility to serve the State of Minnesota and its local communities. The University fulfills this charter through a threefold mission of education, research, and outreach. Beyond supporting a daily statewide population of approximately 68,000 students and 27,000 faculty and staff members, the institution directly serves millions of Minnesotans who visit our campuses to receive vital medical and clinical care, access statewide agricultural extension services, and participate in public educational and cultural events. Delivering these services requires an immense and complex physical footprint. The Twin Cities campus covers approximately 1,200 acres across Minneapolis and St. Paul. This dense urban campus encompasses more than 270 buildings comprising nearly 25 million square feet of space, including teaching spaces, research laboratories, healthcare facilities, student housing, libraries, childcare facilities, and recreation areas. In nearly all respects, the Twin Cities campus operates as a self-contained municipality. The institution manages its own Building Code Department (designated under Minn. Stat. § 326B), public health inspectors, a licensed police force, and public works and transportation departments that manage campus-wide stormwater, sanitary sewers, roadways, and district steam generation and distribution. "

208. **University of Minnesota-030-04:** The University of Minnesota stated, "The University also has several core institutional initiatives dedicated to equity and the environment. The University's goals are formalized in the following plans, as directed by the University Board of Regents:

- **Elevate Extraordinary 2030 Strategic Plan**
  The University's primary systemwide strategic plan commits institutional operations to support the public health and socioeconomic well-being of Minnesota's communities. This plan directly aligns with the intent of the Draft Rules through the following strategic imperatives:
  - Strategic Imperative #3: Directs the University to leverage its clinical and research infrastructure to reduce health disparities and improve health outcomes for all Minnesotans.
  - Strategic Imperative #4: Directs the University to deepen engagement and collaboration with local communities, ensuring University resources actively support community-driven socioeconomic goals.
  - Strategic Imperative #5: Directs the University to incorporate sustainability into daily facility management, optimize its physical footprint, and accelerate the campus Climate Action Plan and Climate Resilience Plan, described below.

- **2023 Climate Action Plan**
  The 2023 Climate Action Plan is a blueprint for the decarbonization of the Twin Cities campus, building upon previous efforts that reduced greenhouse gas emissions (GHG) by 50% from 2008 to 2022. The plan commits the University to achieve a 60% reduction in GHG by 2033 (from a 2019 baseline), on the path to full carbon neutrality by 2050. Key milestones include sourcing 100% carbon-free purchased electricity by 2033, eliminating carbon emissions from campus energy plants by 2045, and eliminating emissions from institutional commuting and travel by 2050.

- **2024 Climate Resilience Plan**
  Working in parallel with the 2023 Climate Action Plan's energy goals, the 2024 Climate Resilience Plan establishes an institutional framework to protect the campus community, infrastructure, and natural environment from climate-driven risks. The plan serves as a guide to future physical plant investments, prioritizing goals such as expanding resilient tree canopy coverage to mitigate extreme urban heat, upgrading campus green infrastructure and stormwater management systems to control runoff, and targeting 99.5% emergency generator reliability to guarantee life-safety power and protect critical systems during extreme weather."

209. **Minnesota House of Representatives-033-01:** Representative Fue Lee stated, "As the House of Representatives author of the 2023 bill that these proposed rules implement, I have an abiding interest in seeing that the rules fully effectuate the bill's provisions, which are designed to enhance the protections afforded to residents of areas that have been exposed to pollutants from multiple sources for decades on end. Scientific evidence has shown that stressful conditions experienced in disadvantaged communities actually make residents more susceptible to the ravages of chemical exposures. This statute requires environmental regulators to recognize this reality and to take it into account when issuing permits and crafting environmental standards that affect environmental justice areas (EJAs).

The North Minneapolis neighborhoods I represent in the Minnesota Legislature are among many areas of the state that qualify as these more sensitive EJAs. Listening to residents' stories of environmental exposures and health problems is what compelled me to author this legislation.

I appreciate the significant amount of work the PCA has done to engage in dialogue with residents in EJAs in developing these rules, and its efforts to compile statistics for "environmental stressors" and to flesh out the substance of cumulative impacts analysis. However, I feel there are several areas where the agency's proposed rules restrict the operation of the statute and fall short of providing the enhanced protection that the statute requires. Detailed analysis is provided in the attachment, but I want to highlight some of these areas here."

210. **Sierra Club North Star Chapter (compiled comments, set 1)-037-03:** Dale Lutz stated, "Dear Judge Middendorf, my state representative, Shelly Buck, reminds us that in her Dakota culture all living things are our relatives, and they need to be treated with respect and dignity. This fits well with my own philosophy, and the Golden Rule that I grew up with, treating others the way you would want to be treated. The recent Operation Metro Surge in Minneapolis also reminded us that we need to take care of our neighbors, as Minnesotans have demonstrated to the world. The MPCA must craft strong, clear rules that do not leave loopholes that greedy or uncaring companies can exploit. Some communities suffer through cumulative adverse impacts from sources like pm2.5 particulates from diesel traffic, auto body shops, dry cleaners, smelters, etc. This needs to be monitored and addressed, in addition to large point source emissions. Please model the cumulative impacts analysis on the New Jersey law. The community benefit agreement (CBA) process needs clear criteria for community input."

211. **Sierra Club North Star Chapter (compiled comments, set 1)-037-06:** Julie Greenwood stated, "Dear Judge Middendorf, We need transparency from the MPCA on how communities are affected by polluters. I lived in the Midway neighborhood for of St. Paul and could often smell toxins in the air but was not sure where they were coming from. I also volunteered for a Minneapolis-based environmental organization and as part of my work I went through the reporting of manufacturers polluting and was disappointed in the number of companies that emitted toxins on a regular basis. I hope some of that has improved. Your health shouldn't rely on how much you can afford for housing."

212. **Sierra Club North Star Chapter (compiled comments, set 1)-037-07:** Gene Kremer stated, "Dear Judge Middendorf, we need to consider what we are leaving for our posterity. Trash or treasure, it makes a huge difference."

213. **Sierra Club North Star Chapter (compiled comments, set 1)-037-08:** Sophie Hannig stated, "Dear Judge Middendorf, we know more and more about how carcinogenic air pollution is. This affects everyone far and wide."

214. **Sierra Club North Star Chapter (compiled comments, set 1)-037-09:** Sharon Coombs stated, "Dear Judge Middendorf, Total body burden - a concept to keep in mind when doing your job. The more stressors someone experiences in their life, the more likely they are to develop serious, chronic, terminal disease. Please do your part and protect community health - no loopholes for industries which act irresponsibly."

215. **Sierra Club North Star Chapter (compiled comments, set 1)-037-12:** Krista Hanson stated, "Dear Judge Middendorf, this is our one and only earth! We need safe air and water and soils for ALL of us!"

216. **Sierra Club North Star Chapter (compiled comments, set 1)-037-14:** Barbara Sager stated, "Dear Judge Middendorf, the environment must be cared for, we are caretakers, it is wrong to allow greed to destroy what is beautiful and necessary. Our planet is being destroyed for greed, and this must be stopped."

217. **Sierra Club North Star Chapter (compiled comments, set 1)-037-17:** Marilyn Habermas-Scher

stated, “Dear Judge Middendorf, please take care to remove polluting facilities from the neighborhoods of our BIPOC community members. They can [least] afford to deal with the health effects of these facilities. In fact, please find another way altogether to remove waste materials from our cities. Thank you!”

218. **Sierra Club North Star Chapter (compiled comments, set 1)-037-19:** Susan Spindler stated, “Dear Judge Middendorf, my concern about the MPCA and the Cumulative Impacts law is as a citizen and a nurse. I am concerned that the enactment of this law would be politicized, as we have seen on a national scale, has happened to the whole realm of health care. I am concerned that what impacts health- the health of the water, the soil, the air, our citizens- would be a decision based on politics rather than science. I would expect (oh, how I wish I could expect) that the MPCA would be free of bias based on politics. And that the people of Minnesota, whose access to health care is diminishing, would benefit by decisions returning to a science-based standard.”

219. **Sierra Club North Star Chapter (compiled comments, set 1)-037-20:** David Wee stated, “Dear Judge Middendorf, my comment is from a philosophical and moral point of view. We all need rules to protect us from the polluting hazards of heavy industry, and some neighborhoods need more support than others, but if some suffer disproportionally than the problem spreads to all of us. That is why the cumulative impacts law needs to be as strong as possible, giving priority to marginalized neighborhoods over industrial polluters!”

220. **Sierra Club North Star Chapter (compiled comments, set 1)-037-23:** Brian Adams stated, “Dear Judge Middendorf, living in the Twin Cities, having traveled extensively and having a natural resources background; I am aware that less affluent communities and especially children in those communities are unfairly exposed to added levels of pollution. One of our sons had asthma as a child. We were fortunate enough to be able to address it. I know many people do not have the resources to do that. I have tutored children for years including children in Minneapolis. Health plays a key role in attendance and pollution impacts health. The MPCA needs create strong, clear rules without loopholes for industry to exploit.”

221. **Sierra Club North Star Chapter (compiled comments, set 1)-037-28:** Mary Faulkmen stated, “Dear Judge Middendorf, if neighbors are free of pollution and are healthier that could help all of us with medical costs.”

222. **Sierra Club North Star Chapter (compiled comments, set 1)-037-32:** Denise Marlowe stated, “Dear Judge Middendorf, I care about our environment because I hike in many state parks and national parks. Wildlife need pristine habitats to survive. Clean water is the most important resource for all life. Clean air is essential for all life. All must be done to protect our environment for us and our grandchildren.”

223. **Sierra Club North Star Chapter (compiled comments, set 1)-037-39:** Karen Hoeschen stated, “Dear Judge Middendorf, historically power plants, oil refineries, chemical plants and hazardous waste disposal sites have been built in lower income neighborhoods and areas where the poorer segments of population make their neighborhoods. Usually, these decisions are made without input from the people who are directly affected. Usually, politicians turn a blind eye to these developments because these folks don’t have the financial clout to fight the big business that push for these injustices. Hopefully, these past injustices will move the current decision makers to make amends and treat all segments of the population fairly. Many times, I [shake] my head at the narrow mindedness of our politicians and local policy makers.”

224. **Sierra Club North Star Chapter (compiled comments, set 1)-037-41:** Lisa Clark stated, “Dear Judge Middendorf, having to stay indoors because our air quality is trash seems to be getting more

common now and is depressing. My allergies are getting worse and are easily exacerbated by pollution. Our assaults on the environment are inexcusable."

225. **Sierra Club North Star Chapter (compiled comments, set 1)-037-51:** Tom Thompson stated, "Dear Judge Middendorf, Certainly the pollution situation is complicated. Permits must not take on polluters or pollutants individually. The impact they have on people, no matter who they are, depends on the effect of the accumulation of all the pollutants and polluters' actions. Nor do they effect just one person or one group of people at a time. It is time to take on all to protect all."

226. **Norrgard-040-02:** Lois Norrgard stated, "We need this process to reflect the ideals of the cumulative impacts law - for overburdened communities to have real power in regulatory decisions that affect them.

I live in Bloomington MN and do find myself in Minneapolis for many events and visiting family and friends. I have been active with the citizens working to close the garbage incinerator and active with initiatives towards finding a better way forward for managing our solid waste. I have participated in numerous comment periods to our state agencies for numerous issues from new polluting industries to how our public lands are being industrialized.

Minnesota's history of systemic injustice has led to certain communities bearing even more of the brunt of pollution, leading to increased health, environmental, economic, and social inequities. For human health NO amount of toxins are ok - benchmarks to determine when a facility is required to conduct a cumulative impacts analysis must be very stringent."

227. **American Petroleum Institute-042-01:** The American Petroleum Institute stated, "The American Petroleum Institute (API) appreciates the opportunity to comment on the Minnesota Pollution Control Agency's proposed rules implementing Minnesota Statutes §116.065 governing cumulative impacts analyses (CIA) for air permitting decisions in environmental justice (EJ) areas.

API supports the statutory objective of protecting public health while promoting meaningful community engagement during permitting decisions. We recognize the considerable effort MPCA has undertaken since the initial Request for Comments to develop a substantially more transparent and structured regulatory framework. Compared to earlier concepts, the proposed rule provides clearer procedural steps, incorporates an Initial Assessment process, establishes benchmark criteria, and provides substantially greater explanation through the Statement of Need and Reasonableness (SONAR). These improvements represent meaningful progress. However, several significant concerns remain unresolved. Many provisions continue to rely on assumptions that exceed the current state of cumulative risk science, create unnecessary permitting uncertainty, or require applicants to evaluate factors that are not reasonably attributable to the permitted activity or within the applicant's ability to influence.

API respectfully recommends the following revisions that would preserve the Legislature's intent while ensuring the final rule remains scientifically supportable, administratively predictable, and proportional to the environmental impacts associated with the requested permit action."

228. **Biewen-043-03**: Todd Biewen stated, "4) Without Cumulative Impacts Analysis, air toxics are not adequately controlled in many communities, putting the public at risk. 5) Air toxics pose the greatest risk in communities where population is the most dense, where there are multiple sources contributing pollution, and where environmental justice communities reside."

229. **Biewen-043-07:** Todd Biewen stated, "10) Finally, Minnesota needs these new rules to protect human health and the environment. Site specific review of cumulative impacts of pollutants is overdue and is precisely why the legislature directed the MPCA to prepare these new

requirements."

230. **Frontline Communities Protection Coalition (compiled comments)-045-03:** Maria Carter-Bertrand stated, "My name is Maria Carter-Bertrand (she/they), and I live in the Central neighborhood. We live just blocks from Minneapolis's Southern Green Zone, which is defined as an area of high pollution and racial, economic, and political marginalization. I'm a community member who loves my parks, my people, and my neighborhood. Each year, as the summers continue to grow hotter, it's become harder to get outside and cool off due to poor air quality and polluted lakes. As a renter living on the top floor of our apartment, my wife and I have experienced symptoms of heat exhaustion without any nearby, pollution-free areas to cool off."

231. **Frontline Communities Protection Coalition (compiled comments)-045-11:** Ryan Everhart stated, "Hey, my name is Ryan. I have lived in Minneapolis my entire life, and I have only seen environmental justice issues worsen in my communities. We need to take action to protect our environment and support marginalized communities. Everyone should have equal access to healthy food, green spaces, a safe home, clean running water, clean air, and shelter."

232. **Frontline Communities Protection Coalition (compiled comments)-045-16:** Dr. Joanne Hill stated, "As a public health nurse, CRNA, and lifelong Minnesotan, I have cared for the very people who are affected by these cumulative burdens. North Minneapolis represents one of Minnesota's clearest examples of cumulative environmental injustice. Historic redlining, industrial zoning, and the construction of Interstate 94 concentrated pollution in predominantly Black, Brown, Indigenous, and low-income communities. HERC adds another source of PM2.5, nitrogen oxides, sulfur dioxide, heavy metals, and dioxins to neighborhoods already carrying disproportionate environmental burdens.

    The science is well established. Air pollution contributes to asthma, cardiovascular disease, stroke, lung disease, cancer, and premature death. Public health analyses estimate approximately 1–2 premature deaths annually associated with HERC emissions. Asthma emergency department visits are five to six times higher in impacted communities, and pollution-related health damages have been estimated at approximately $16 million annually from particulate matter alone.

    These illnesses are treated every day at Hennepin Healthcare, Minnesota's largest safety-net hospital. We continue investing public dollars to treat preventable diseases while investing far less in preventing the pollution that contributes to those illnesses. Prevention should become a measurable outcome of the cumulative impacts policy. I also ask that the final rule require agencies to evaluate existing cumulative pollution from highways, diesel traffic, industrial facilities, and waste incineration together, rather than in isolation. HERC does not exist alone; it adds pollution to communities already burdened by multiple environmental stressors.

    Community members, healthcare professionals, faith leaders, and organizations such as the Zero Burn Coalition have participated in hearings, public education, and advocacy—including a hunger strike—to bring attention to these health inequities. Their participation reflects the urgency residents feel regarding cumulative environmental harms."

233. **Frontline Communities Protection Coalition (compiled comments)-045-18:** Lynn Anderson stated, "I am Lynn Anderson and live in rural Aitkin County, yet I frequently spend time in the Twin Ports. There is significant air pollution in Duluth and neighboring Superior, Wisconsin, from industrial facilities, whether it comes from the paper company Sofitel, Enbridge, or the Canadian oil refinery Cenovus, which had more than a dozen air quality violations in 2025.

    In Aitkin County, many inland lakes now have fish consumption advisories due to mercury air pollution emissions from taconite plants on the Range, which the MPCA has failed to adequately

enforce. I do not want to breathe dirty, unpleasant air from the Canadian Cenovus refinery, nor do I want mercury pollution to create fish consumption advisories, with toxic methylmercury moving up the food chain and accumulating in walleye fatty tissue.

There is already a study linking 10% of newborn babies with higher mercury levels in their systems due to pregnant mothers consuming game fish in the Arrowhead region during the summer. This does not reflect thoughtful or responsible care by the MPCA or industry."

234. **Frontline Communities Protection Coalition (compiled comments)-045-22:** Natasha Villanueva stated, "My name is Natasha Villanueva, and I am a proud Northsider living in the Jordan neighborhood of Minneapolis. I love my community for its many assets; however, it is also historically and currently overburdened by the cumulative impacts of environmental racism.

In fact, my 55411 ZIP code, near the Hennepin Energy Recovery Center (HERC), consistently sees higher rates of asthma emergency department visits and hospitalizations than anywhere else in the state of Minnesota (MDH). HERC is the largest single polluter in Hennepin County, and the Board of Commissioners has already passed a resolution to close it, yet they still need to take a vote to do so. Because of decades of inaction to prioritize our health, I have begun organizing to ensure that my neighbors living and breathing around HERC, my own family, as well as those living near the landfill where HERC sends its toxic ash byproduct, are protected. Resistance to HERC on the Northside, as well as to industrial polluters in the Phillips neighborhood on the Southside, was largely the impetus for the creation of the Cumulative Impacts law in the first place. Therefore, allowing aging facilities with legacy permits that cannot meet more stringent modern pollution standards to skirt this process would defeat the purpose of the law.

Let us honor the memory of champions such as Karen Clark by creating a strong precedent and meaningful protections."

235. **Frontline Communities Protection Coalition (compiled comments)-045-26:** Dave Satre stated, "My name is Dave Satre. I currently live in an environmental justice (EJ) area on the West Side of Saint Paul with my wife and one-year-old daughter.

I grew up next to a lead polluter, which has caused medical issues for as long as I can remember. My memory is not very good due to lead exposure and its medically diagnosed impact on my neurodevelopment.

I work at Cherokee Heights Elementary School. I love my students and my community, and it breaks my heart that I am seriously considering leaving because of the number of environmental stressors my daughter will be exposed to if she spends her childhood in our neighborhood, including my old enemy, lead, which has been documented on the West Side's air monitors. It is no secret that our community is overburdened with toxins, and the MPCA's own cumulative impacts map shows that the area where our home sits is exposed to 22 out of 26 environmental stressors, well above the state median of 13.

Under the current proposed Cumulative Impacts draft rules, which I believe do not reflect the spirit or language of the law, I will be forced to make a devastating decision: abandon the community I love or knowingly raise my daughter in an area that is statistically more likely to adversely affect her health for the rest of her life, just as toxic exposure affected mine."

236. **Frontline Communities Protection Coalition (compiled comments)-045-29:** Ianni Houmass stated, "My name is Ianni Houmas (he/him). I am a 30-plus-year resident of Saint Paul's East Side, a former Saint Paul Planning Commissioner, Executive Director of District Council 1, and former President of District Council 2. My lifelong environmental advocacy spans from my early activism

growing up in Philadelphia, to working on the Three-Mile Island closure, to my current service on the Ramsey County Environmental Committee and Saint Paul's Climate Justice Advisory Board.

Environmental Justice Experience:

On the East Side, environmental injustice is a daily reality. EPA assessments explicitly show that our neighborhood is geographically "sandwiched" between major freeway corridors (I-94, I-35E, and Highway 61), trapping residents in a high-density mobile emissions zone. This toxic baseline is further compounded by:

- Logistics and Air Transit: Local warehouse hubs introduce heavy tractor-trailer diesel emissions into residential areas, while shifted flight paths from the Saint Paul Downtown Airport disperse leaded aviation fuel directly over our homes.
- Stationary Polluters: Persistent industrial hazards, most notably the Northern Iron foundry on Forest Street, which has documented violations of lead and fine particulate matter standards. 3M has also been a longstanding polluter.
- Emerging Technology Demands: New regional threats to our water tables from the massive aquifer withdrawals of expanding AI data centers and the compounding aquatic and thermal impacts of the nuclear facilities powering them.

Recommendations on the Proposed Rules (Minn. R. 7007.6000–7007.6120):

To prevent the draft rules from falling short of the 2023 statute's goal of protecting BIPOC and low-income communities, the MPCA must strengthen three critical sections before the July 17 deadline."

237. **Frontline Communities Protection Coalition (compiled comments)-045-33:** Stacy Mooradian stated, "I'm Stacy Mooradian, a public servant who has worked at the state, local, and federal levels to support the public interest in energy siting.

The cumulative impacts rulemaking is an opportunity to codify what many Minnesotans already know: pollution impacts are cumulative and affect the health of residents over their entire lives. We are also concerned that pollution sources are often sited in communities with the least power and influence.

I grew up in a rural town where groundwater was polluted by years of chemical disposal and where children died far too often from unexplained cancers."

238. **Frontline Communities Protection Coalition (compiled comments)-045-35:** April Graves stated, "My name is April Graves, mother, Senior Public Health Specialist for the Minneapolis Health Department, and Mayor of Brooklyn Center.

As the Mayor of Brooklyn Center and a public health professional, I understand that where people live, work, and play has a profound impact on their health. I regularly hear from residents about concerns related to air quality, traffic pollution, industrial emissions, and the cumulative burden of living near highways and industrial corridors.

Our community already experiences significant health disparities, including higher rates of asthma and other respiratory illnesses that disproportionately affect children and communities of color. While these outcomes have multiple causes, decades of public health research demonstrate that poor air quality contributes to these inequities. Residents deserve a regulatory process that evaluates the combined burden of pollution, not just individual facilities in isolation."

239. **Frontline Communities Protection Coalition (compiled comments)-045-45:** Diane Dobitz stated, "To the Minnesota Pollution Control Agency, my name is Diane Dobitz. I have been an educator for more than forty years, and even now, at age 73, I continue to volunteer in classrooms. I write to you

as a white lesbian woman, a lifelong advocate for social justice, and, most of all, as a community "grandmother" who cares deeply about the health and future of Minnesota's children. Although I am not a mother myself, I have spent my life loving, teaching, and supporting young people. They are my village, and I am part of theirs.

As a white person, I have benefited from privileges that many children today do not share—safe homes, stable neighborhoods, and environments largely free from industrial pollution. While agricultural chemicals have always been part of rural life here, the overall air and water quality of my childhood was far healthier than what many young Minnesotans experience today.

In classrooms today, I see far more children struggling with asthma, allergies, and chemical sensitivities than I ever saw during my early years as a teacher. Their young bodies and minds are more vulnerable to pollution, and the impacts of exposure can follow them throughout their lives. These children are not imagining their symptoms. Their families are not exaggerating. Their communities are not mistaken. The environment has changed, and the burden on our youngest residents has grown heavier. I am speaking up for them.

Minnesota needs strong, effective, long-term protections that are enforced with seriousness and integrity. Industry—and the money and influence it carries—must not outweigh the health and safety of future generations, especially those who are most vulnerable and least able to speak for themselves. No one is safe unless all of us are safe. Pollution does not stay neatly within one neighborhood or one ZIP code. The air, water, and soil connect us all."

240. **Frontline Communities Protection Coalition (compiled comments)-045-47:** Catherine Zimmer stated, "As a citizen, environmental health scientist, small business owner, and taxpayer, I am submitting comments regarding the proposed cumulative impacts rules. I have long been concerned about the environmental and cumulative impacts of pollution on humans and the natural world, including impacts from air pollution, water contamination, land pollution, greenhouse gases, pesticides, and other chemical exposures."

241. **Frontline Communities Protection Coalition (compiled comments)-045-52:** Riki Honnold stated, "As I write this, wildfire smoke is choking the outdoor air, and another evening of plans has been completely canceled for my children. What kind of world are we leaving for our kids when this is the air they have to breathe, and we have to beg for public comment while we still fail to fully consider cumulative impacts?"

242. **Frontline Communities Protection Coalition (compiled comments)-045-55:** Judy Gregg stated, "Greetings, My name is Judy Gregg, and I live in the Lake Minnetonka area. I am an Elder at St. Luke Presbyterian Church, where I have been part of an effort to shut down the HERC garbage burner in North Minneapolis. We believe it is an injustice that people suffer because of the neighborhood in which they live.

One of our sister churches, Liberty Presbyterian, is located near HERC. The minister there, along with others in her congregation, suffers from asthma and other health issues as a result of living and working in that area. She has shared that, in her case, her asthma developed after moving from Atlanta to North Minneapolis."

243. **Frontline Communities Protection Coalition (compiled comments)-045-59:** Karen Lunde stated, "I'm a mother of a 20-year-old daughter here in Minneapolis. We live in Linden Hills, and my daughter attends the University of Minnesota Twin Cities. Right now, Linden Hills is filled with smoke from the BWCA fires. The air is poisonous.

For the people who live near HERC, their air is always polluted. Please shut down the burner at

HERC. It could be repurposed as a sorting facility. Research has shown that not all of the material in garbage trucks is actual trash. Much of it can be recycled or even reused. People living in Minneapolis' Green Zones have experienced years of environmental injustice. Please shut down the burner at HERC."

244. **Frontline Communities Protection Coalition (compiled comments)-045-63:** Freddy Perdomo stated, "[My name is Freddy Perdomo, and I live in Kasson, Minnesota 55944. I am retired and volunteer full time at a Christian church. I like everything about the city, especially the people and the peacefulness of the area. What I don't like is that every day, from 5:00 p.m. to 8:00 p.m., there is a strong, foul odor throughout the area, similar to the smell of rotting mud. It may be caused by the chemicals or fertilizers used on farms and in agricultural areas. It would be better to use products and chemicals that are more environmentally friendly and less harmful to people's health.]"

245. **Frontline Communities Protection Coalition (compiled comments)-045-68:** Charles Stephens stated, "I am a 69-year-old recently retired family physician who grew up in the Los Angeles suburbs, so I have experienced the effects of heavy air pollution firsthand.

During the last 10 years of my practice, I worked at the VA in Minneapolis, an excellent medical facility with a dedicated staff serving a diverse group of deserving patients and veterans. Many of these individuals experienced toxic exposures throughout their military careers and deployments, making it especially important to minimize additional exposures and protect their health for the rest of their lives.

In this current time of reducing oversight and regulations across many areas, it is important to maintain the integrity of sensible decisions that protect communities from new and ongoing sources of pollution."

246. **Frontline Communities Protection Coalition (compiled comments)-045-70:** Lynnette Black stated, "I am a retired 3M and Medtronic global marketing manager, artist, grandmother, and activist focused on social justice and environmental issues.

I have former colleagues who live in Mounds View, where an unusual number of neighbors have experienced cancer, including one colleague's husband, who also needed a pacemaker after chemotherapy.

The company I proudly worked for, 3M, is a major polluter, and I am deeply concerned about reports that the dangers of fluorochemicals, or "forever chemicals," were hidden from the public. Large corporations often have the resources to fight government oversight and deny responsibility for environmental harm. The public interest and the greater good must be prioritized to ensure a healthy quality of life for everyone.

Clean air and clean water are essential to human health. We must address these issues not only for those living today, but also for future generations—our children and grandchildren."

247. **Frontline Communities Protection Coalition (compiled comments)-045-71:** Kjirstin Campos stated, "My name is Kjirstin Campos, and I am a Minneapolis resident and mother of two young children. My youngest child is obsessed with trash trucks. For nearly two years, we have met our trash truck crew in the alley every week. Following these trucks around town made me curious: Where does all of this garbage actually go? And why is there so little regulation around how these systems are managed?

I learned that much of it goes to HERC, an outdated incinerator that burns waste. I also learned that many pollutants and toxins are not tested for, and that the facility relies heavily on self-monitoring and reporting. It feels like creating a landfill in the sky. HERC does not even generate a profit, and it

will require significant repairs in the coming decade.

While I believe these proposed rules are a positive step toward preventing new pollution in overburdened communities, they will not meaningfully address the decades of existing harm that have already occurred.

Environmental justice (EJ) communities often have the least power to resist pollution, and these rules leave much of the decision-making authority with the Commissioner, who can be influenced by industry interests.

How willing will you truly be to hold polluters accountable? I do not want symbolic action—I want meaningful protections for the people you represent. I am paying attention."

248. **Frontline Communities Protection Coalition (compiled comments)-045-73:** Sara Perdomo stated, "Hi, my name is Sara Perdomo. My pronouns are she/her/hers, and I live in Rochester, Minnesota. I am a community member who cares deeply about the health and future of my community.

One thing I have recently noticed is the increasing pollution in Rochester. Rochester is known for the Mayo Clinic, and every year, new buildings are being constructed. I have noticed that downtown now has more buildings than trees and parks.

Over the past few summers, I have noticed a significant change in the air quality in Rochester as more factories and buildings continue to be developed. Moving forward, I would like to see more trees planted, more green spaces created, and efforts made to reduce pollution.

I care about tomorrow and the future generations who deserve to have access to clean air and a healthy environment."

249. **Frontline Communities Protection Coalition (compiled comments)-045-74:** Rachel Geissinger stated, "I am a mother who lives in the southwest suburbs, and I am deeply concerned about the future impacts pollution will have on children and generations to come.

Protect everyone by starting with those who are most impacted. Prioritize the communities that have experienced the greatest environmental burdens and ensure they receive the protections and care they deserve. Let's work toward ensuring that everyone in Minnesota has equal access to clean air."

250. **Frontline Communities Protection Coalition (compiled comments)-045-75:** Chel Anderson stated, "I am someone fortunate to have lived most of the past 50+ years in a part of Minnesota where good air quality is the norm rather than the exception. However, over the years, I have also spent significant time in the West St. Paul community, where the opposite is true. As a result, I have seen firsthand how inequitable air quality can be across the state, often depending on geography and income.

Even as a healthy person, the air quality in West St. Paul often influences my choices about how much time I spend outdoors. Between noxious industrial fumes, traffic pollution, and dust, the air can genuinely feel unhealthy to breathe. I cannot imagine what this must be like for people whose respiratory health is already compromised, or for children and older adults who are more vulnerable. There are clearly other communities throughout the metro area experiencing similar air quality challenges.

The vast difference between the air quality some Minnesotans breathe every day and the air quality I experience at home is unacceptable. These disparities, which have existed for decades, can and must be addressed to improve the lives of impacted communities. This is clearly the intent of the

2023 Cumulative Impacts Law."

251. **Frontline Communities Protection Coalition (compiled comments)-045-79:** Bridget Guiza stated, "My name is Bridget Guiza, and I have an educational background in environmental systems from UC San Diego. I have worked with various local and out-of-state nonprofit organizations, as well as public organizations such as the Bureau of Land Management. Through this work, I have developed a strong understanding of how certain communities across the country have been disproportionately impacted by industry and industrial waste.

We are entering a time when we are seeing significant public health consequences, not only for communities directly affected by pollution, but also beyond those communities through impacts on our public waters and public lands. Our environment does not recognize political borders or jurisdictional boundaries; it follows the laws of nature. It is time for us, as humans, to do the same—for the benefit of our children and future generations.

This means ensuring that our public agencies fulfill their responsibility to protect public health and safety. We need strong voices and strong protections for both people and the environment."

252. **Frontline Communities Protection Coalition (compiled comments)-045-83:** Adam Daire stated, "I am Adam Daire, a father of five in Mounds View. Like many Minnesotans, I am concerned about how corporate entities use resources without fully considering the impacts on future generations who want to see our state remain a place of natural beauty and a community that protects all of its residents. I live in the northern suburbs, where the former ammunition plant site and its years of unregulated pollution continue to impact the community decades after its closure."

253. **Frontline Communities Protection Coalition (compiled comments)-045-90:** B Pearlman stated, "Hello, I live in Mendota Heights and have always cared deeply about our planet. I am fearful about how climate change is impacting us all, but especially those who live closer to the poverty line and near industries that create pollution."

254. **Frontline Communities Protection Coalition (compiled comments)-045-94:** Beth Daniels stated, "Hello, I am a mother and grandmother living in South Minneapolis (55417). Our neighborhood is very walkable, with parks, Lake Nokomis, a grocery store, and other community resources. We are near Highway 62 and the airport, so we experience noise and air pollution. We compost and recycle to keep our trash footprint as small as possible, but we know that, sadly, our trash contributes to the air pollution generated by HERC. This pollution affects our neighbors in North Minneapolis as well as the entire region. I have asthma, and I know that asthma rates are higher among people living near polluting facilities."

255. **Frontline Communities Protection Coalition (compiled comments)-045-99:** Janiece Watts stated, "My name is Janiece Watts. I am a mama, a partner, and an environmental justice advocate. I live in the North End of St. Paul, with family members on the East Side, Midway, and in South Minneapolis. I cherish connecting with nature through gardening and learning about what nature provides for us and what it needs from us in return.

I spend much of my time in my garden, but while there I hear the constant traffic and ongoing construction on Rice Street, which is one block away from my home. My neighborhood has many industrial facilities and is designated as an Environmental Justice (EJ) area. I am deeply concerned about the health of my family and every other family living here, as we experience poor air quality from vehicle emissions and heavy industrial pollution, leading to negative health outcomes and a lack of green space.

Despite these challenges, my community is vibrant and loving. We value our ethnic diversity and

care deeply for present and future generations. The cumulative impacts rules should reflect the intention of understanding the compounding effects of living with pollution and recognize the demands of communities that have been overburdened by multiple stressors to end environmental racism."

256. **Frontline Communities Protection Coalition (compiled comments)-045-103:** Julie Bode stated, "My name is Julie Bode, and I live in the East Phillips neighborhood of Minneapolis, a designated Environmental Justice (EJ) area. I am writing because the MPCA's Cumulative Impacts rulemaking is deeply personal to me and my neighbors.

Living in East Phillips means experiencing the effects of pollution every day. Our community has carried the burden of industrial activity for generations. We have faced pollution concerns from facilities like the former Smith Foundry, arsenic contamination in the soil, heavy truck traffic, diesel exhaust, and poor air quality. These are not abstract issues for us. They affect where children play, the air we breathe, and the health of our families."

257. **Frontline Communities Protection Coalition (compiled comments)-045-106:** Jo Holub stated, "To the MPCA, My name is Jo, and I have many loved ones and neighbors living in areas of the state that are heavily impacted by waste and pollution from industrial facilities and busy roadways.

We have a beautiful state with many natural features that we can be proud of, but I am deeply concerned about protecting air quality, preventing groundwater pollution, and reducing noise pollution caused by these facilities and transportation corridors."

258. **Frontline Communities Protection Coalition (compiled comments)-045-109:** Alex Brundieck stated, "Hello, I am writing today as someone who currently lives in Saint Paul's Hamline Midway community while attending college, and who grew up in South Saint Paul. Hamline Midway is an Environmental Justice (EJ) area.

I have lived with asthma since childhood, and over the past few years I have become more aware of how air quality affects my health. Since moving to Hamline Midway, there have been days when I could smell poor air quality from inside my home. Several times, I have chosen to stay indoors and reduce my activities because of these conditions. Growing up in South Saint Paul, it was not uncommon to experience strong odors and air pollution, especially during the summer, from nearby industrial facilities and the stockyards."

259. **Frontline Communities Protection Coalition (compiled comments)-045-112:** Josefina Gerónimo stated, "I am writing as a resident of 55418 in Northeast Minneapolis, living on the border with North Minneapolis. The Lowry Bridge separates our neighborhoods, but the impacts of poor air quality do not stop at the river. Both communities are Environmental Justice (EJ) areas, and it has become unacceptable that we are experiencing more and more days when we cannot open our windows because of poor air quality.

These are not just abstract data points. Cumulative pollution and climate change are affecting our bodies and our mental well-being. When the Air Quality Index (AQI) is high, children stay indoors, elders struggle to breathe, gardens sit unused, and the constant need to monitor air quality becomes a daily burden. My neighbors and I are experiencing a reduced quality of life because we cannot find relief in our own homes. This is a public health crisis.

I speak from lived experience. I am a wildfire evacuee from California. I know what it means to evacuate for weeks, watch the sky turn orange, and learn overnight what PM2.5, PM10, and ozone mean for my family's health. Now I see Minnesota families experiencing similar conditions for the first time, often without the tools or information needed to protect themselves. We should not have

to become experts in particulate matter just to keep our children safe."

260. **Frontline Communities Protection Coalition (compiled comments)-045-114:** Antonia Adan stated, "My health, and the health and well-being of my family, friends, and community, deserve to be protected. People should be able to live in areas free from pollution, where public health is prioritized over corporate interests and development.

I live in a beautiful area near Minnehaha Parkway. However, we also live near a very busy street at 34th Avenue and 46th Street, as well as near the busy Metro light rail. We have a stretch of older industrial buildings along Hiawatha Avenue and an old railroad line directly behind them.

Over the past few years, my neighbors and I have noticed increased traffic and worsening air pollution due to rapid business and housing development. We welcome growth in our community, but environmental impacts must be considered. We have experienced overlapping pollution sources, including construction impacts, diesel exhaust, transportation emissions, and increased traffic congestion along Hiawatha Avenue, along with the ongoing challenges of limited affordable housing. We also have a small unhoused population that appears to lack stable housing or safe places to go during the day."

261. **Frontline Communities Protection Coalition (compiled comments)-045-117:** Hannah Resendiz Olson stated, "To the MPCA, My name is Hannah, and I live in an Environmental Justice (EJ) area in North Minneapolis. I also work in public health, and I am deeply passionate about protecting the health of my community and other communities facing similar challenges.

The Cumulative Impacts law is of great interest to me because I have seen the deep harms that occur when communities are impacted by pollution without having their voices heard. When I lived near the Midway neighborhood, I was always concerned about air quality impacts from I-94 and the social impacts on the historic Rondo neighborhood. Now, living in Minneapolis, I experience the impacts of HERC, continued poor air quality, and long-standing neglect in our community."

262. **Frontline Communities Protection Coalition (compiled comments)-045-120:** Chelsey Blanke stated, "Hello, My name is Chelsey (she/her), and I am a community member in Northeast Minneapolis. I have an environmental background and often work outdoors, which has made me especially concerned about wildfire smoke, air quality, and the impacts these issues have on my neighbors in North Minneapolis.

The Cumulative Impacts Law must account for the combined effects of wildfire smoke, air pollution, and existing polluting facilities like the HERC. These overlapping environmental burdens must be considered together when evaluating impacts on communities."

263. **Frontline Communities Protection Coalition (compiled comments)-045-126:** Aubrey Derksen stated, "The story of Ella Adoo-Kissi-Debrah is a powerful reminder of what is at risk when air pollution is not adequately addressed. Ella was a young girl with asthma who lived just 82 feet from a high-traffic road in the United Kingdom. She played outside like any other child, but in the three years before her death, she experienced repeated seizures and was hospitalized 27 times. At age nine, Ella died. Through her mother Rosamund's advocacy, Ella became the first person in the world to have air pollution listed as a cause of death on her death certificate in a landmark 2020 case.

Community members do not always have the information or resources to fully understand the risks of air pollution. But parents of children with asthma understand those risks intimately. I did not see the voices of families who must make impossible choices every day—parents who cannot safely open their windows, let their children play in the backyard, or allow them to enjoy what should be a safe home environment because doing so could trigger a life-threatening asthma attack. Those

voices must be represented in this process.

Instead, I saw significant deference given to industry stakeholders throughout these documents, and I have seen this same dynamic play out in my own community. We have been subjected to seven environmental reviews through different regulatory processes, each hundreds or thousands of pages long, all within the same 120-day timeframe. The process is not over, and more reviews are still coming. This is a regulatory system that allows industries to exploit loopholes, withhold critical information, and overwhelm communities with processes they do not have the capacity to navigate. When our community raised concerns, concerns coming from one of the Environmental Justice communities directly impacted by this rulemaking process, the MPCA dismissed them as "out of scope." That cannot continue.

The MPCA's role is not to protect industries from leaving. Its role is to protect human health and the environment, and to ensure that industries operating in Minnesota are held accountable to strong environmental protections and regulations. The industries raising the loudest concerns about accountability are often the same industries creating the greatest harms to people and the environment. The communities bearing these burdens are not seeing investments that come close to addressing the scale of the pollution, health impacts, and cumulative harms they experience.

You cannot Community Benefit Agreement your way out of a death. You cannot Community Benefit Agreement away cancer. You cannot compensate a family after a child's life has been taken by preventable pollution. This process cannot become a race to the bottom. We do not want or need more Ellas.

As a mother, I cannot justify knowingly allowing more families to experience what Rosamund Adoo-Kissi-Debrah has endured—the loss of a child and the lifelong pain that follows. After Ella's death, Rosamund said that reaching a settlement was not a victory "because your child is already dead," but that it provided an acknowledgment of what happened to her daughter. The government expressed regret and committed to an ambitious clean air strategy. So I ask: How committed are you?

Will this rulemaking process truly prioritize human health and the communities most impacted by pollution? Will it recognize that behind every data point, permit, and regulatory decision are real people whose lives are affected?

We have the opportunity to prevent more families from experiencing preventable loss. Please use this opportunity to protect communities, strengthen accountability, and ensure that no more lives are sacrificed to pollution."

264. **Frontline Communities Protection Coalition (compiled comments)-045-177:** Dave Satre stated, "My name is Dave Satre. I currently live in an EJ area on the West Side of Saint Paul with my wife and one-year-old daughter. I grew up next to a lead polluter, which has given me medical issues for as long as I can remember, and my memory is not that good due to lead exposure and its medically diagnosed impact on my neurodevelopment.

I work at Cherokee Heights Elementary School. I love my students and my community, and it breaks my heart that I am strongly considering leaving due to the amount of environmental stressors my daughter will be exposed to if she spends the duration of her childhood in our area, including my old enemy, lead, which has been documented on the West Side's air monitors. It is no secret that our community is overburdened with toxins, and the MPCA's own cumulative impacts map shows that the area where our home sits is exposed to 22 out of 26 environmental stressors, well over the state median of 13.

Recommendations: What do you like or dislike about the rules? How would you change certain sections, and why? Feel free to take inspiration from the listed talking points. Try to write these points in your own words with justification for why you believe particular sections of the rules should be changed or kept the same. Under the current insufficient proposed Cumulative Impact draft rules, which I believe go against the spirit and language of the law, I will be forced to make a devastating decision: abandon the community I love or knowingly raise my daughter in an area that is statistically more likely to affect her health for the rest of her life adversely, the way mine was due to my own toxic exposure."

265. **Frontline Communities Protection Coalition (compiled comments)-045-183:** Max McMeeken stated, "Hi my name is Max and I live in Frogtown in Saint Paul. If the MPCA wants to get serious about its goal of reducing the harm of polluting facilities in primarily BIPOC and low-income communities then it should move quicker to shut down the Hennepin Energy Recovery Center (HERC) and regulate towards a broader zero waste policy for the city and the state. Also, any new data centers are going to destroy our local ecosystems. Minnesota is not doing enough to address climate change, and any data center that is built will be a huge step in the wrong direction. We need to set regulations that would make the thought of building a data center laughable. We need renewable energy. We need to regulate the fossil fuel economy so much so that it becomes unprofitable for these corporations to keep destroying our land and our health for their profit. There are smarter ways to live. Let's build towards a livable future for everyone. Climate change is already destroying our ways of life. We need to regulate to mitigate risk."

266. **Frontline Communities Protection Coalition (compiled comments)-045-188:** Gretchen Larson stated, "I have been following the efforts to shut down the HERC for quite a while now. It is clear what needs to be done. Shut it down. It is also clear that we need to find other solutions to disposing of the trash we are currently polluting the air with. Please. Draw the line."

267. **Frontline Communities Protection Coalition (compiled comments)-045-192:** Anne Englert stated, "My name is Anne Englert, and I am a retired teacher of young children who has lived in Minneapolis and various areas of the Twin Cities for 39 years. For years I've been concerned about economically disadvantaged and marginalized people, like many of those living in north Minneapolis. I've learned about the serious, detrimental health effects of pollution from facilities, such as the Hennepin Energy Recovery Center, that are too often built in these neighborhoods that are already disproportionately burdened. The 2023 Cumulative Impacts Law passed was intended to reduce the harm of polluting facilities in communities that are primarily low-income and people of color."

268. **Frontline Communities Protection Coalition (compiled comments)-045-196:** David Derksen stated, "My name is Reverend David Derksen. I am an ordained Lutheran minister who works as a prison chaplain in the Federal Bureau of Prisons. Today, I am writing as a father and a concerned resident of Pine Island, MN–a small, rural community just a few miles North of Rochester. Our community is experiencing a proposed development of a hyperscale data center that is estimated to use NINE TIMES the amount of energy the whole city of Rochester uses at its peak usage. This extreme use of energy comes with all sorts of need for large transmission lines gobbling up scarce and productive farmland in my community. I am truly frightened by all the reports coming out from neighborhoods where these data centers have been built, and I dearly do not want this built–as proposed–about one mile from my home. Plus, this is being done without true community consent. All of this was done under unethical behavior by the developer and city. They hid the true nature of this project limiting the community from substantive participation. For example, using euphemisms like "technology park" and a code name, "Project Skyway," they made the information costs steep for public participation in the process. Once we learned of its true nature, our community organized

and started pushing back. But it may be too late."

269. **Frontline Communities Protection Coalition (compiled comments)-045-198:** Christie Manning stated, "My name is Christie Manning, and I teach Environmental Studies at Macalester College. As part of my teaching and research, I have collaborated with many organizations, communities, and Minnesota community members whose lives and health have been impacted by polluting facilities. I am writing as both an environmental justice scholar as well as a concerned community member about the proposed cumulative impact rules. I have met many Twin Cities (and beyond) community members through my environmental justice work. For example, since last November, I have been working with a group of mothers from the Southport neighborhood of the West Side of Saint Paul. These amazing women are fighting for their families' right to breathe clean air. Many of their children struggle with asthma and other respiratory ailments, due to their neighborhood's location between highway 52 and the several facilities in the Southport industrial zone (such as several metal recyclers, in addition to the Saint Paul airport). I am in awe of the strength this group of parents has show on behalf of their kids' well-being."

270. **Frontline Communities Protection Coalition (compiled comments)-045-203:** Side Corridor residents, Owatonna East stated, "EJ should not only address historical inequities—it should also prevent new ones from forming."

271. **Frontline Communities Protection Coalition (compiled comments)-045-205:** Karen Lunde stated, "As I wrote this, the wildfire smoke is choking the outdoor air and another fun night of plans has been completely cancelled for my children. What kind of world have we left for the kids when this is the air and we have to beg for public comment for them when we don't even begin to consider cumulative impact?"

272. **Health Professionals for a Healthy Climate (compiled comments)-046-05:** Rachel Wormer stated, "*As a public health professional based in Minneapolis, MN, I understand the direct, negative impacts that pollution and environmental racism have on community health and wellbeing.*

I live in a designated 'environmental justice' zip code, as defined by the MPCA's earlier cumulative impacts work. Every day, especially in summer, I see how industrial facilities that were allowed to be zoned in residential neighborhoods like mine — a neighborhood where nearly 70% of residents identify as Black, Indigenous, Latinx/Hispanic, or of mixed races, ethnicities, or cultures — have directly diminished the local air quality, poisoned the soil in my and my neighbors' yards, and contributed to increased rates of cancers, heart issues, breathing problems, and reproductive health issues in my household and my neighbors. This is backed by decades of robust science linking these health conditions to living near industrial sites that cause pollution.

The cumulative impacts law needs to be implemented in the way it was intended when passed, meaning a strong law that prioritizes everyday Minnesotans, not industrial facilities known to pollute."

273. **Health Professionals for a Healthy Climate (compiled comments)-046-09:** Joshua Houdek stated, "Dear MPCA and the Honorable Kimberly Middendorf, as a public policy manager, I understand the direct, negative impacts that pollution and environmental racism have on community health and wellbeing."

274. **Health Professionals for a Healthy Climate (compiled comments)-046-13:** Michael Overend stated, "Dear MPCA and the Honorable Kimberly Middendorf*, I am a veterinarian based in Cohasset. As a health professional, I understand the direct, negative impacts that pollution and environmental racism have on community health and wellbeing.*

The negative impact of sulfate pollution on Minnesota waters from prior, and current, iron mining practices has diminished wild rice production and significantly increased the levels of methyl mercury in our freshwater fish. This increase in methyl mercury in our freshwater food chain is directly affecting the recommended levels of fish consumption in Northern Minnesota, with an increased impact on frontline indigenous citizens.

The MPCA needs to enforce the accepted water sulfate standards for iron mining which can be cost-effectively addressed by technologies utilizing enhanced natural bacterial sequestration of sulfate pollution."

275. **Health Professionals for a Healthy Climate (compiled comments)-046-17:** Sophie Scharner stated, "Dear MPCA and the Honorable Kimberly Middendorf, *I am a child and perinatal psychiatrist based in Saint Paul. As a health professional, I understand the direct, negative impacts that pollution and environmental racism have on community health and wellbeing. I've seen that children who live in neighborhoods close to sources of pollution with less mitigating factors (less trees e.g.) often have more Asthma, more premature birth, more cardiovascular illness and cancer later*."

276. **Health Professionals for a Healthy Climate (compiled comments)-046-21**: Dana Janowiak stated, "Dear MPCA and the Honorable Kimberly Middendorf, *I am a public health nurse based in Minneapolis. As a health professional, I understand the direct, negative impacts that pollution and environmental racism have on community health and wellbeing.*

Working as a public health nurse, I visited families living in neighborhoods with homes with lead paint, cockroaches, mice, bed bugs, mold, chemicals, and poor air quality. My visits were often focused on addressing these issues instead of helping the new mom bond with her baby or help teach a family parenting skills.

Once, I went to visit a family because a child was frequently in the ER with asthma exacerbations. They were living in an apartment complex right in the interstate. When I opened up the child's nebulizer equipment out of the bag, several cockroaches crawled out. How is a family supposed to be healthy in these environments? Our babies and children experience the impacts of poor air quality much more than we do as adults because they breathe more and their bodies are more susceptible to the damage from pollution. Children are not little adults. Our babies and children do not have a voice in this process and yet they have the most at stake."

277. **Health Professionals for a Healthy Climate (compiled comments)-046-25**: Michael Meleska stated, "Dear MPCA and the Honorable Kimberly Middendorf, *I am a former union president based in Hibbing and have negotiated for over 1000 workers/retirees/fams. This has given me an understanding of the direct, negative impacts that pollution and environmental racism have on community health and wellbeing.*

In June of 2025 my colleague (a retired taconite mining engineer) hired a private aircraft to make 3 flights. A Minnesota Star Tribune journalist and photographer (See front page, Minnesota Star Tribune, 27 Jul 25) joined on one of the flights. We are in possession of 900 photos demonstrating 1,000's of acres of defoliated landscape surrounding all 7 taconite mining tailings reservoirs.

Sulfate, mercury and other heavy metals have been leaching and leaking from these tailings' piles for over 60 years to the tune of 10's of 1,000's of TONS annually into public waters. All three watersheds are receiving this pollution including the Mississippi River (Keetac- USS, and soon MesabiMetallics), Rainy River (Minntac-USS, Minorca-Cliffs), Hibbing Taconite (Cliffs), and St. Louis River including the Fond Du Lac Reservation and Lake Superior (United Taconite-Cliffs).

We provide a podcast on YouTube: ViewsRmine. This is a serious matter. We will gladly contribute to

any effort you can include us in to educate the residents of NE MN as to this tragedy. There is no time to lose, since Cu/Ni mining interests have been working the crowd here for decades in an effort to begin the extraction of copper and nickel which is 40 to 100 X more toxic."

278. **Health Professionals for a Healthy Climate (compiled comments)-046-29:** Chrystal Goggleye stated, "Dear MPCA and the Honorable Kimberly Middendorf, *I am a Certified peer recovery specialist with reciprocal, based in Hibbing. As a health professional, I understand the direct, negative impacts that pollution and environmental racism have on community health and wellbeing—particularly for Native American community members. These issues also disproportionately impact homelessness community members, who experience higher impacts from pollution in addition to challenges such as death from freezing outdoors.*"

279. **Health Professionals for a Healthy Climate (compiled comments)-046-33:** Bryce Purdy stated, "Dear MPCA and the Honorable Kimberly Middendorf, as a retired physician, *I understand the direct, negative impacts that pollution and environmental racism have on community health and wellbeing. I believe we are all entitled to clean air. The fact that racially discriminatory housing practices have disproportionately denied this right to people of color is unjust. I support the HPHC position on strengthening clean air protection.*"

280. **Health Professionals for a Healthy Climate (compiled comments)-046-37:** Emily Onello stated, "Dear MPCA and the Honorable Kimberly Middendorf, *I am a family physician and medical educator based in Duluth. As a health professional, I understand the direct, negative impacts that pollution and environmental racism have on community health and wellbeing.*

Over the decades in practice, I have seen the negative health impacts on patients in a variety of ways. In my early years of practice, it was brought to my attention that in my rural community there was a nearby 'cancer cluster' of cases, likely related to contamination of the water supply from a defunct military site and dumping ground. This included a very rare cancer diagnosed in a young adult with a tragic outcome. In a nearby rural community, there were ongoing concerns for exposure to respiratory particulates from the mining activities going on for decades. While it is difficult to know if a given adverse event or cancer case is linked directly to exposure, it does stay with you when a patient without any clear risk factors develops an abnormality like lung cancer.

More recently, in a more urban practice setting, I have noticed the ways in which regional and distant wildfire smoke have impacted patients negatively. This includes the more obvious asthma flares and chronic obstructive pulmonary disease (or COPD) exacerbations, but also the less obvious impacts of wildfire smoke like worsening eye and sinus allergy symptoms, poor sleep patterns and delayed/deferred outdoor activities."

281. **Health Professionals for a Healthy Climate (compiled comments)-046-42**: Jessica Fisher stated, "Dear MPCA and the Honorable Kimberly Middendorf, *I am a Nurse Practitioner based in Minneapolis. As a health professional, I understand the direct, negative impacts that pollution and environmental racism have on community health and wellbeing.*"

282. **Sierra Club North Star Chapter (compiled comments, set 2)-047-02:** Kris stated, "My name is Kris and I live in and work next to an Environmental Justice area in Rochester. Every day we feel the impacts of pollution in the air we breathe; Highway 52 and Rochester Public Utilities keep our neighborhood blanketed in pollution from methane gas plants, diesel exhaust, heavy traffic, and tire particulate. My asthma, which hasn't been a problem since I was ten, is triggered more and more often by these layers of pollution. We envision MN having clean air and sky-blue waters, but almost every day I see and breathe hazy air and stare at a murky Zumbro River."

283. **Sierra Club North Star Chapter (compiled comments, set 2)-047-07:** Margaret Keating stated,

"Pollution is something we should be able to reduce and that is part of your job."

284. **Prairie Island Indian Community-052-03:** Prairie Island Indian Community stated, "In addition, the Community has concerns about the cumulative burden of pollution and the heightened social vulnerability affecting our Tribal members. Fine particulate matter (PM2.5) levels in our EJ areas consistently have been measured at levels corresponding to an Air Quality Index above 100. Asthma prevalence in EJ area census tract 27049080202 also exceeds the state average. As noted by America's Health Rankings (2024), PM2.5 exposure contributes to both the development of asthma and the worsening of existing respiratory conditions by penetrating deep into the lungs and causing inflammation and airway irritation. These chronic exposures further exacerbate the disproportionate environmental burdens experienced by the Community due to external pollution sources and ongoing regional emissions.

This elevated environmental exposure compounds existing socioeconomic stressors faced by our Tribal members. The Community is located on low-lying land, between the Mississippi River and Vermillion River, directly within the 100-year floodplain. It also is situated within approximately 700 yards of the Prairie Island Nuclear Generating Plant, as well as in close proximity to Lock and Dam No. 3. These overlapping environmental risks create a layered and ongoing burden for our residents and heighten the vulnerability of the Community to additional environmental stressors."

285. **Saint Paul-Ramsey County Public Health-054-01:** Saint Paul-Ramsey County Public Health stated, "Saint Paul-Ramsey County Public Health (SPRCPH) protects and improves the health of people and the environment in Ramsey County. SPRCPH is responsible for helping prevent the spread of disease, protecting against environmental and climate hazards, preventing injuries, promoting and encouraging healthy behaviors, planning and responding to health emergencies, and ensuring the quality and accessibility of health services.

Large areas of the county are within environmental justice areas as described in statute and there are facilities conducting business within the county where proposed cumulative impacts may apply. SPRCPH will respond to data requests within our scope and will continue to identify ways to collaborate with interested parties to protect the health and wellbeing of residents. Please accept the following comments and recommendations from SPRCPH regarding the Proposed New Rules Governing Cumulative Impacts Analysis for Permit Decisions in Environmental Justice Areas, Minnesota Rules chapter 7007."

286. **Reuvers-057-01**: Lynn Reuvers stated, "I'm Lynn, I'm retired, I have lived a charmed life, but I have seen a lot in my short lifetime. About my charmed life – I grew up playing in pastures, meadows and fields. Not a lot of money; but LIFE abounded. All because where I was born and who my parents were.

"The air we breathe" used so frequently in so many different ways. Let's think about that – we ALL deserve quality, clean air that we breathe. The essence of our life!

So given my own "charmed life," I believe I need to speak out for anyone who does not have access to clean air – not by choice, but because they did not have a choice to live in a greener area. Heck, trying to survive and raise a family is hard enough without having to worry about how the "air you breathe" may be impacting your family's health. Be just, be fair!"

287. **Ivan-058-01:** Ivan stated, "My name is Ivan, I am a resident of the South Eastern Minnesota area. I have spent a lot of my life bouncing around the SE MN area. Most importantly I've lived in multiple Environmental Justice (EJ) and non-EJ areas. As someone who suffers from varied types of chronic illnesses, such as Graves' Disease, Asthma, POTS, to name a few, my health is greatly impacted by my environment. I have witnessed the different qualities of housing in Rochester. Some

have old piping, propane gas heating, and other low-income disparities."

288. **Bisht-059-01:** Richa Bisht stated, "My name is Richa Bisht and I am a resident of a designated environmental justice area in Rochester. I am also a resident physician at Mayo Clinic. My apartment complex is on the Zumbro River, just down the road from the power plant. Every day, I walk to work over a bridge that crosses the river. I see families playing in parks along the riverbank, kayaks in the water, and the birds that call the river home. A clean, healthy, and safe living space is critical for this community and the animals with whom we share this home. I am worried about the impact of poorly regulated industries that may pollute the river and my city, and I'm also worried about the health of my patients who are impacted by environmental regulations across the state."

289. **Floyd-060-01:** Anthony Floyd stated, ""As a grandparent of four grandchildren, I am concerned about their future in the environment we are leaving them. Water and air pollution are among the many concerns of mine! In many decisions its follow the money to the huge corporations. Not fair! Communities are given lip service and no real voice! Thank you for your attention to the issue! Sincerely, Anthony Floyd"

290. **Gorfine-061-01:** Mary Gorfine stated, "I live in Rochester, MN and I'm concerned about the environmental impact of clean air and water on the health of our community members. I volunteer for Mayo Clinic on research communities. They often use a database called "Houses" where data on diseases can be predicted based on income, and proximity to facilities that cause significant pollution (air, water, ground). People of all ages are impacted including children and the elderly. As a community member, my opinion is not sought, and even if it is, it does not seem to have an impact. Engagement of the community means going out to community like faith community, schools, neighborhood associations for input. Explain how input is measured, include community members as coordinators of these groups."

MPCA RESPONSE

291. The MPCA notes the commenters' statements of concern regarding the impact that pollution has on the environment and the people of Minnesota. These comments underline one of the primary reasons of this rulemaking: to create a methodology to analyze and understand the potential environmental and health impacts of issuing a permit for a facility located in, or within 1 mile of, an environmental justice area in the Twin Cities seven-county metropolitan area and cities of the first class.

General opposition

292. The MPCA received 9 comments that expressed general opposition for the proposed rule, for specific requirements identified in the proposed rule, and/or the adoption of the proposed rule in its current form. These comments are identified and responded to below.

293. Some commenters included a summary/overview of their comments alongside their comments expressing general opposition. In some cases, commenters also included statements expressing opposition for adopting the proposed rules without specific changes suggested by the commenters identified elsewhere in their comments. While these summary/overview statements are also identified alongside the commenter's general opposition, the more detailed comments provided by the commenter are responded to elsewhere in this document.

294. **Minnesota Chamber of Commerce-027-01**: The Minnesota Chamber of Commerce stated, "On behalf of the Minnesota Chamber of Commerce (Chamber), a statewide organization representing more than 6,300 businesses and more than half a million employees, we appreciate the opportunity to submit comments on the Minnesota Pollution Control Agency's (MPCA) Proposed New Rules

Governing Cumulative Impacts Analysis for Permit Decisions in Environmental Justice Areas (Rules), as proposed on May 18, 2026, in response to Minn. Stat. 116.065. Of note, many facilities listed by the MPCA as potentially affected by the Rule are members of the Chamber. [https://www.pca.state.mn.us/sites/default/files/aq-rule2-25f.pdf]

The proposed rule fails to provide clear, objective decision criteria, relies on broad agency discretion, creates uncertainty regarding how permit decisions will be made, and introduces significant and unquantified impacts to permitting timelines and costs. Without targeted revisions, the rule risks reducing regulatory predictability and discouraging timely investment while extending beyond the scope intended by the Legislature.

Air emissions are already subject to extensive federal, state, and local regulatory oversight. The federal Clean Air Act establishes health-based air quality standards, emissions limitations, permitting requirements, and technology-based controls for many emission sources. Minnesota has adopted a comprehensive air permitting and regulatory program that implements and, in some areas, exceeds federal requirements. In addition, many projects are subject to environmental review under the National Environmental Policy Act (NEPA), the Minnesota Environmental Policy Act (MEPA), or both, requiring evaluation of potential environmental impacts before project approval.

Minn. Stat. 116.065 does not replace or diminish these existing regulatory programs. Rather, the statute is narrowly focused on evaluating whether air emissions-related projects may contribute to adverse cumulative impacts on human health within an environmental justice area. Accordingly, the rule should be implemented consistent with that limited statutory purpose. The Chamber urges the Court to interpret the proposed rule as requiring a demonstrated nexus between a permit action, an air emission related environmental stressor, and the identified cumulative impact. Any requirement for a community benefit agreement or similar mitigation measure should be limited to circumstances where the record demonstrates that the proposed permit action would contribute to those impacts.

This letter addresses the Chamber's concerns on the proposed rule, categorized as follows:

1. Failure to Implement Statutory Requirements
2. Lack of Objective and Reasonable Decision Standards
3. Recommended Procedural Changes to Accelerate Permit Actions, Avoid Duplication, and Provide Clarity
4. Rule Statement of Need and Reasonableness (SONAR) Failure to Appropriately Evaluate Economic and Timeline Impacts
5. Greater Clarity Regarding Community Participation and the Requirements for Petitions
6. Air Quality Modeling and Air Emissions Risk Assessment
7. Environmental Stressors
8. Additional Comments

These are discussed in more detail below. Please note that for brevity, the term "permittee" is used to refer to the owner or operator of the stationary source requesting a permit action, and "MPCA" is used to refer to the "Commissioner"."

295. **Minnesota Chamber of Commerce-027-58**: The Minnesota Chamber of Commerce stated, "Based on the issues raised herein, the Chamber respectfully requests that the Administrative Law Judge find that the proposed rule requires significant revision to (1) establish clear, objective decision thresholds, (2) define key terms, including "significant" and "substantial adverse impact," and (3) fully evaluate and mitigate the rule's impacts on permitting timelines and costs. Absent these revisions, the rule does not demonstrate reasonableness or full consideration of the relevant

factors required under Minnesota law.

The Chamber appreciates the opportunity to comment on this important stage of the Rules."

296. **Shaw-036-01**: Beth Shaw stated, "I support the basic principle that MPCA must consider cumulative pollution before issuing air permits. However, I oppose adoption of the proposed rule in its current form because its geographic eligibility system, census methodology, facility-controlled process, petition requirements, and community benefit agreement provisions contain serious weaknesses, most importantly the ridiculous indicators used, the use of unclear and outdated datasets that aren't relevant, and opening the door to the Twin Cities Climate Resiliency elites to sell Carbon Offsets that will now be used by factories killing us for dead trees on a corrupt, dirty market codesigned alongside the MPCA, MNdot [sic], The City of Minneapolis, Hennepin County, and billionaires."

297. **Shaw-036-22**: Beth Shaw stated, "Requested findings and revisions. I request that the Administrative Law Judge find that MPCA has not adequately demonstrated the reasonableness of the proposed rule unless the agency addresses the following:

unexplained exclusion or fragmentation of the Northside and Southside Green Zones;

inclusion or apparent coverage of areas such as the North Loop without tract-level explanation;

the difference between actual EJ tracts and one-mile buffer areas;

cliff effects created by the demographic thresholds;

distortions created by counting low-income households instead of low-income residents;

the treatment of renters, larger households, shelters, group quarters, and unhoused residents;

outdated or pooled census and health data;

census-tract averaging that hides block-level burdens;

failure to recognize cumulative pollution as an independent route to protection;

the facility's dominant role in conducting the analysis and public process;

excessive petition requirements placed on residents; and

community benefit agreements that can allow a permit despite a finding of substantial adverse impact.

the broad and undefined authority of the official eComments platform to remove comments deemed offensive, belligerent, inappropriate, or aggressive without prior notice, including the absence of disclosed standards, an appeal procedure, and clarity about whether removed comments remain in the administrative record.

At minimum, MPCA should publish a complete Minneapolis tract table before the record closes so residents can evaluate the map using actual data rather than unexplained colors."

298. **Minnesota Building and Construction Trades Council-041-01**: The Minnesota Building and Construction Trades Council stated, "The Minnesota Building and Construction Trades Council represents over 70,000 union construction and industrial workers throughout the state, including tens of thousands who live and work in environmental justice areas. These proposed rules have the potential to dramatically impact many of our members either by having effects on industrial development and redevelopment, or by having effects on the communities in which we live. We have organized our comments into broad topics.

Overview

Our unions strongly support the concept that working-class people should be safe at work and enjoy safe, healthy communities where we live. Environmental racism is a real historical problem and we support efforts to ensure that existing facilities and any new proposed facilities located in environmental justice areas that have been overburdened by pollution meet strict standards for both worker and neighborhood safety and well-being.

It is important to emphasize, however, that we support such protections where both disproportionate socioeconomic and environmental burdens are present, consistent with the original purpose not only of the law but of environmental justice broadly. We do not support the imposition of misguided efforts to "protect" communities whose burdens are socioeconomic and not environmental from the very economic development that could help alleviate those burdens.

We further believe that economic development, and industrial development especially, is essential for a thriving economy everywhere in Minnesota, especially in Minneapolis and St. Paul, inner-ring suburbs, Duluth, and Rochester. Any proposed rules must strike a balance between accountability and government oversight and ensure that processes created by them are not so onerous that industrial development will flee to the exurbs or another state. Strong cities rely on robust industrial bases for a number of important factors, including good jobs that often don't require a four-year degree and the fact that industrial properties pay higher property taxes, helping fund critical services and hold down residential tax rates."

299. **Minnesota Building and Construction Trades Council-041-12**: The Minnesota Building and Construction Trades Council stated, "**Good Jobs are Good for Working-Class Neighborhoods**

The analysis is greatly weighted toward measuring potential negative impacts of industrial activity and barely recognizes or includes positive impacts that economic development and industrial jobs have in the analysis regarding "substantial adverse impacts". Industrial jobs provide higher-than average salaries, especially for workers without advanced degrees and other barriers to entry. These jobs are more likely than other jobs to have retirement benefits and health benefits. Access to health insurance and higher household incomes are strongly associated with better health outcomes and should therefore be considered alongside other factors when weighing the net impact of a proposed permit on public health in environmental justice communities [See Song, Liying et al. (2020) "The Association between Health Insurance and All-Cause, Cardiovascular Disease, Cancer and Cause-Specific Mortality: A Prospective Cohort" National Library of Medicine Public Access Archive. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7084505/#:~:text=In%20fully%20adjusted%20models%2C%20private,CI%20%3D%201.15%E2%80%931.27; and Chetty, et al (2016), "The Association Between Income and Life Expectancy in the United States, 2001–2014", National Library of Medicine, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4866586/].

Industrial properties pay higher property tax and electricity rates than residential rates. They hire contractors to build, maintain, and replace equipment and provide jobs to others in the supply chain and logistics industries. They hire construction contractors at higher rates than residential or commercial properties do.

They are also especially valuable in the core cities and in neighborhoods where working-class people and people of color live. Our members, thousands of whom live in environmental justice areas, will tell you that it is not feasible to get to jobs in the outer-ring suburbs without owning a reliable car – something that many young people and others entering or re-entering the workforce do not have. People need to be able to walk or easily take transit to jobs, especially if one values, as we do,

providing job opportunities to people who live in the core cities.

To put a finer point on it, if these overly complicated, costly rules are adopted, they will have the impact of hurting industrial job retention and growth in areas that residents of environmental justice areas can access. Our unions spend millions of dollars each year recruiting and training people from low-income neighborhoods to join our unions and our industry. These rules will make that work harder and will hurt our efforts to bring more people of color into the construction industry.

300. **Cordia Energy Center Minneapolis-049-01**: Cordia Energy Center Minneapolis stated, "On behalf of Cordia Energy Center Minneapolis (Cordia), a large district energy company that provides heating and cooling to a large portion of commercial, retail, and government customers in downtown Minneapolis, we appreciate the opportunity to submit comments on the Minnesota Pollution Control Agency's (MPCA) Cumulative Impacts Rule, as proposed on May 18, 2026, in response to Minn. Stat. 116.065.

While Cordia supports the statutory objective of addressing cumulative impacts in environmental justice areas, the proposed rule, as drafted, fails to provide clear, objective decision criteria, relies on broad agency discretion, and introduces significant and unquantified impacts to permitting timelines and costs. Absent targeted revisions, the rule risks undermining both statutory intent and Minnesota's ability to support timely, predictable investment.

This letter addresses Cordia's concerns on the proposed rule, categorized as follows:

1. Failure to Implement Statutory Requirements;
2. Lack of Objective Decision Standards;
3. SONAR Failure to Appropriately Evaluate Economic and Timeline Impacts;
4. Miscellaneous comments.

These are discussed in more detail below. Please note that for brevity, the term "permittee" is used to refer to the owner or operator of the stationary source requesting a permit action, and "MPCA" is used to refer to the "Commissioner"."

301. **Cordia Energy Center Minneapolis-049-29**: Cordia Energy Center Minneapolis stated, "Based on the issues raised herein, Cordia respectfully requests that the Administrative Law Judge find that the proposed rule requires significant revision to (1) establish clear, objective decision thresholds, (2) define key terms including "significant" and "substantial adverse impact," and (3) fully evaluate and mitigate the rule's impacts on permitting timelines and costs. Absent these revisions, the rule does not demonstrate reasonableness or full consideration of the relevant factors required under Minnesota law. Cordia appreciates the opportunity to comment on this important stage of the CIA rulemaking."

302. **Minnesota Hospital Association-051-01**: The Minnesota Hospital Association stated, "On behalf of the Minnesota Hospital Association (MHA), thank you for the opportunity to comment on the proposed rules governing cumulative impacts analysis and permit decisions in environmental justice areas. MHA represents Minnesota's nonprofit hospitals and health systems that provide essential health care services to communities across the state, including many facilities located within or near environmental justice areas and subject to Minnesota Pollution Control Agency (MPCA) air pollution permitting requirements. MHA previously commented in 2023 during development of these rules and appreciates MPCA's continued engagement throughout the rulemaking process.

Hospitals occupy a unique position within Minnesota's air permitting framework. Federal and state requirements obligate hospitals to maintain emergency power systems capable of sustaining patient

care during power disruptions. Emergency generators and related infrastructure are not discretionary industrial operations – they are life-saving systems that ensure uninterrupted operation of emergency departments, intensive care units, operating rooms, life-support equipment, electronic medical records, security systems, and other critical functions. As a result, hospitals are required to hold air pollution permits despite not operating as industrial facilities. While MHA appreciates that regulators must evaluate worst-case scenarios, the permitting framework can overlook the significant difference between a facility's permitted capacity and its normal operating conditions. Hospital emergency generators, for example, are permitted for continuous operation but in practice run only for periodic testing and during actual outages. Moreover, in a true emergency or disaster, communities depend on hospitals to remain fully operational even when doing so temporarily results in a higher environmental impact.

Maintaining the infrastructure necessary to support uninterrupted patient care during these events is itself a critical public service. MHA remains concerned that the proposed rule applies the same cumulative impacts framework to hospitals as it does to industrial facilities without adequately accounting for hospitals' public health mission. Under the proposed rule, many hospital projects—including generator replacements, energy resiliency improvements, boiler upgrades, and facility expansions—could trigger extensive cumulative impacts analysis requirements, public participation obligations, and potentially community benefit agreement negotiations. These requirements could apply even when emissions increases are modest or negligible, and associated with infrastructure necessary to maintain patient safety and compliance with healthcare accreditation and emergency preparedness standards."

MPCA RESPONSE

303. The MPCA appreciates the statements expressing opposition and/or concerns regarding the proposed rule. The MPCA does not dispute that the proposed rule will have an impact on regulated parties, the people living nearby them, and the people of Minnesota broadly. However, the MPCA disagrees with the statements that the proposed rule fails to meet the objectives identified in Minn. Stat. § 116.065, subd. 6, that the proposed rule goes beyond the scope of Minn. Stat. § 116.065, and that the proposed rule is unreasonable. As identified in the Statement of General Need section of the SONAR (p. 10-18) and the General Reasonableness section of the SONAR (p. 51-52), the MPCA believes the proposed rules meet the obligations set forth in Minn. Stat. § 116.065, the proposed rules develop a suitable set of cumulative impacts tools and analyses to evaluate cumulative impacts from the actions/projects regulated parties pursue to meet those statutory obligations, and the proposed rules provide a consistent methodology for the decision-making processes identified therein.

Decision criteria and statutory obligations

304. The MPCA received 13 comments expressing concern regarding decision criteria and statutory obligations for the determinations regarding whether to require a cumulative impacts analysis and when an environmental or health impact is a substantial adverse impact. Commenters expressed concerns that they believe the MCPA has failed to meet the statutory obligations in Minn. Stat. § 116.065.

305. **Minnesota Chamber of Commerce-027-02**: The Minnesota Chamber of Commerce stated, "**1. Failure to Implement Statutory Requirements**

a. Minn. Stat. 116.065, subd. 6 (c), indicates that rules adopted under this section must: "(1) establish benchmarks to assist the commissioner's determination regarding the need for a cumulative impacts analysis; … (3) define conditions, criteria, or circumstances that establish an

environmental or health impact as a substantial adverse impact."

The proposed rule does establish emissions-based benchmarks as one mandatory trigger but allows MPCA to require a cumulative impacts analysis (CIA) based on broad discretionary considerations beyond the established benchmarks. A hybrid of partly prescriptive and partly open-ended, qualitative balancing criteria introduces material ambiguity in implementation.

Minn. Stat. 116.065, subd. 3 addresses how MPCA should determine the need for a CIA. It indicates that "The commissioner is responsible for determining whether a proposed permit action may substantially impact the environment or health of residents of an environmental justice area" [emphasis added].

The proposed rule establishes a structural framework or process for implementing the statute, but it does not provide clear, objective, or consistently reproducible decision standards for determining:

(1) When a permit action "may substantially impact" the environment or health of residents of an environmental justice area, and therefore requires a CIA; and

(2) When a permit action results in "a substantial adverse impact", therefore requiring a community benefit agreement (CBA).

Instead, the proposed rule relies on broad, case-by-case agency discretion that limits predictability, transparency, and regulatory consistency for permittees and the public. The absence of objective decision criteria creates uncertainty regarding when a CIA will be required and when a permit action may result in a finding of substantial adverse impact. This approach is inconsistent with the statutory directive to establish benchmarks and criteria for these determinations."

306. **Minnesota Chamber of Commerce-027-03**: The Minnesota Chamber of Commerce stated, "b. Minn. Stat. 116.065, subd. 3, states that "The commissioner is responsible for determining whether a proposed permit action may substantially impact the environment or health of the residents of an environmental justice area" (emphasis added). The stressor analysis, as established in the proposed rule and current version of the Cumulative Impacts Mapping and Analysis Platform (CI-MAP) tool, does not account for the potential impact of the permit action at all, and therefore, should not be a strongly weighted factor in determining either whether a CIA is required, or whether a permit action results in a substantial adverse impact. In the stressor analysis, what the permit action is, and whether it will have an adverse health impact, or any culpability of the facility on the stressor evaluation, does not appear to be relevant. Under the plain language of the statute, MPCA must make a determination that the proposed permit action will have adverse effects. The rule should require a demonstrable nexus between the requested permit action and the identified environmental or health impact. Existing environmental conditions, historical stressors, or community conditions that are unrelated to the permit action should not independently support a determination that a permit action may substantially impact the environment or health of residents. Any attempt to impute the effects of stressors to every "permit action" in a given area without considering the specific effects of a particular "permit action" will violate the plain language of the statute and leave MPCA vulnerable to challenge that such decisions violate or exceed MPCA's legal authority.

The Chamber is also concerned that certain provisions of the proposed rule allow MPCA to consider broad categories of information without establishing clear limits on the types of information that may be relied upon or how that information will be evaluated. For example, the proposed rule (7007.6050, subp. 3, (A)(6)) permits consideration of "any other information and data the commissioner deems relevant." Without additional guardrails, this provision creates uncertainty regarding what information may influence permitting decisions and how that information will be

weighed.

In both the determination of the need for a CIA and the determination denying a permit and/or requiring a CBA, the expected impact of the proposed permit action on the environment or public health should be the central focus. There should be evidence that the permit action may contribute to relevant stressors in a way that poses the potential for an adverse health or environmental impact. Denying a permit action or requiring measures to reduce environmental stressors to which the facility contributes should be commensurate with the degree to which the permit action causes the substantial adverse impact."

307. **Minnesota Chamber of Commerce-027-05**: The Minnesota Chamber of Commerce stated, "**2. Lack of Objective and Reasonable Decision Standards** a. The proposed rule includes several MPCA decision points:

(1) determining whether the permittee needs to conduct a CIA (either mandatory or discretionary; the latter may include determining whether a petition is complete);
(2) determining whether additional information is necessary to evaluate the CIA;
(3) determining whether the permittee needs to prepare a draft CBA, (i.e., whether the requested permit action would have a "substantial adverse impact");
(4) determining whether additional information is necessary to determine "substantial adverse impact"; and
(5) determining whether to issue or deny the requested permit action.

Since these determinations do not rely solely on defined benchmarks or threshold values and involve a level of judgment, they introduce an unacceptable level of uncertainty into the permitting process. Moreover, even when the proposed rule does establish benchmarks, those benchmarks often do not relate to the likelihood that there may be a substantial adverse impact caused by the permit action under consideration. The Chamber recommends that appropriate benchmarks be established for these main decision points to promote transparency, predictability, and ensure consistency in the air permitting process. Such criteria should identify both circumstances where a CIA is required and circumstances where a CIA is not required. The Chamber is not currently proposing specific additional quantitative benchmarks in these comments, but may do so in comments following the hearing and would welcome agency input."

308. **Minnesota Chamber of Commerce-027-07**: The Minnesota Chamber of Commerce stated, "c. In the proposed rule, there is uncertainty and a lack of clarity around how the determination of "may substantially impact the environment or health" in the context of the need for a CIA, and the determination of a "substantial adverse impact" in the context of a permit denial/CBA decision will be made. In particular, it is unclear how the analysis of a facility's contribution to either the potential for a substantial adverse impact or an actual substantial adverse impact will be factored into each of those decisions. The Clean Air Act has been very effective in reducing the human health risk (impact) resulting from permitted facilities' air emissions. Risk analyses based on United States Environmental Protection Agency (USEPA), MPCA, and Minnesota Department of Health (MDH) procedures have demonstrated very low contributions to cancer and non-cancer risks at receptors by permitted facilities. The need to add substantial time and complexity to the permitting process by requiring a CIA, and the need to enter into CBAs that require extensive offsetting measures either on- or off-site, should be commensurate with the degree to which a facility's air emissions are causing human health risks.

Similarly, the determination of whether a CIA demonstrates a "substantial adverse impact" relies on a broad, multi-factor evaluation without defined weighting, prioritization, or outcome thresholds. Although the rule incorporates quantitative risk metrics, environmental stressor data, and

qualitative considerations, it does not establish how these factors translate into a definitive finding of substantial adverse impact. The SONAR acknowledges that "countless possible scenarios" exist and that impacts cannot be exhaustively defined, reinforcing that final determinations will depend on case-by-case agency judgment. As a result, the framework lacks the clarity needed to ensure predictability, consistency, and transparent decision-making in permitting outcomes."

309. **Minnesota Chamber of Commerce-027-08**: The Minnesota Chamber of Commerce stated, "d. The proposed rule (7007.6070 Subp. 4. B.) requires MPCA, when determining whether issuing the requested permit action may substantially impact the environment or the health of the residents of the impacted environmental justice area (and the need to conduct a CIA), to consider cumulative potential impacts, specifically "whether the potential impact is significant" and "whether the contribution from the requested permit action is significant when viewed in connection with other contributions to the potential impact" (emphasis added). Similarly, the proposed rule (7007.6100, subp. 2. B.) requires MPCA, when determining whether issuing the requested permit would result in a substantial adverse impact to the environment or the health of the residents of the impacted environmental justice area (and the need to prepare a CBA), to evaluate cumulative impacts, considering "whether the impact is significant" and "whether the contribution from the requested permit action is significant when viewed in connection with other contributions to the impact" (emphasis added). However, the rule does not define "significant" as used in either part of the rule. The Chamber recommends that quantitative benchmarks be established to determine whether such impacts are "significant". The rule should also define the factors that are considered in making significance determinations and explain how quantitative and qualitative information will be evaluated in reaching those determinations."

310. **Minnesota Chamber of Commerce-027-46**: The Minnesota Chamber of Commerce stated, "**8. Additional Comments**

a. Several provisions of the proposed rule allow MPCA to exercise substantial discretion when determining whether impacts are significant, but do not establish corresponding standards governing the evidence that may be relied upon in making those determinations. The Chamber recommends that any information relied upon by MPCA in determining whether a CIA is required or whether a substantial adverse impact exists be disclosed to the permittee and made available for review and response before a final determination is made.

Further, the proposed rule (7007.6070, subp. 5) grants MPCA wide discretion to determine whether there is insufficient information to determine the need for a CIA. This could result in MPCA requiring unreasonable and extensive efforts to obtain the lacking information."

311. **American Petroleum Institute-042-07:** The American Petroleum Institute stated, **"**1.6 GREATER CLARITY IS NEEDED REGARDING COMMISSIONER DISCRETION

The proposed rule appropriately establishes benchmark criteria. However, the Commissioner retains broad authority to require a CIA or determine that impacts are substantial based upon material evidence. While some flexibility is appropriate, the proposed rule does not clearly define:

- material evidence,
- evidentiary thresholds,
- weighting of competing information,
- decision criteria.

Without clearer standards, similarly situated applicants could receive different outcomes despite comparable technical information.

Recommendation: Provide objective decision criteria describing:

- what evidence will be considered,
- how evidence will be evaluated,
- when discretionary authority may be exercised."

312. **American Petroleum Institute-042-12:** The American Petroleum Institute stated, "**1.11 PART 7007.6070 – DETERMINATION OF NEED**

API appreciates MPCA's effort to establish benchmark criteria. However, the Commissioner retains broad discretion to require a CIA even where benchmarks are not met. Although flexibility is appropriate, the rule provides little guidance regarding:

- how benchmarks are weighed,
- how conflicting evidence is resolved,
- how qualitative information influences technical analyses,
- when discretion should override objective screening criteria.

This creates uncertainty for regulated entities and may result in inconsistent permitting outcomes.

Recommendation: The rule should establish a decision framework that:

1. first evaluates objective benchmark criteria;
2. then considers additional technical information;
3. clearly explains circumstances where discretionary authority may appropriately override benchmark findings."

313. **Cordia Energy Center Minneapolis-049-02:** Cordia Energy Center Minneapolis stated, "1 Failure to Implement Statutory Requirements:

a. Minn. Stat. 116.065, subd. 6 (c), indicates that rules adopted under this section must:

(1) establish benchmarks to assist the commissioner's determination regarding the need for a cumulative impacts analysis …

(3) define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact.

The proposed rule does establish emissions-based benchmarks but allows MPCA to require a cumulative impacts analysis (CIA) based on broad discretionary considerations beyond benchmarks. A hybrid of partly prescriptive and partly open-ended, qualitative balancing criteria introduces material ambiguity in implementation. Cordia believes the decision to require a CIA should be based on objective, science-based quantitative thresholds or benchmarks and not on arbitrary discretionary agency decisions.

The proposed rule relies on broad, case-by-case agency discretion that limits predictability, transparency, and regulatory consistency for permittees and the public. This is inconsistent with the requirement in the statute."

314. **Cordia Energy Center Minneapolis-049-03:** Cordia Energy Center Minneapolis stated, "b. Minn. Stat. 116.065, subd. 3, states that "The commissioner is responsible for determining whether a proposed permit action may substantially impact the environment or health of the residents of an environmental justice area." (emphasis added). The legislation indicates that there should be some indication (i.e., "may substantially impact") that the permit action will have adverse effects. Any attempt to impute the effects of stressors to every "permit action" in a given area without considering the specific effects of a particular "permit action" will violate the plain language of the

statute and leave MPCA vulnerable to challenge that such decisions violate or exceed MPCA's legal authority.

In both the determination of the need for a CIA and the determination denying a permit and/or requiring a CBA, the culpability of the facility's contribution to the substantially adverse environmental or health impact should be accounted for. There should be evidence that the permit action may contribute to relevant stressors in a way that poses the potential for an adverse health impact. Denying a permit action or requiring measures to reduce environmental stressors to which the facility contributes should be commensurate with the degree to which the permit action contributes to the substantial adverse impact."

315. **Cordia Energy Center Minneapolis-049-04**: Cordia Energy Center Minneapolis stated, "**2 Lack of Objective Decision Standards** a. The proposed rule includes several MPCA decision points:

(i) determining whether the permittee needs to conduct a CIA (either mandatory or discretionary; the latter may include determining whether a petition is complete);
(ii) determining whether additional information is necessary to evaluate the CIA;
(iii) determining whether the permittee needs to prepare a draft community benefit agreement, (i.e., whether the requested permit action would have a "substantial adverse impact");
(iv) determining whether additional information is necessary to determine "substantial adverse impact"; and
(v) determining whether to issue or deny the requested permit action.

Since these determinations do not rely solely on defined benchmarks or threshold values and involve a level of judgment, they introduce an unacceptable level of uncertainty into the permitting process. Cordia recommends that specific quantitative benchmarks be established for these main decision points to promote transparency and ensure consistency in the air permitting process. Subjective and arbitrary judgements should not be used to make these important decisions."

316. **Cordia Energy Center Minneapolis-049-05**: Cordia Energy Center Minneapolis stated, "b. The proposed rule (7007.6070, subp. 4, B) requires MPCA, when determining whether issuing the requested permit action may substantially impact the environment or the health of the residents of the impacted environmental justice area (and the need to conduct a CIA), to consider cumulative potential impacts, specifically "whether the potential impact is significant" and "whether the contribution from the requested permit action is significant when viewed in connection with other contributions to the potential impact". Similarly, the proposed rule (7007.6100, subp. 2, B) requires MPCA, when determining whether issuing the requested permit would result in a substantial adverse impact to the environment or the health of the residents of the impacted environmental justice area (and the need to prepare a community benefit agreement), to evaluate cumulative impacts, considering "whether the impact is significant" and "whether the contribution from the requested permit action is significant when viewed in connection with other contributions to the impact". However, the rule does not define "significant" as used in either part of the rule. Cordia recommends that quantitative benchmarks be established to determine whether such impacts are "significant"."

317. **Metropolitan Airports Commission-055-03:** The Metropolitan Airports Commission stated, "**The Proposed Rules give the Commissioner too much discretion at critical points in the process.** For instance, even if the results of an Initial Assessment show the requested permit action does not meet or exceed any established pollutant benchmarks, the Commissioner may still order the permit applicant to complete a CIA if she determines doing so "is necessary and supported by material evidence." Proposed Rule 7007.6070, subp. 2.A. However, the Rule —which simply restates the broad statutory language in Minn. Stat. § 116.05, subd. 3(e)(1) —provides no definition of or

parameters for what constitutes a discretionary yet somehow "necessary" CIA, nor does it define "material evidence." Furthermore, unlike other Commissioner determinations elsewhere in the Proposed Rules, such as the determination of whether a permit action will have a "substantial adverse impact," this Rule lacks any sort of criteria the Commissioner must consider or satisfy in making her discretionary CIA determination. This unfettered discretion creates uncertainty in the impacts analysis process. It also makes it extremely hard for a permit applicant to bring a challenge to that discretion. This level of administrative discretion will again make permittees hesitant, at the very least, to invest the time and money into new or expanded facilities, if the Commissioner can simply decide an expensive and time-consuming CIA is "necessary and supported by material evidence." The MAC therefore strongly recommends MPCA develop objective parameters to guide and limit the Commissioner's discretion in ordering CIAs for a facility with emissions below relevant pollutant levels or, better still, eliminate this vague and unlimited power altogether in the final version of this Rule."

MPCA RESPONSE

318. Broadly, existing statute and rule provide the MPCA the discretion to make permitting decisions (e.g., Minn. Stat. § 116.07, subd. 4a, Minn. R. 7007.0150, Minn R. 7007.0200, Minn R. 7007.0250, Minn R. 7007.1000) as well as Minn. Stat. § 116.065 in several locations (e.g., Minn. Stat. § 116.065, subd. 3(a)(1), 3(a)(2), 3(d)(2), 3(e), and 5(c)) all reflect that the MPCA has discretion to make these determinations. Additionally, Minn. Stat. § 116.065 throughout reflects that the MPCA is the authority to make permitting determinations, even when those determinations must be based on specified criteria, as reflected throughout Minn. Stat. § 116.065, subd. 3, 5, and 6(c).

319. The proposed rule relies on the process and decision point framework provided by Minn. Stat. § 116.065, which established the permit application requirements (Minn. Stat. § 116.065, subd. 3(b)), required the MPCA to determine whether a cumulative impacts analysis is needed based on the application (Minn. Stat. § 116.065, subd. 3(a)(2), 3(c), 3(d), and 3(e)), established the concept of a community benefit agreement (Minn. Stat. § 116.065, subd. 5(b)), and provided MPCA the authority, alongside their existing permitting authority, to make decisions throughout this process.

320. The MPCA disagrees with the commenters' statements that the proposed rule does not provide decision standards for determining when a cumulative impacts analysis is required and when issuing a permit would result in a substantial adverse impact on the environment or the health of the residents of an environmental justice area. The decision standards, including the information the MPCA must consider and criteria for how MPCA must evaluate the impacts associated with a permit action, for the different decision points in the proposed rule are established through a combination of statutory language in Minn. Stat. § 116.065 and proposed rule language. The MPCA has established objective information and criteria that will inform the MPCA's decisions in the proposed rule.

321. Minn. Stat. § 116.065, subd. 3 establishes several requirements regarding the commissioner's determination of need for a cumulative impacts analysis. Furthermore, Minn. Stat. § 116.065, subd. 6(c)(1) establishes that the rules must establish benchmarks to assist the commissioner's determination regarding the need for a cumulative impacts analysis. Part 7007.6070 of the proposed rule provides how the commissioner makes determinations regarding the need for a cumulative impacts analysis in support of the statutory obligations identified as described in the SONAR (p. 97-101). Additionally, part 7007.6050, subpart 3 provides the content of the initial assessment, which includes objective criteria, that will inform the commissioner's determination regarding the need for a cumulative impacts analysis as established in part 7007.6070.

322. Part 7007.6070 identifies the scenarios, in which MPCA may consider information beyond the

benchmarks, as expressly required or allowed under Minn. Stat. § 116.065, subd. 3(d)(2) and 3(e). Additionally, Minn. Stat. § 116.065, subd. 3(c) establishes requirements surrounding the determination of whether a cumulative impacts analysis is required, including reviewing information provided by the application, assessing benchmarks, and reviewing any other information deemed relevant by the commissioner.

323. Regarding the determination of whether a cumulative impacts analysis is required, the proposed rule, in part 7007.6070, subpart 3, establishes information MPCA must consider, including the objective benchmark criteria, and requires MPCA, in part 7007.6070, subpart 4, to consider the impacts that may be expected to occur from issuing the requested permit action. The proposed rule's required information and criteria that will be used to evaluate the impacts and inform MPCA cumulative impact analysis determination, establishes decision criteria that is consistent with the statutory requirements in Minn. Stat. § 116.065, subd. 3(c), 3(d), and 3(e).

324. This approach is consistent with and supported by existing permitting rules that entitle MPCA to "other information" as it determines necessary. The purpose of these rules is to provide the agency with information so that they can make informed decisions. Without these rules MPCA's decision-making would be ill-informed and vulnerable to legal challenges. Examples of statutes and rules that entitle PCA to "other information" as it determines necessary:

- Minn. Stat. § 116.07, subd. 9 provides MPCA the authority to request "other information as the agency may reasonably require" for the purpose of enforcing provisions of this chapter, which includes Minn. Stat. § 116.065.
- Minn. R. 7007.0500, subp. 2(E) requires the permit applicant to provide, "Other specific information that may be necessary to implement and enforce other applicable requirements or requirements of parts 7007.0100 to 7007.1850, or to determine the applicability of such requirements."
- Minn. R. 7007.0500, outlines all the required permit application information. Minn. R. subp. 1F includes an important clarification, that this rule does not limit the information that MPCA is legally entitled under its statutory authority. MPCA's statutory authority includes Minn. Stat. 116.091, which authorizes PCA's access to any information that is relevant to pollution, the rules (including Minn. R. chapter 7007), or Minn. Stat. chapter 116 (which Minn. Stat. § 116.065 falls under).

325. Minn. Stat. § 116.065, subd. 5 establishes the requirements regarding the responsibilities of the commissioner's determination of substantial adverse impacts and the community benefit agreement associated with that determination. Furthermore, Minn. Stat. § 116.065, subd. 6(c)(3) establishes that the rules must define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact. Part 7007.6100 of the proposed rule provides how the commissioner makes determinations regarding substantial adverse impacts in support of the statutory obligations identified as described in the SONAR (p. 137-143).

326. Part 7007.6100 identifies the conditions, criteria, or circumstances identified by Minn. Stat. § 116.065, subd. 6(c)(3) that establish an environmental or health impact as a substantial adverse impact.

327. Regarding the determination of substantial adverse impacts, the proposed rule, in part 7007.6100, subpart 1, establishes information MPCA must consider including modeling and air emission risk analysis, and requires MPCA, in part 7007.6100, subpart 2, to evaluate certain criteria, including whether the requested permit action is significant in connection with other contributions to the impacts. Together, subpart 1 and 2, establish decision-making criteria for MPCA to determine whether issuing the requested permit action would result in a substantial adverse impact, which is

consistent with the statutory requirements in Minn. Stat. § 116.065, subd. 6(c)(3).

328. Additionally, the information and criteria identified in part 7007.6100, subparts 1 and 2 provide objective criteria to inform MPCA decision-making while also providing flexibility to consider factors such as mitigation and control measures that effect whether a requested permit action's impact is significant.

329. Regarding the commenters' concerns with respect to environmental stressors and how they are used throughout the proposed rule, the MPCA appreciates the commenters' suggestions and concerns, but believes the commenters are mistaken in their understanding of the actions required of facilities regarding environmental stressors and how the MPCA considers environmental stressors in decision-making.

330. The proposed rules require regulated parties to include the environmental stressor information provided by the MPCA as part of an initial assessment required under part 7007.6050 (see part 7007.6050, subpart 3, item F). The proposed rules require that the owner or operator preparing an initial assessment consider those environmental stressors as part of the assessment of impacts of the requested permit action (see part 7007.6050, subpart 3, item G). This assessment focuses on the impacts to the environment and the health of the residents of environmental justice areas, consistent with the statutory directives in Minn. Stat. § 116.065, subd. 3(a), and provide relevant information to the commissioner for evaluation so they can determine whether a cumulative impacts analysis is required for the requested permit action. This determination is not based solely on environmental stressors. Environmental stressors are one part of the information, within the initial assessment, alongside other sources of information that the MPCA must consider as part of determining the need for a cumulative impacts analysis (see part 7007.6070, subpart 3) and as part of determining whether issuing the permit would have a substantial adverse impact (see part 7007.6100, subpart 1).

Rulemaking outreach and engagement

Tribal consultation and coordination

331. The MPCA received two comments regarding outreach and engagement with Tribes during the rulemaking process.

332. **Frontline Communities Protection Coalition (compiled comments)-045-125**: Aubree Derksen stated, "I am a member of a frontline community fighting against a hyperscale data center, and my community is also connected to a nearby tribal community. As I reviewed the Community Benefit Agreement (CBA) community input panels, I did not see any tribal members represented. This is concerning because the rulemaking process is intended to apply to tribal communities, and CBAs will also impact those communities.

The community input panel process must be redone with meaningful tribal participation, and the timeline should be extended to allow for proper tribal engagement. Tribal sovereignty must be respected, including treaty rights and the right of tribal communities to have a meaningful voice in decisions that affect them.

Similarly, when reviewing the May 13th Adverse Impact working session, I did not see tribal members represented. This session should also be revisited, with a timeline extension provided to ensure tribal communities are included in the process.

I attended the April 9th workshop in Rochester, where only four people participated, and no tribal members were represented. Overall, I am seeing significant red flags that require a more intentional

and inclusive approach.

Tribal representation matters, and the absence of tribal voices in this process is unacceptable. The rulemaking process must ensure that tribal communities are meaningfully included and that their rights and perspectives are respected. I am a frontline community member involved in the fight against a hyperscale data center, and I work in Rochester. One of the most important truths that must remain at the center of this rulemaking process is that people's lives are at stake. I am a member of a frontline community fighting against a hyperscale data center, and my community is also connected to a nearby tribal community. As I reviewed the Community Benefit Agreement (CBA) community input panels, I did not see any tribal members represented. This is concerning because the rulemaking process is intended to apply to tribal communities, and CBAs will also impact those communities.

The community input panel process must be redone with meaningful tribal participation, and the timeline should be extended to allow for proper tribal engagement. Tribal sovereignty must be respected, including treaty rights and the right of tribal communities to have a meaningful voice in decisions that affect them.

Similarly, when reviewing the May 13th Adverse Impact working session, I did not see tribal members represented. This session should also be revisited, with a timeline extension provided to ensure tribal communities are included in the process.

I attended the April 9th workshop in Rochester, where only four people participated, and no tribal members were represented. Overall, I am seeing significant red flags that require a more intentional and inclusive approach.

Tribal representation matters, and the absence of tribal voices in this process is unacceptable. The rulemaking process must ensure that tribal communities are meaningfully included and that their rights and perspectives are respected. I am a frontline community member involved in the fight against a hyperscale data center, and I work in Rochester. One of the most important truths that must remain at the center of this rulemaking process is that people's lives are at stake."

333. **Frontline Communities Protection Coalition (compiled comments)-045-187**: Aubree Derksen stated, "I am a member of a frontline community fighting a hyperscale data center and a tribal community is also connected to my town. In looking through the community input panels for the CBAs I do not see a single tribal member represented yet this rulemaking process is supposed to also apply to tribal communities and CBAs in turn would also apply to them. You need to redo the community input panel with tribal input and provide a timeline extension so you can do that. Tribal sovereignty requires respecting treaty rights. In looking at the May 13th Adverse Impact working session I also do not see tribal members represented. That working session needs to be redone, a timeline extension provided so they are included. I was at the April 9th workshop in Rochester and there were only 4 people there, no tribal members were represented. Overall I'm seeing a lot of red flags and need to redo pieces with more intentionality. Tribal representation matters and their absence is unacceptable."

MPCA RESPONSE

334. The MPCA appreciates the commenter's concerns and recognizes the importance of Tribal engagement and consultation as part of this rulemaking and the MPCA's work broadly. A more detailed discussion of the engagement and consultation efforts that were part of this rulemaking is available in the Tribal Policy section of the SONAR (p. 186-187).

Language accessibility and messaging

335. The MPCA received three comments regarding language accessibility and messaging as part of outreach and engagement with the public during the rulemaking process.

336. **Westbrook-002-01:** Amy Westbrook stated, “As public health professionals working at the local level, my colleagues and I have been following the rulemaking process since 2024 as it will impact residents of Duluth, our biggest city in the county. Air quality is a major contributor to our public’s health and something that we have connected with various organizations on so that we can communicate health risks to the public. Ensuring that community residents and those impacted by this rulemaking are aware of how to be involved in decision making is important. In our role as public health professionals, we must be mindful of how we deliver messages so that they are clear and understandable to the general public. This is important because it makes health-related communications more accessible.”

337. **Westbrook-002-02:** Amy Westbrook stated, “We have received feedback from community residents that the phrasing and public promotion of this ruling is not accessible to some. Public Health staff attended the last public event on "How to make an effective public comment", which was to prepare stakeholders for commenting during this Cumulative Impacts comment period. During this event, public health staff heard from several residents in attendance that they were unaware that a rulemaking surrounding air quality permitting was the focus of the event and reason for learning about public commenting. The residents attended the event due to their interest in learning about writing public comments but expressed interest in the Cumulative Impacts rulemaking once they learned it was related to air quality permitting. The residents felt that they would have attended more events on this rulemaking if they had known that "Cumulative Impacts" regarded air quality permitting.”

338. **Westbrook-002-03:** Amy Westbrook stated, “The title of the rulemaking "Cumulative Impacts" does not signify to the general person or organization that this rulemaking surrounds air quality permitting. Using plain language is important when communicating publicly so that the information is accessible and draws attention to the main topic. Please consider publicly describing this rulemaking process using plain language that includes phrasing related to "air quality permitting" so that all stakeholders know what is being discussed. This may improve attendance at the public events held by MPCA staff on the rulemaking process. The events have been very beneficial towards understanding the rulemaking process, please keep holding them in Duluth.”

MPCA RESPONSE

339. The MPCA appreciates the feedback and support for further engagement in Duluth. Information regarding the public’s perception of messaging and word choice related to the rule is valuable.

340. The MPCA appreciates the feedback that the Agency must be mindful how messages are delivered and communicated. During the rulemaking process, the Agency conducted outreach and public engagement to make the environmental and health-related content more accessible. The Agency is aware of barriers to accessing and understanding the contents of the rule and increased the public’s ability to engage in the rule’s development by being available for conversations in public spaces, hosting events, conducting interviews, and conducting other forms of outreach and engagement as listed in the SONAR (p. 36-49).

341. The Agency will continue taking and considering feedback to improve the ability for its outreach and engagement opportunities to reach a wider audience. The Agency recognizes that clear communication and improved language accessibility is beneficial for increasing public engagement. The public participation portion of the SONAR (p. 101-128) describes the considerations for

language accessibility and transparency for the requirements listed in the rule language. These requirements are meant ensure robust public and Tribal engagement is achieved in the implementation of the rule.

Community/advocacy groups and other entities involvement in the rulemaking process

342. The MPCA received three comments regarding the involvement of community and advocacy groups as part of outreach and engagement with the public during the rulemaking process.

343. **Hamline Midway Coalition 003-03:** The Hamline Midway Coalition stated, "HMC also acts as a connector in our community, allowing residents to give feedback in many ways, such as at community meetings. Specifically, the Hamline Midway Environment Committee has allowed many opportunities for residents to engage with environmental activism. This role of HMC's gives us a deeper understanding of how to engage with the community, which we believe is an aspect of the rule that requires improvement.

We are grateful for and support the work of the many community leaders that tirelessly advocated for a rule that creates pathways for community engagement in one of the many processes that determine what ends up in our neighborhood. Please accept this letter on behalf of the Hamline Midway Coalition as a list of recommendations we believe will better align with the purpose and need for community involvement in the air permitting process."

344. **Minnesota Building and Construction Trades Council-041-03:** Minnesota Building and Construction Trades Council stated, "Procedurally, despite the agency spending a lot of effort doing outreach and having meetings, focus groups, round tables, and speakers about these rules, there does not appear to be a single effort by the agency to reach out to workers at facilities who could be impacted by these rules. This is a glaring omission and is likely one reason why the concerns of people who spend eight hours a day inside impacted facilities in addition to often living in environmental justice areas are largely overlooked by these rules."

345. **Biewen-043-05:** Todd Biewen stated, "8) The rulemaking process has including ongoing engagement with all interested parties, the public, community groups, businesses, and facility owners."

MPCA RESPONSE

346. Multiple commenters addressed the engagement and outreach during the rulemaking process. The Agency appreciates the commenters' contributions to the rulemaking process and their role in engaging the public and soliciting feedback.

347. The Minnesota Building and Construction Trades Council made specific comments related to the procedural practices for creating this rule. They commented that there was not an effort to reach out to employees at facilities and asserted that the concerns of the employees were overlooked in the creation of the rule. The Agency disagrees with this claim and their assessment of outreach and engagement practices. The outreach and engagement practices were designed for anyone interested, including people working in permitted facilities. The Agency informed individuals of upcoming meetings and events and consistently made itself available in public spaces to solicit input from impacted parties. This is especially true for employees living in environmental justice (EJ) areas. The Agency tabled in environmental justice areas across the state to reach people living in the environmental justice areas (SONAR, p. 36-39). The Agency encouraged environmental justice area residents to sign up for the GovDelivery, shared information about upcoming events, and shared general information about the rule. Staff also shared information with local community groups to drive attendance at events and awareness of the rule's development. While the Agency's staff

capacity was limited compared to the applicability of the rule, we covered many municipalities across the 7-County Metropolitan area, Duluth, and Rochester. The staff also presented at meetings focused on improving residents of environmental justice areas (SONAR p. 29-35).

348. When hosting public meetings and events, the MPCA sent GovDelivery emails to invite all interested parties to attend (SONAR, p. 29-35). The Agency posted the details of the gatherings on the agency website so people can find information to participate as required by Minnesota Statute 116.065, subd. 6(e). The MPCA hosted these gatherings outside of the general working hours at convenient locations in EJ areas in each region of the state so potentially impacted parties had a greater ability to attend (SONAR, p. 48-49).

349. For general outreach and engagement, the MPCA set up information tables at community events, public spaces, and apartment complexes to speak to people in EJ areas. These were hosted in different cities, venues, and times to encounter as many people as possible. Most of these locations were publicly accessible to people working in facilities. All of the locations were accessible to residents of EJ areas. Anyone who wished to participate in further engagement (i.e. conversations, interviews, focus groups, etc.) had the opportunity to opt-in by speaking with Agency staff at the tables (SONAR, p. 36-47). The Agency welcomed any input and made itself available to people living, working, and present in EJ areas.

350. Lastly, the Agency hosted a community benefit agreement input panel composed of EJ-area residents, industry representatives, labor representatives, local government representatives, and community advocates, for a total of 16 panelists. While this is a small portion of the impacted population, the persons involved were selected to be a balanced representation of people impacted by the rule (SONAR, p. 50). This includes three parties that the commenter suggested were not actively engaged: labor, industry, and individuals living in EJ areas.

351. As described in the SONAR (p. 26-50), the Agency conducted outreach and engagement practices to receive holistic input to fulfill the statutory requirements of "robust public engagement."

Costs of compliance with the proposed rule

352. The MPCA received five comments regarding the estimated costs to comply with the proposed rule, all of which argued that the MPCA's assessment and estimations of likely compliance costs in the Costs to Comply subsection of the Regulatory Analysis portion of the SONAR were too low and/or did not consider all the likely costs that would be borne in order to comply with the proposed rule.

Probable costs of compliance

353. Two comments raised concerns about the MPCA estimates of the probable costs of complying with the proposed rule. Commenters provided nearly identical comments that pointed out that the MPCA used a limited number of responses to a survey of regulated facilities about their expected compliance costs and a large portion of MPCA's estimated range of likely compliance costs was lower than what was gleaned from survey responses. Furthermore, these commenters argued that the likely costs of the potential compliance steps for the proposed rule, including a Cumulative Impacts Analysis, Additional Pollution Control Measures, and a Community Benefit Agreement, are well above what the MPCA has estimated and that the MPCA has failed to consider all the likely elements of these compliance steps and their probable costs. Moreover, these commenters maintained that the MPCA has disregarded an entire category of costs associated with extended permitting timelines.

354. **Minnesota Chamber of Commerce-027-16**: The Minnesota Chamber of Commerce stated, “c. In the SONAR under “Costs to Comply”, MPCA estimates the probable costs of complying with the proposed rule. MPCA used a limited number of responses to an economic survey about the estimated cost of multiple steps of the proposed rule process. MPCA concluded from the survey responses that the total investment would be $151,000 if a permittee had to complete all steps. MPCA also speculated that the actual costs to comply would be less than what was inferred from the survey responses. MPCA’s own analysis indicated that the total compliance cost would range from $69,000 to $170,000.

Costs associated with preparation of the CIA alone (e.g., traffic study; federal and state endangered species, threatened or rare plant or animal species; odor, dust and noise impacts; existence of contamination, historical remediation activities; air quality modeling; AERA; assessment of localized impacts of climate changes, vulnerabilities) would be similar to environmental review-level analyses (Environmental Assessment Worksheet/Environmental Impact Statement), far exceeding the estimates that MPCA associated with those steps of the process. Further, the costs associated with “Step 4: Additional Pollution Control Measures” and “Step 5: Community benefit agreement” were collectively estimated at $45,000 (from the survey language, it appears these costs did not address capital costs associated with pollution control equipment or other benefits agreed to in the CBA). Costs for additional pollution control measures can vary significantly, but can be in the millions of dollars. The SONAR also does not evaluate costs associated with project delays, construction escalation, procurement impacts, deferred environmental improvements, operational constraints, or other opportunity costs that may result from extended permitting timelines. In many cases, these costs may exceed the direct costs of preparing the CIA itself.

This omission means the SONAR does not provide a reasoned evaluation of a key consequence of the proposed rule – the economic impact. The SONAR does not demonstrate that MPCA has fully considered the relevant factors associated with implementation of the rule, raising concerns that the rulemaking record is incomplete with respect to an important aspect of the problem.”

355. **Cordia Energy Center Minneapolis-049-07**: Cordia Energy Center Minneapolis stated, “b. In the SONAR under “Costs to Comply”, MPCA estimates the probable costs of complying with the proposed rule. MPCA used a limited number of responses to an economic survey about the estimated cost of multiple steps of the proposed rule process. MPCA concluded from the survey responses that the total investment would be $151,000 if a permittee had to complete all steps. MPCA also speculated that the actual costs to comply would be less than what was inferred from the survey responses. MPCA’s own analysis indicated that the total compliance cost would range from $69,000 to $170,000.

Costs associated with preparation of the CIA alone (e.g., traffic study; federal and state endangered species, threatened or rare plant or animal species; odor, dust and noise impacts; existence of contamination, historical remediation activities; air quality modeling; AERA; assessment of localized impacts of climate changes, vulnerabilities) would be similar to environmental review-level analyses (Environmental Assessment Worksheet/Environmental Impact Statement), far exceeding the estimates that MPCA associated with those steps of the process. Further, the costs associated with “Step 4: Additional Pollution Control Measures” and “Step 5: Community benefit agreement” were collectively estimated at $45,000 (from the survey language, it appears these costs did not address capital costs associated with pollution control equipment or other benefits agreed to in the CBA.) Costs for additional pollution control measures can vary significantly, but can be in the millions of dollars.

This omission means the SONAR does not provide a reasoned evaluation of a key consequence of

the proposed rule – the economic impact. The SONAR does not demonstrate that the Agency has fully considered the relevant factors associated with implementation of the rule, raising concerns that the rulemaking record is incomplete with respect to an important aspect of the problem."

MPCA RESPONSE

356. The MPCA takes these comments seriously and re-examined its cost estimates in consideration of all the compliance steps that may be associated with the proposed rule. The MPCA acknowledges that it had very limited information from the regulated community to use to estimate likely compliance costs. The MPCA specifically requested input from regulated parties and consultants that may provide services for technical, outreach, or engagement support for businesses. As identified in the SONAR (p. 34), the MPCA sent a request for survey input on economic considerations for the draft rule concepts on September 25, 2025 to 2,380 subscribers of the Rulemaking: Cumulative Impacts list. Additionally, the MPCA sent a reminder about the survey on economic considerations for the draft rule concepts on October 6, 2025 to 2,337 subscribers of the Rulemaking: Cumulative Impacts list.

357. Only 11 respondents provided quantitative estimates of the hours and dollars that would be needed to comply with the proposed rule, too small a sample size to extrapolate an estimate of the likely compliance costs for the entire population of facilities subject to the rule with a high degree of confidence and statistical significance. Thus, to produce the most reasonable estimates of likely compliance costs given the limited information, the MPCA sought to triangulate the information in the survey responses with its own analysis of the expected costs of all the potential actions that regulated permittees may have to do to comply with the proposed rule.

358. Thus, the MPCA used the inferred $151,000 cost from the survey responses for the maximum compliance cost for a typical regulated facility that would have to complete all the compliance steps for the proposed rule and adjusted this with MPCA's own estimates of the expected costs of potential compliance actions to produce a reasonable range of likely compliance costs. There was evidence in the survey respondents that the $151,000 total compliance cost gleaned from those responses was likely to be an overestimation. Notably, survey respondents were asked to provide both estimates of the staff time (in hours) along with the costs (in dollars) for each compliance step. On average, the MPCA inferred from the survey responses an average staff time (internal staff and/or hired consultants) of 287 hours for a facility that had to complete all of the compliance steps. Dividing the total average estimated compliance cost of $151,000 by 287 hours equates to well over $500 an hour, which as the MPCA explained in the SONAR is likely to well exceed the average cost per hour for either a permittee's own staff or an external consultant. The MPCA acknowledges that this apparent mismatch between dollars and hours may to some degree reflect other costs, particularly for additional control measures or a Community Benefit Agreement, besides internal staff time and paid consultants. One such category of non-labor costs that these commenters point out is the cost of capital investments. However, the MPCA does not expect these additional costs to be excessive and expects the bulk of compliance costs will be from paying internal staff and external consultants for their work.

359. Using the combination of these two sources of information – the survey responses from the regulated community and the MPCA's own analysis of likely compliance costs – the MPCA estimated a total compliance cost range of $69,000 to $170,000 for a typical facility that has to complete all of the compliance steps associated with the proposed rule. For most permittees this is a likely overestimation of compliance costs as the bulk of regulated facilities will not have to complete all of these steps to comply with the proposed rule.

360. The MPCA acknowledges that estimating these compliance cost entails a high degree of

uncertainty, but again the MPCA did the best it could with the limited information in order to fulfill its statutory responsibility under Minn. Stat. § 14.131 to estimate "the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals" to the extent the agency, through reasonable effort, can ascertain this information.

361. Regarding the potential costs resulting from a possible effect of the proposed rule to extend permitting timelines, the MPCA again acknowledges that there is a high level of uncertainty of the types and magnitudes of costs to regulated facilities that will result from the proposed rule. Implementation of the proposed rule will create new processes both for the MPCA and for the regulated community that are difficult to speculate upon. The MPCA will need to figure out how to implement and adjust to the rule along with the regulated community, and as stated in the SONAR, will work with the regulated community to smoothly adjust to the requirements of the rule.

362. As stated above, MPCA's statutory responsibility to estimate probable costs of complying with the proposed rule does not require a level of detail that would anticipate all the types of costs that compliance for any individual regulated permittee may entail, nor must the MPCA try to estimate business decisions that regulated permittees may make in response to the proposed rule. In particular, the MPCA cannot account for variations in site- or facility-specific costs. With the information it had to estimate compliance costs, the MPCA did as best it could to estimate a range of such costs while also acknowledging the high level of uncertainty inherent in those estimates.

Facility-specific costs of compliance

363. One commenter suggested that the MPCA severely underestimated the likely costs and schedule for a Cumulative Impacts Analysis at a public research institution, such as the University of Minnesota.

364. **University of Minnesota-030-27**: The University of Minnesota stated, "**Comment 3: The SONAR severely underestimates the costs and schedule for a CIA at a public research institution.**

Under Minn. Stat. § 14.131(5), the MPCA is required to evaluate within the SONAR the probable cost of implementation and compliance, including the specific fiscal impact on distinct categories of affected parties, such as separate classes of governmental units. The SONAR fails to meet this responsibility for the University, which is a unique constitutional corporation operating teaching and research facilities at a municipal scale.

Consequently, the MPCA's compliance cost estimate of $69,000 to $170,000 per review is severely underestimated. Given the University's scale and operational complexity, campus-wide air dispersion modeling alone will exceed $100,000. Additionally, the scope uncertainties and overly broad permit action boundaries detailed in Comments 1 and 2 act as immediate cost multipliers."

MPCA RESPONSE

365. A facility-specific cost analysis is not required for rulemaking nor will it be undertaken. The MPCA has met its obligation in the SONAR under Minn. Stat. § 14.131 to provide a reasonable estimate of projected compliance costs using readily available data and standard methods. The statute requires, in part: ... "the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals."

366. The MPCA acknowledges that there is a high degree of uncertainty in the types and magnitudes of costs that regulated facilities will face in order to comply with the proposed rule and that MPCA's estimates of the likely range of compliance costs for the entire population of regulated facilities may

not capture the costs to any single regulated permittee. As one of the largest research universities in the U.S., the costs of air dispersion modeling to complete a Cumulative Impacts Analysis for the University of Minnesota may be greater than what MPCA estimated for the aggregate regulated community. Other regulated permittees will likely face lower compliance costs than what the MPCA has estimated.

367. As explained above in the response to other commenters about likely compliance costs, the MPCA did the best it could to estimate likely compliance costs using the responses to the survey of the regulated community about their likely compliance costs, supplemented by the MPCA's own analysis of likely compliance costs. The MPCA does not believe that any of the survey responses reflect the air dispersion modeling compliance costs estimates that the University of Minnesota provides in this comment. Again, the MPCA does not have a statutory requirement to estimate costs for every regulated party, only for the regulated community in aggregate, and that some regulated facilities may face higher costs than what the MPCA is able to estimate for the entire population of regulated facilities.

Potential impact of the proposed rule on permit fees

368. Two commenters raised concerns about the potential impact of the proposed rule on permit fee and argued that the MPCA failed to take this into account in assessing the probable costs to the regulated community.

369. **Minnesota Chamber of Commerce-027-22:** The Minnesota Chamber of Commerce stated, "i. The statute (Minn. Stat. 116.065, subd. 7) states that in addition to the costs incurred by the permittee itself in complying with the rule, "the reasonable costs of the agency to comply with this section are to be borne by permit applicants subject to this section, as required under section 116.07, subdivision 4d, paragraph (b)." The Chamber understands that this will increase the annual $/ton fee that regulated facilities pay each year based on the actual emissions of a select set of air pollutants. This fee is currently $214.32/ton based on a numerator of $20,809,684.86 and a denominator of 97,098.39 tons. MPCA does not provide an estimate of how the fee will increase due to the proposed rule. However, the underlying legislation, HF 2310, indicates that $2,500,000 will be taken from the environmental fund beginning in fiscal year 2027. The Chamber seeks clarification whether this amount will be added to the numerator when calculating the $/ton fee in future years. If so, the numerator will increase by approximately 12 percent, and this does not include costs associated with implementing the Air Toxics Regulation rule, which is being processed in parallel with the Cumulative Impacts rule and is likely to also draw funds from the environmental fund. Page 170 of the SONAR states that "The MPCA will not be collecting fees from permit holders as part of their compliance obligations in this proposed rule, and there are no other elements of the proposed rule that are expected to lead to any inflows into our outflows out of the state's coffers." The Chamber questions the accuracy of this statement.

The 2024 report indicated it takes much longer, costs more, and is less certain to acquire an environmental permit in Minnesota compared to other states, especially when acquiring an air permit. The Chamber then acknowledged and applauded improvements made by the MPCA in the follow-up 2025 scorecard. [https://www.mnchamber.com/minnesota-chamber-foundation/streamlining-minnesotas-environmental-permitting-process-2025-update] The Rule as drafted endangers eliminating any marginal improvements made by adding significantly more time, cost, and uncertainty to permitting while adding even more difficulty than before the original report."

370. **Cordia Energy Center Minneapolis-049-24**: Cordia Energy Center Minneapolis stated, "h. The statute (Minn. Stat. 116.065, subd. 7) states that in addition to the costs incurred by the permittee

itself in complying with the rule, "the reasonable costs of the agency to comply with this section are to be borne by permit applicants subject to this section, as required under section 116.07, subdivision 4d, paragraph (b)." Cordia understands that this will increase the annual $/ton fee that regulated facilities pay each year based on the actual emissions of a select set of air pollutants. This fee is currently $214.32/ton. The MPCA does not provide an estimate of how the fee will increase due to the proposed rule."

MPCA RESPONSE

371. These commenters raise good points about the potential interaction between the proposed rule and determination of annual air emission fees, as laid out in Minn. Stat. § 116.07, subd. 4d(b). While it is the case that the proposed rule itself has no effect on permit fees, as the commenters point out, the separate legislative decision to appropriate $2,500,000 of the environmental fund to implement this proposed rule will likely result in an increase in annual air emission fees.

372. Thus, the MPCA acknowledges that while not a result of the rule itself, due to a separate legislative decision related to this rule, permittees could, all else held equal, face a 12% increase in per ton annual air emission fees. All permit holders that pay annual dollar per ton emissions fees will be subject to this increase as a result of the $2,500,000 legislative appropriation, not just permittees subject to the proposed rule as this is the fee mechanism that the legislature has specified. The fee will increase because of the legislature's appropriation for the purpose of implementing the proposed rule, but not because of adopting the rule itself. Thus, this cost is not a result of complying with the proposed rule; rather it is the result of the legislature deciding in statute how the air permit fee mechanism works.

Cumulative Impacts Mapping and Analysis Platform (CI-MAP)

Support for CI-MAP

373. The MPCA received two comments in support of the MPCA building and maintaining a database of environmental stressors through the Cumulative Impacts Mapping and Analysis Platform (CI-MAP).

374. **Minnesota Public Health Association-035-02:** Minnesota Public Health Association stated, "**7007.6020. Environmental stressors database**. Minnesota Public Health Association supports the need for continuation of an environmental stressors database, which lists environmental and health factors in environmental justice (EJ) census tracts. The MPCA EJ mapping tool is an excellent resource for communities and owner/operators to evaluate potential impacts of air permit decisions on the community."

375. **Health Professionals for a Healthy Climate-038-02**: Health Professionals for a Healthy Climate organization stated, "**COMMENTS AND QUESTIONS REGARDING PROPOSED RULES 7007.0050-7007.6120 AND STATEMENT OF NEED AND REASONABLENESS (SONAR).**

7007.6020, subp. 5, Environmental stressors database. HPHC supports the need for an environmental stressors database, which lists environmental stressors in EJ census tracts, the combined stressor total, and geographic comparison points. The MPCA EJ mapping tool is an excellent resource for communities and owner/operators to evaluate potential impacts of air permit decisions on the community."

MPCA RESPONSE

376. The MPCA appreciates comments of support for CI-MAP as a database and tool that maintains data on environmental stressors and environmental justice areas.

Environmental stressors

377. The MPCA received 15 comments regarding environmental stressors and how they are selected or developed in the Cumulative Impacts Mapping and Analysis Platform (CI-MAP).

378. **Minnesota Chamber of Commerce-027-41:** The Minnesota Chamber of Commerce stated, "**7. Environmental Stressors**

a. Minn. Stat. 116,065, subd. 5(f) required MPCA to establish a database of environmental stressors and subd. 5(b) contemplates that the impact of permit issuance be considered in combination with environmental stressors when determining cumulative impacts. MPCA's CI-MAP contemplates consideration of twenty-six different environmental stressors in various categories. However, MPCA has not sufficiently addressed the process for changing the stressors listed in CI MAP, and should also consider data quality assurance for the database. In addition, the number of environmental stressors and lack of clarity regarding how they will apply to given permit actions contribute to the lack of clarity and transparency regarding the operation of the proposed rule."

379. **Minnesota Chamber of Commerce-027-42:** The Minnesota Chamber of Commerce stated, "b. MPCA has not proposed language in the proposed rule that specifically establishes the list of environmental stressors and their reference values; instead, it leaves those specifics to other documents that are not explicitly incorporated into the rule by reference. This leaves open the possibility that MPCA may seek in the future to add or modify existing environmental stressors without going through rulemaking. Such action would be contrary to the law and could trigger a challenge under the unpromulgated rule statute. See Minn. Stat. 14.381. To clarify that the stressors and their reference values are part of the rule, the Chamber recommends that the definition of "environmental stressors" set forth at proposed Minn. R. 7007.6020, subp. 18 be modified so as to explicitly list the stressors the agency is planning to use. Moreover, subpart 34 of that same section should be modified to incorporate by reference the specific reference points MPCA proposes to use. These proposed edits would clarify for MPCA and others that changes to the list of stressors and their reference values require a rulemaking. The Chamber recommends that the rule require the list be reviewed every five years via a public comment process."

380. **Minnesota Chamber of Commerce-027-43:** The Minnesota Chamber of Commerce stated, "c. CI-MAP relied on multiple MPCA databases when it developed stressor values, and this historical data could have a significant impact on the initial cumulative impacts stressor score. Datasets that were relied on should go through a robust QA/QC process, and data that was included that relies on individual facility inputs for environmental factors should be confirmed with those facilities before the rule is finalized. Examples of this information include: MNRISK facility specific model inputs (emissions and stack parameters) and permitted and remediated site locations (confirm coordinates are in the correct location)."

381. **Frontline Communities Protection Coalition-034-05**: Frontline Communities Protection Coalition stated, "**Subp. 5. Environmental stressors database** - As stated in previous feedback submitted by the Coalition, we believe that the environmental stressors database mapping tool should include an option to overlay environmental justice areas. This will make it much easier to see the intersection of adverse cumulative stressors and environmental justice areas. By making this an optional setting you can avoid creating a visually overwhelming map for those who don't need to see that information."

382. **Frontline Communities Protection Coalition-034-06**: Frontline Communities Protection Coalition stated, "We also believe the current environmental stressor database and mapping tool should be expanded and improved upon. Some of the stressors are given arbitrary cut off points

that are too broad. For example, the particulate matter 2.5 (PM2.5) stressor is measured as the number of days where the air quality index surpasses 100. However, almost every single census tract in Hennepin and Ramsey counties are given the same value for this metric. This happens for two reasons: 1) the discrete bins used to categorize this data are too broad, and 2) PM2.5 is a poor measure of intra-urban air pollution variation. For these reasons, we recommend the following: 1) in the absence of concrete benchmarks, any discrete bins created should be built from distributional cut off points to ensure we are prioritizing communities that are disproportionately impacted, and 2) the stressor database needs to include other pollutants, such as NO2, which are more sensitive to intra-urban differences in air pollution and would improve any analysis aiming to prioritize frontline communities for environmental justice protection."

383. **Frontline Communities Protection Coalition-034-07**: Frontline Communities Protection Coalition stated, "We support the use of strong public health and social factors in scoring for overall baseline stressors. However, we recommend expanding the data sources of some of these measures. For example, asthma hospitalization and emergency department rates could be estimated by MDH with support from the MN Electronic Health Record consortium to ensure we are adequately capturing those who not only have asthma, but who might be at the highest risk of the acute pulmonary effects from worsened air quality due to industrial emissions."

384. **Frontline Communities Protection Coalition-034-08**: Frontline Communities Protection Coalition stated, "We do not believe the traffic density stressor is properly measured or adequately captures the impact of near-roadway exposures on frontline communities. For example, the stressor database estimates that census tract 27053109400, which hugs the I-35W corridor in Lyndale, only sees an average daily traffic of 239,000. However, the census tract directly north of it (27053008300), which includes practically the same stretch of I-35W but excludes major on-road ramps, sees an average daily traffic of 681,000, almost triple the estimate from the census tract directly south of it. These incorrect estimates are a product of the methods MPCA and MnDOT use to assign average daily traffic to the entire tract based on the amount of road that intersects a census tract. Many census tracts rely on roadway corridors as a natural boundary, meaning their daily traffic may be artificially depressed by calculating length of road segment inside the census tract boundary. Instead, we propose that the entire census tract be assigned to the average daily traffic of the full roadway segment that it intersects with, as opposed to the proportion of the segment."

385. **Shaw-036-07**: Beth Shaw stated, "6. CI-MAP contains useful information, but its methodology is too crude to control eligibility or permit outcomes. CI-MAP includes 26 environmental, transportation, social, health, and neighborhood stressors. However, where no specific health-based reference value exists, MPCA compares a tract with the lower of the county or state median. A stressor exceeding that comparison point is marked adverse. The adverse stressors are then added together into a combined stressor total. That approach can oversimplify very different levels of harm. A tract barely exceeding a comparison value may receive the same adverse-stressor count as a tract experiencing an extreme burden. The method counts how many stressors cross a line but does not necessarily reflect: the severity of each stressor; the toxicity of the pollutant; the duration of exposure; the distance between the source and residents; whether several stressors arise from the same underlying condition; the number of affected residents; or the interaction between different pollutants and health conditions. The SONAR explains that if 13 of 26 stressors are adverse, the combined score is simply 13. MPCA should provide both the simple count and a severity-sensitive analysis. A cancer-risk indicator, severe fine-particle exposure, childhood lead exposure, lack of tree canopy, and recreational access should not automatically be treated as interchangeable one-point items. The technical document also states that "current" data may include information

from as much as the previous five years and acknowledges that some health information is delayed or combined across multiple years. Every CI-MAP layer should prominently identify its collection date, update date, geographic resolution, limitations, and margin of uncertainty."

386. **Minnesota Building and Construction Trades Council-041-06**: Minnesota Building and Construction Trades Council stated, "**Adverse Stressor List, Tool, and Analysis are Deeply Flawed**

The agency has created a list of 26 Adverse Stressors that are measured in every census tract in the state. For each census tract, they determine if the adverse stressor is present. If 14 or more of the 26 adverse stressors are present in a tract, then an area is deemed to have "adverse cumulative stressors". The presumable justification for this process is to determine whether or not it should be harder to locate an industrial facility in a census tract where "adverse cumulative stressors" exist. If an area already has cumulative adverse stressors, a facility may not be able to obtain a permit unless the operator agrees and the agency, at its discretion, allows the applicant to enter into a community benefits agreement in order to mitigate its hazardous impacts on an already polluted neighborhood. This process, the list of stressors, and the tool created by the agency to measure stressors are all flawed for several important reasons."

387. **Minnesota Building and Construction Trades Council-041-07**: Minnesota Building and Construction Trades Council stated, "1. A number of listed stressors should not be included in this analysis. The way this tool evaluates adverse stressors appears to create a long list of reasons why it should be harder for a facility to get an air permit. Some of them make perfect sense – If an area has high cancer risk due to air pollution, high levels of fine particulate matter, polluted water or pollution from legacy brownfield sites, this makes conceptual sense. But some of the factors are present almost by definition of the area being an environmental justice area. By definition, these are working-class and poor neighborhoods so factors such as "cost-burdened households", "lack of educational attainment", "unemployment", "lack of health care coverage", and "food insecurity" are unnecessary because they are duplicative.

Further, these are not factors that will be exacerbated by a new or expanded facility that has the potential to provide jobs, health care and retirement benefits. If anything, the assessment should favor adding jobs in areas of high unemployment and cost-burdened households. Adding them to the list of adverse stressors simply increases the likelihood that a proposed facility will be deemed to have "adverse cumulative stressors" requiring added months of permitting processes and uncertainty. It would be ironic and tragic if inclusion of these criteria made it more difficult for communities to attract investment that could help alleviate the very burdens they measure.

While it is not appropriate to consider these factors in threshold analysis for a review requirement because doing so would dilute and undermine the law's clear intent to target communities that are environmentally burdened, we do support their inclusion as part of a cumulative impacts analysis where one is required based on environmental stressors."

388. **Minnesota Building and Construction Trades Council-041-08**: Minnesota Building and Construction Trades Council stated, "2. For some adverse stressors, using the census tract as a unit for measurement is irrelevant or misleading. a. Income inequality. In the SONAR technical support document (page 21), the rationale for using this metric is that "societies with more extreme social hierarchy or income differences can experience social relations that are less supportive and face higher levels of conflict or even violence" and further details societal problems caused by income inequality. While this may be the case, nothing here suggests that income inequality within a given census tract causes problems. In fact, there is ample evidence that mixed-income neighborhoods are much healthier than neighborhoods where poverty is concentrated, despite the likelihood that this tool would count income diversity within a neighborhood as an adverse stressor. [See for

example: Ludwig, J., et al. (2012). "Neighborhood Effects on the Long-Term Well-Being of Low-Income Adults." Science / National Institutes of Health (NIH) Public Access Archive. https://pmc.ncbi.nlm.nih.gov/articles/PMC3491569/]"

389. **Minnesota Building and Construction Trades Council-041-09**: Minnesota Building and Construction Trades Council stated, "b. Lack of recreational open space. We certainly believe that access to open space is important for community members, but measuring this at the census-tract level is unsupportable. Most urban census tracts are very small, and someone on foot could be in another tract within just a few minutes. Minneapolis and Saint Paul have some of the best park systems in the country. According to the Trust for Public Land, 99% of Minneapolis and St. Paul residents live within a 10-minute walk of a park and the park systems rank third and fourth in the country respectively [https://www.tpl.org/parkscoreutm_source=googlegrant&utm_campaign=brand&utm_content=ParkScore&gad_source=1&gad_campaignid=437237291&gbraid=0AAAAAD_u45YhzfFGUF4ovcgjXDU2RDxQs&gclid=CjwKCAjwmdLSBhANEiwAkREMN1V0NkHayNFiATqb7jleSRHS1JWcyIgAI4EXUzQOfN-pB9D9qGw1vRoCT9AQAvD_BwE]. 89% of residents in the Twin Cities metropolitan area live withing a 10-minute walk of a park. In fact, for a stunning visual representation of how flawed this analysis is, look at the Cumulative Impacts mapping and analysis platform with "Lack of recreational open space" selected, and you will see the metro area with the vast majority of census tracts showing that over 80% of each tract has lack of recreation space. Next to it, open the Trust for Public Land map of the Twin Cities metro area (ParkServe® | Trust for Public Land) that shows how excellent our access to recreation space is, including in virtually every part of Minneapolis and St. Paul. Here's a specific example of how the agency's reliance on census tracts rather than broader neighborhoods is fundamentally flawed. Census tract 27123030201 is located in St. Paul and is determined by the mapping and analysis platform as having an adverse stressor for lack of recreational open space (95.5 percent of the tract has a lack of recreation space). But this tract is immediately adjacent to Como Park, an enormous public park. This analysis is clearly flawed by being too myopic if it determines that someone who lives across the street from a large park has a lack of open recreational space. There is a fundamental contradiction between the inclusion of neighborhoods within a mile of an environmental justice census tract for consideration of pollution impacts, and the exclusion of a large park across the street from the same tract for the purpose of evaluating access to open space."

390. **Minnesota Building and Construction Trades Council-041-10:** Minnesota Building and Construction Trades Council stated, "c. Permitted sites and other agency interests. The inclusion of this factor ignores the fact that municipal policy in many cities is to only allow industrial facilities in properly zoned parts of the city. Many cities create industrial parks specifically to keep facilities further away from residential neighborhoods. Further, the geographic point of comparison for this factor is facilities per square mile, compared to the statewide median. Of course, many parts of the urban core and suburbs have more facilities per square mile than the median census tract for the state. Finally, the premise of using the presence of permitted sites as an indicator is presumably that their presence is associated with elevated levels of pollution or other environmental impacts, but any such impacts would already be counted as factors rendering hits [sic] factor duplicative. This is a comparison that is not a good indicator for health."

391. **Minnesota Building and Construction Trades Council-041-11:** Minnesota Building and Construction Trades Council stated, "3. The metrics used to determine if an adverse stressor is present in an Environmental Justice Area is flawed. For several of the stressors, the analysis compares the specific census tract to a reference point that is based on science and known health factors. For instance, the air pollution factors measuring cancer risk and non-cancer risk uses a

health benchmark that "represents an estimated level of air pollution below which harmful effects are less likely, even for sensitive populations, over a lifetime of exposure". This makes sense – census tracts above this level have an adverse stressor and those below that benchmark do not. However, most of the stressors are determined to be "adverse" purely by a comparative metric – a "geographic point of comparison" to either the statewide or county median (50th percentile). The analysis determines that a stressor is "adverse" based on whether the metric given to a census tract is above the median county or statewide metric. This may measure whether something is relatively adverse to the rest of the state or county, but it does not mean that a metric is unhealthy. In fact, there is no analysis done for each stressor to determine whether the state or county median is a healthy number. What if a metric in the 80th percentile for a metric is perfectly healthy, or what if a metric at the 20th percentile is unhealthy? Using a median or other percentile is completely arbitrary. This flaw is made worse by using either the county or statewide median, whichever is lower, and changes for each census tract and stressor measurement, leading to the potential for a census tract in the 20th percentile statewide (very low relative impacts) and 51st percentile within a county to fall within the "adverse" designation despite having a very healthy environment. It appears that by using whichever metric is lower on any given stressor and census tract, the agency is tilting the scale toward finding that there are adverse stressors. This is not a valid way of measuring community health. Ideally, determinations of the presence of adverse stressors would be made based on fixed and scientifically-based rather than relative and arbitrary benchmarks. At a minimum any use of relative benchmarks must be grounded in an analysis of the magnitude of the difference between high and low percentile scores. For example, if the presence of a stressor in a 90th percentile census tract is 10 times that of a state median census tract, the impact would likely be significant, but a stressor in the 90th percentile tract that is just 20% higher than the median tract may not be."

392. **Prairie Island Indian Community-052-06**: Prairie Island Indian Community stated, "In addition, MPCA should provide standardized datasets, modeling tools, and clear technical guidance, while retaining responsibility for data quality, underlying assumptions, and ongoing updates to tools, such as CI-MAP, so that both communities and permit applicants can rely on consistent and validated information."

393. **MPCA RESPONSE**

394. Minn. Stat. § 116.065, subd. 5(f) requires MPCA to create and maintain an "updated database of environmental stressors . . . and make this database accessible to the public." This means the MPCA is statutorily obligated to maintain a database, update it, and make it accessible to the public. Therefore, MPCA will need to periodically revise and update the database as new methodologies and data become available or are no longer available. Additionally, Minn. Stat. § 116.065, subd. 1(f) does not define environmental stressors as a fixed or exhaustive list. Instead, the statute provides some identified examples in a non-exhaustive list. This language, combined with Minn. Stat. § 116.065, subd. 5(f), supports that MPCA is responsible for identifying stressors and updating the database of stressors, which requires maintaining flexibility in the database rather than prescribing a finite list of environmental stressors in rule. Therefore, maintaining this list online allows MPCA to update the database as statutorily required when new data, methodologies, and scientific information become available.

395. MPCA is currently developing standard operating procedures for updates and quality assurance / quality control (QA/QC) of CI-MAP to govern this ongoing maintenance. In terms of QA/QC of air emissions and release point data, the MPCA Emissions Inventory team has a robust QA/QC process for emissions data submitted by facilities, while MPCA air quality permitting staff and air modelers are largely tasked with QA/QC of release points when reviewing permit applications. It is also in rule

that the responsible official for each facility is required to certify that the emissions data are correct when submitting their inventory data to MPCA. See Minn. R. 7019.3000, subp. 1(B)(4).

> *(4) the responsible official, as defined in part 7007.0100, subpart 21, must sign the report and make the following certification:*
>
> > *"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision by qualified personnel. The information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I understand that the data provided in this document will be used by the MPCA to calculate a fee that the facility will be required to pay under Minnesota Rules, part 7002.0065, based on the tons of pollution emitted by the facility."*

396. More broadly concerning QA/QC of MPCA data, the objective of the MPCA's quality assurance policy is to ensure that the data used by the MPCA are of known quality and are appropriate for the environmental decision made using the data. Each group may have their own specific process to strive towards meeting the quality assurance objective but the quality assurance structure in the MPCA's Quality Management Plan applies to all programs at the MPCA that collect or evaluate data used to make decisions (Minnesota Pollution Control Agency Quality Management Plan). The MPCA is also committed to continuous improvement, which means that the environmental work is periodically reviewed and re-evaluated. There are processes in place if data need to be adjusted and the map tool will be updated periodically to incorporate changes according to standard operating procedures currently under development.

397. Public comment has historically been, and will remain, the pathway for reviewing and revising environmental stressors. MPCA intends to continue robust community engagement alongside its ongoing work to develop clear and transparent standard operating procedures as part of the update and maintenance cycle of environmental stressors and CI-MAP.

398. There was a comment regarding that some of the indicators appear duplicative with the Environmental Justice area definition. We believe that these indicators provide much more granular view to individuals lived experience versus the broad brush that is utilized as EJ classification. In addition, per Minn. Stat. § 116.065, subd. 1(f), we are required to include "social and environmental factors, including but not limited to poverty, substandard housing, food insecurity, elevated rates of disease, and poor access to health insurance and medical care"

399. One commenter requested that environmental justice areas be displayed alongside environmental stressors in the map of CI-MAP. Environmental justice information for every census tract in Minnesota can currently be found in the individual pdf reports for each census tract in CI-MAP as well as in the search results and buffer tool results within CI-MAP. MPCA will consider adding an optional layer to the mapping tool to visualize environmental justice areas alongside environmental stressor data.

400. In regard to comments on the presence or absence of data used as environmental stressors, environmental stressor selection was done through a combined process of public input and engagement along with the need for data to meet certain criteria which are outlined in the CI-MAP Technical document [https://www.pca.state.mn.us/sites/default/files/aq-rule2-25an.pdf]. Commenters mention the visual binning of data in CI-MAP as having input on designations as adverse stressors. However, bins (i.e., grouping a range of data values into categories) are not used to determine whether an environmental stressor is adverse stressor determination; they are used solely as a way to visualize the data. Fine particulate matter (PM2.5) and ground-level ozone environmental stressors have broad geographic patterns across census tracts due to the limited

availability of air monitors in the state. There is not an air monitor for every census tract but rather monitors cover broad regions around Minnesota and this explains some patterns brought up by commenters. Lastly, one commenter asked why Nitrogen Dioxide (NO2) data is not included in CI-MAP. NO2 emissions are included in CI-MAP as part of the calculation for the "Non-cancer risk" environmental stressor where NO2 emissions have been used to calculate risk statewide using MPCA's MNRISKS statewide modeling and risk screening effort.

401. Commenters also raised questions about the availability or accuracy of external data used in CI-MAP such as public health data that could potentially come from the Minnesota Department of Health (MDH) and traffic density data originally sourced from the Minnesota Department of Transportation (MNDOT). MPCA is actively working with MDH and MNDOT to ensure the accuracy and quality of data and will continue to review public health and traffic environmental stressors based on the expertise and decision making of those state agencies.

402. The MPCA recognizes the importance of clearly documenting the source, vintage, and methodology associated with each environmental stressor. For each stressor included in CI-MAP, the Overview tab within the application identifies the date or reporting period associated with that dataset. The CI-MAP Technical Support Document is intended to describe the methodology used to develop each stressor and does not include specific data vintages because these datasets are periodically updated. Maintaining vintage information within the CI-MAP application ensures users have access to the most current reporting period without requiring frequent revisions to the technical document.

403. Evaluation of environmental stressors and the results of CI-MAP are not the sole factor when it comes to eligibility and permit decisions. While commenters raise concerns about the influence of CI-MAP methodologies, it should be noted environmental stressors are only part of the review process. The goal of providing and maintaining a database of environmental stressors is to better understand the potential impacts of a facility, but not a standalone measure for determining health risks or pollution burden.

404. Additional comments were received questioning the use of census tracts as the scale at which environmental stressors are evaluated. Minn. Stat. § 116.065 states that, "(f) The agency must maintain an updated database of identified environmental stressors in specific census tracts and make this database accessible to the public."

405. MPCA received a comment on the Lack of Recreation Spaces environmental stressor and appreciates the potential for a mismatch between the data and lived experiences of communities. MPCA is currently revising the methodology for the Lack of Recreation Spaces environmental stressor such that the stressor would consider not just what recreation spaces overlap directly with a census tract but considering what is nearby (such as a half mile around parks and recreation spaces). This would help acknowledge that access to creation spaces should consider areas near census tracts or communities, not just within the defined census tract boundaries.

406. A commenter raised the question on whether the Permitted Sites and Other Agency Interests environmental stressor would result in "double counting" of MPCA activities if they are already represented in other environmental stressors in the tool. The environmental stressor in question was built to specifically account for regulated activities excluding those already accounted for in other indicators (such as air permitting, remediation cleanup sites, etc.).

407. The geographic point of comparison is not a health-based benchmark. Where a stressor specific reference value is available, that value is used to determine whether a stressor is adverse. When no reference value exists, the lower of the state or county median is used to identify census tracts

where an environmental stressor is relatively elevated. Comparing a census tract to the 50th percentile helps identify potentially disproportionate environmental burdens that may not be captured by a health-based benchmark. This designation indicates a potentially disproportionate burden, not that the stressor exceeds a level known to be harmful.

MPCA Minnesota Risk Screening (MNRISKS)

408. The MPCA received six comments regarding the MPCA Minnesota Risk Screening (MNRISKS) modeling effort that identified questions and requests about underlying methods and validation processes.

409. **Hoffenstein-015-02**: Jim Hoffenstein stated, “Your documents state that the "MPCA relies on MNRISKS to create the cancer-risk and noncancer-risk stressors used by CI-MAP". These modeled results are assigned at census-block-group level, after which the highest block-group value is assigned to the entire census tract and converted into an adverse or non-adverse stressor classification. The technical foundation cited for this consequential decision is not publicly reproducible. The March 2023 MNRISKS report states that MPCA conducts a model-monitor comparison for every new MNRISKS version and calculates numerous statistical measures. It then states that an online Tableau tool contains the model-monitor comparisons and that further details of the statistical analysis are available online. The embedded statistical-analysis hyperlink currently resolves only to an empty RPubs publication shell last updated more than nine years ago. The embedded Tableau link references a workbook titled “MNRISKS2011Model-MonitorTool” on an old MPCA Tableau hostname that does not appear on MPCA’s current public-data portal. The sole model-monitor table included in the 2023 report compares measured concentrations with 2011 MNRISKS modeled concentrations. It does not present the complete statistical results MPCA claims were calculated. It provides only counts categorized as underestimates, estimates within a factor of two, or overestimates. Even under the broad factor-of-two standard, multiple pollutants had no model-monitor pairs falling within that range. Several were consistently underestimated, while others were consistently overestimated. MPCA therefore has not provided the public with sufficient information to determine: -Which MNRISKS version and emissions-inventory year were used in the 2026 CI-MAP. -Whether that specific version was validated against contemporaneous monitoring. -The identity and location of each monitor and modeled receptor used. -Pollutant-specific bias, correlation, error and agreement statistics. -Whether model performance differs systematically in dense urban, industrial, highway-adjacent or environmental-justice communities. -How missing or voluntarily reported air-toxics emissions affect the results. Whether actual local monitoring supersedes modeled estimates when they conflict. -Whether the model reliably classifies areas immediately above or below a risk-score threshold of -Whether assigning the highest block-group model result to an entire census tract is scientifically justified. -Why a 2011 comparison is sufficient support for a 2026 rulemaking. Lastly, Also, please tell me why you're giving a giant nod to the voluntary carbon offset market of urban forestry by including "CO2e" as something you claim to be able to meaningfully measure. Before I move on: Until MPCA publishes the complete current validation package, MNRISKS should not be used as a dispositive or binary basis for determining whether a tract has an adverse cancer or noncancer stressor. Records and corrections required MPCA should be required to provide: the complete model-monitor comparison for every MNRISKS version used or considered; the missing RPubs analysis and underlying R, Python or other statistical code; the retired Tableau workbook and all downloadable data; all Kendall’s tau, Pearson correlation, RMSE, mean bias, fractional bias, gross-error, coefficient-of-efficiency and index-of-agreement results; exact monitor and receptor coordinates; current emissions-inventory dates and completeness assessments; pollutant-by-pollutant validation; comparisons against East Phillips and other available community monitors; version histories and quality-assurance records; all internal

decisions concerning whether MNRISKS was fit for CI-MAP use; and an explanation of every dead, obsolete or inaccessible technical citation in the rulemaking record. This is a defect in your 60-page report as currently drafted because the report should flag the broken validation chain rather than simply treating MPCA's MNRISKS citation as an available technical source. The screenshots of the 2023 validation page, the 2011 table, and the empty RPubs page need to be inserted together as a new evidentiary section, but I do not trust that if I attach documents, that you won't try to use MetaData something else to target me or anyone else telling the truth. Please explain exactly why you chose to cherry-pick data sets that are 15 years old?"

410. **Duval-017-01**: Elliana Duval stated, "I've been researching this since I found out about it, and it is incredibly difficult to navigate across documents, formulas, methods, indicators, layers, and stressors because even if you know what you're doing, it doesn't actually make sense. I'm just going to point out some of the large, glaring points of error/questionable choices regarding the MNRISK tool from March,2023, the CI-Map, and the March 2026 Cumulative Impacts Mapping and Analysis Platform (CI-MAP) technical support document, and the MPCA Understanding environmental justice in Minnesota map. MPCA's CI-MAP technical guide does not disclose the actual data vintage used for most of its 26 environmental stressors. Instead, it mixes unidentified model runs, rolling five- and ten-year windows, five-year Census estimates, biennial water lists, daily updated remediation data, modeled public-health estimates, traffic data of an unidentified year, and land-cover rasters of unidentified versions. It then converts each source into an equal one-point adverse-stressor flag. The date appearing on a source document is frequently not the date of the data. For example, the cancer-risk layer cites a March 2023 MNRISKS report, but the model uses an undisclosed emissions-inventory vintage together with exposure equations and assumptions derived from guidance issued in 1989, 1991, 2005 and 2011. Its published model-monitor comparison uses 2011 modeled concentrations. MPCA must not describe this simply as a contemporary "cancer risk" value without disclosing the full model and data lineage. The PM2.5 and ozone layers present another major inconsistency. MPCA says current pollution data generally encompass up to five years, but these indicators use unidentified ten-year windows. MPCA also relies on AirNow-Tech even though EPA states that AirNow data are preliminary, are not fully verified through the certification procedures used for AQS, and should not support regulatory or other agency decisions. Before CI-MAP is used in any permit determination, MPCA must publish for every stressor the exact dataset name, release, version, collection date, extraction date, beginning and ending years, raw tract value, source geography, benchmark, margin of error, transformation code and update history. Where a model is used, MPCA must also identify the model version, emissions-inventory year, meteorological years, toxicity-table date, exposure assumptions and validation dataset. A database whose operative source dates cannot be determined from its technical documentation is not reproducible and is not sufficiently transparent for legally consequential environmental-justice permitting. Thank you the opportunity"

411. **Minnesota Environmental Justice Table-031-08**: The Minnesota Environmental Justice Table stated, "A related concern is that PM is not included in the cancer and noncancer risk calculations in the CI-MAP tool. More generally we have concerns about the potential of the underlying MNRISKS tool to underestimate these risks due to missing pollutants. We would like information on how the risks are computed to be accessible within the CI-MAP tool. This includes the polluting sources within each census tract, the amount/concentration of each pollutant from each source, and the amount that each pollutant from each source contributes to the overall risk."

412. **Shaw-036-13**: Beth Shaw stated, "12. MPCA's Approach to Air Monitoring: It's Complicated to Test the Air, MNRISKS is confusing and flawed. This is perhaps the most infuriating aspect, and core issue with this entire cumbersome list of Stressors and their data sources that you expected the

public to digest. You attempt to use statistical terms and fancy language to confuse people, when in reality all you're saying is, "We don't want to test the air, because we cannot manipulate that data". You state, "there are two main types of tools for investigating air pollution, modeling tools like MNRISKS and air monitoring. This alone is false. NOx samplers, VOC samplers, and a world of samplers exist that allow laboratories to examine the very specific details of pollution. SKS validation record is inaccessible, stale, and incomplete. MPCA relies on MNRISKS to create the cancer-risk and noncancer-risk stressors used by CI-MAP. These modeled results are assigned at census-block-group level, after which the highest block-group value is assigned to the entire census tract and converted into an adverse or nonadverse stressor classification. The technical foundation cited for this consequential decision is not publicly reproducible. The March 2023 MNRISKS report states that MPCA conducts a model-monitor comparison for every new MNRISKS version and calculates numerous statistical measures. It then states that an online Tableau tool contains the model-monitor comparisons and that further details of the statistical analysis are available online. The embedded statistical-analysis hyperlink currently resolves only to an empty RPubs publication shell last updated more than nine years ago. The embedded Tableau link references a workbook titled "MNRISKS2011Model-MonitorTool" on an old MPCA Tableau hostname that does not appear on MPCA's current public-data portal. The sole model-monitor table included in the 2023 report compares measured concentrations with 2011 MNRISKS modeled concentrations. It does not present the complete statistical results MPCA claims were calculated. It provides only counts categorized as underestimates, estimates within a factor of two, or overestimates. Even under the broad factor-of-two standard, multiple pollutants had no model-monitor pairs falling within that range. Several were consistently underestimated, while others were consistently overestimated. MPCA therefore has not provided the public with sufficient information to determine: Which MNRISKS version and emissions-inventory year were used in the 2026 CI-MAP. Whether that specific version was validated against contemporaneous monitoring. The identity and location of each monitor and modeled receptor used. Pollutant-specific bias, correlation, error and agreement statistics. Whether model performance differs systematically in dense urban, industrial, highway-adjacent or environmental-justice communities. How missing or voluntarily reported air-toxics emissions affect the results. Whether actual local monitoring supersedes modeled estimates when they conflict. Whether the model reliably classifies areas immediately above or below a risk-score threshold of 1. Whether assigning the highest block-group model result to an entire census tract is scientifically justified. Why a 2011 comparison is sufficient support for a 2026 rulemaking. Until MPCA publishes the complete current validation package, MNRISKS should not be used as a dispositive or binary basis for determining whether a tract has an adverse cancer or noncancer stressor."

413. **Shaw-036-14**: Beth Shaw stated, "13. Records and corrections required MPCA should be required to provide: the complete model-monitor comparison for every MNRISKS version used or considered; the missing RPubs analysis and underlying R, Python or other statistical code; the retired Tableau workbook and all downloadable data; all Kendall's tau, Pearson correlation, RMSE, mean bias, fractional bias, gross-error, coefficient-of-efficiency and index-of-agreement results; exact monitor and receptor coordinates; current emissions-inventory dates and completeness assessments; pollutant-by-pollutant validation; comparisons against East Phillips and other available community monitors; version histories and quality-assurance records; all internal decisions concerning whether MNRISKS was fit for CI-MAP use; and an explanation of every dead, obsolete or inaccessible technical citation in the rulemaking record. This is absolutely a defect in the 60-page report as currently drafted because the report should flag the broken validation chain rather than simply treating MPCA's MNRISKS citation as an available technical source. The screenshots of the 2023 validation page, the 2011 table, and the empty RPubs page need to be inserted together as a

new evidentiary section. This is a farce. When you click the link after “Further details of the statistical analysis are online” in the Model-Monitor Comparison section of your MNRISKS methodology, it takes you to a random page from 2016 that doesn’t have a single working link. Try it: https://rpubs.com/kmellickson/228038. You need to back all the way up before attempting to shove broken links from old studies down the throats of the public. Not a single link on that page actually functions, which is a massive issue. This means the justification for using your very own model to measure air pollution is faulty. Models are subject to uncertainties in the input data and the parameters available for the chemical and physical processes that disperse, react, and deposit pollutants. Given the uncertainties in modeling, it is important to validate model predictions against measurements to evaluate how well the model is performing. The use of monitoring data to check model performance is often termed calibration or validation of the model. The calibration process is an exercise in reducing uncertainty and improving the model agreement with measurements. Model-monitor comparisons for MNRISKS are presented in section 4.6 of this document.”

414. **Shaw-036-15**: Beth Shaw stated, “14. Asthma First of all, the word “Asthma” isn’t found a single time in your MNRISKS: Minnesota statewide screening of human health risks from air pollution “Analysis”, which is confusing because you state that the MNRISKS tool is how you determine this specific indicator. You cannot just claim that Asthma is just fine in North Minneapolis, without someone asking questions. Your guide says that you use the PLACES map, provided by the CDC, to determine Asthma Rates.”

MPCA RESPONSE

415. The MPCA appreciates the comment regarding the transparency and validation of data that is being used in CI-MAP such as MPCA's MNRISKS and understand the importance of ensuring that the technical basis for analyses is clearly documented and publicly accessible.

416. MNRISKS (Minnesota Risk Screening) is a statewide air dispersion and risk modeling system that estimates long-term ambient concentrations of multiple air pollutants using emissions inventories, meteorological data, and established atmospheric dispersion modeling methods. These modeled concentrations are used along with toxicity values to estimate chronic cancer and noncancer health risks across Minnesota. The model is designed to provide consistent statewide estimates of potential exposure and risk and has been developed and updated over multiple versions as emissions inventories, modeling methods, and scientific understanding have evolved.

417. Modeling and monitoring provide complementary information and are not mutually exclusive approaches. Monitoring provides direct measurements at specific locations, while modeling can estimate pollutant concentrations and risks across a much larger geographic area, including locations where monitoring data are unavailable. This statewide spatial coverage is particularly important for a screening tool such as CI-MAP. The use and validation of MNRISKS have been described in peer-reviewed publications, including a study comparing MNRISKS results with ambient air monitoring data (Pratt et al., 2012: https://pubmed.ncbi.nlm.nih.gov/21651597/).

418. The model-monitor comparison referenced in the March 2023 MNRISKS technical document is one component of the quality assurance and evaluation process used during model development and updates. It is intended to compare modeled concentrations with available monitoring data and assess model performance for selected pollutants. However, this comparison is not the sole method used to evaluate or validate MNRISKS. Model development and application also include review of emissions inventories, quality assurance and quality control procedures, evaluation of model inputs and assumptions, comparison with established atmospheric dispersion modeling practices, and other technical assessments appropriate for regional-scale air quality modeling.

419. Because MNRISKS is intended to estimate long-term average concentrations across the state, no single evaluation metric or individual model-monitor comparison is relied upon in isolation to determine the model's suitability for its intended application. Rather, multiple lines of technical evidence are considered during model development and maintenance to ensure that the model is appropriate for statewide screening and risk assessment purposes.

420. The MPCA acknowledges the comment regarding the accessibility or vintage of supporting materials and technical references in MPCA's MNRISKS. The MPCA will review the cited links and documentation to determine whether additional supporting information (such as updated model-monitor comparisons) or updated references can be made available to improve transparency regarding the model evaluation process.

421. The MPCA recognizes the importance of clearly documenting the source, vintage, and methodology associated with each environmental stressor. For each stressor included in CI-MAP, the Overview tab within the application identifies the date or reporting period associated with that dataset. The CI-MAP Technical Support Document is intended to describe the methodology used to develop each stressor and does not include specific data vintages because these datasets are periodically updated. Maintaining vintage information within the CI-MAP application ensures users have access to the most current reporting period without requiring frequent revisions to the technical document. In the case of MNRISKS, CI-MAP is currently using 2017 MNRISKS which uses the 2017 National Emissions Inventory. CI-MAP will be updated with 2020 and 2023 MNRISKS data as these updated model outputs become available. In addition, the CI-MAP Technical Support Document provides the data sources, processing methods, and analytical procedures necessary to reproduce the CI-MAP stressor calculations and adverse impact designations. Specific to MNRISKS, the model technical documentation (https://www.pca.state.mn.us/sites/default/files/aq9-29.pdf) outlines all sources of information used to produce model output including the National Emissions Inventory, meteorological data, and air toxicology values. Toxicology values used in MNRISKS can also be found in the MPCA Air emissions risk assessment spreadsheet (RASS) at the following location on the MPCA website: https://www.pca.state.mn.us/business-with-us/air-emissions-risk-analysis-aera.

422. With respect to the cancer risk indicator, MPCA's MNRISKS uses established risk assessment methodologies based on U.S. EPA guidance. The U.S. EPA's recommendations for multi pathway human health risk assessment have remained generally consistent, and there have not been substantial methodological changes to the approach established in the 2005 Human Health Risk Assessment Protocol (HHRAP). Despite no update to EPA's HHRAP, updates to EPA's regulatory air dispersion modeling (EPA's AERMOD) and toxicological values (Minnesota Department of Health and EPA IRIS toxicology assessments) have resulted in continuous modifications to how MNRISKS is developed despite no change in the underlying air dispersion modeling or risk assessment framework. The use of these guidance documents reflects the continued application of established risk assessment methods rather than reliance on outdated science.

423. A commenter suggested that MNRISKS does not consider particulate matter (PM). This is only partly true. PM2.5 is considered in MNRISKS for diesel emissions from transportation sources (PM2.5 diesel). However, PM10 and PM2.5 are generally evaluated as criteria pollutants using National Ambient Air Quality Standards (NAAQS) and not through risk screening. Another commenter mentioned the lack of asthma in discussion of MNRISKS. The asthma prevalence environmental stressor data in CI-MAP comes from the Center for Disease Control (CDC) PLACES dataset [https://www.cdc.gov/places] as stated in the CI-MAP technical document. MNRISKS looks at cancer risk and non-cancer hazards which can include a wide variety of non-carcinogenic

symptoms such as heart disease, lung disease, developmental risk, nose and throat irritation and more.

424. A commenter also raises concerns regarding the use of AirNow-Tech data for the fine particulate matter and ozone indicators. The air quality concentration data used in CI-MAP are obtained from the U.S. Environmental Protection Agency's Air Quality System (AQS), which contains regulatory ambient air monitoring data. AirNow-Tech is not the source of the air quality measurements used for the CI-MAP indicators. MPCA will update the CI-MAP Technical Support Document to clarify the data source and remove any ambiguity regarding the use of AirNow-Tech.

425. A commenter also notes that CI-MAP incorporates datasets representing different years or averaging periods. Because CI-MAP integrates environmental, demographic, and health datasets maintained by multiple agencies and programs, it is expected that the underlying datasets have different publication schedules, reporting periods, and update frequencies. These differences do not preclude their use within the CI-MAP framework. Each environmental stressor is evaluated independently using the distribution of values within that specific stressor or reference values to determine adverse impact designations. Adverse classifications are not determined by directly comparing values across different stressors or requiring all stressors to represent the same reporting year. This approach allows each dataset to be used in a manner that is appropriate for its intended purpose while providing a consistent framework for identifying areas experiencing elevated potential environmental burdens.

Census data and census tract boundaries

426. The MPCA received 11 comments regarding the use of census data and census tract boundaries in the Cumulative Impacts Mapping and Analysis Platform (CI-MAP).

427. **Shaw-036-02:** Beth Shaw stated, "1. The environmental-justice map does not match the actual geography of environmental harm

The proposed system produces a map that appears disconnected from conditions on the ground in Minneapolis. Large portions of the established Northside Green Zone and Southside Green Zone appear excluded or fragmented, while portions of downtown and the North Loop appear included or surrounded by the rule's one-mile coverage area. MPCA must explain, tract by tract, how this outcome was produced.

The statutory definition identifies an environmental-justice area through census tracts that meet at least one of four demographic conditions: 40 percent or more of the population is nonwhite; 35 percent or more of households have income at or below 200 percent of the federal poverty level; 40 percent or more of residents over age five have limited English proficiency; or the tract is located within Indian Country.

A facility may be covered when it is located in or within one mile of one of those tracts. These criteria are demographic eligibility tests. They are not, by themselves, measurements of cumulative pollution. A tract can have major highways, industrial operations, contaminated land, permitted waste activities, inadequate tree canopy, elevated asthma, and other health burdens but still be excluded because its census estimate falls slightly below every demographic cutoff. That is an unacceptable result for a rule whose stated purpose is to address cumulative environmental harm."

428. **Shaw-036-03:** Beth Shaw stated, "2. MPCA must disclose exactly why each tract qualifies or fails

The public should not have to reverse-engineer the map. For every Minneapolis census tract, MPCA should publish: The tract number and boundaries. Whether the tract directly qualifies as an EJ area or merely appears because it is within a one-mile buffer. The exact statutory criterion or criteria

met. The data year or American Community Survey vintage used. The numerator and denominator used in every percentage. The margin of error for every estimate. The tract's value under each of the 26 CI-MAP stressors. The reason a tract inside an established city Green Zone was included or excluded. Any effect caused by tract-boundary changes, redevelopment, displacement, or population changes.

The proposed definition of an "impacted environmental justice area" includes an EJ area that lies wholly or partly within one mile of a facility's property boundary. The one-mile rule therefore creates a regulatory coverage area that is not the same thing as the underlying EJ tract. Those layers must be displayed separately and unmistakably.

MPCA should specifically explain why portions of the North Loop appear covered while portions of the Northside and Southside Green Zones appear excluded."

429. **Shaw-036-04:** Beth Shaw stated, "3. The household poverty test can hide the number of low-income residents

The statute uses the percentage of households, not the percentage of individual residents, with income at or below 200 percent of the federal poverty level. Renters are not categorically excluded. A rented apartment is a household. But counting households instead of residents can still distort conditions in renter communities. For example, assume a tract has: 34 low-income households containing 150 residents; and 66 higher-income households containing 66 residents.

Most of the people in that example live in low-income households, but only 34 percent of the households are low-income. The tract would miss the 35 percent threshold. This means a low-income household containing five or six people counts once, while five or six higher-income residents living separately count as five or six households. A household-based percentage can therefore obscure the actual percentage of residents experiencing poverty, especially in communities with larger families, multigenerational households, crowded rental housing, or shared apartments.

MPCA must publish an analysis comparing the household-based threshold with: the percentage of individual residents living below 200 percent of poverty; renter poverty; family size; housing overcrowding; severe housing-cost burden; displacement; residents living in shelters or group settings; and residents without conventional housing.

I recognize that the core 35 percent household threshold originates in Minnesota Statutes section 116.065. That does not relieve MPCA of its obligation to identify the distortions produced by the threshold, use every available discretionary tool to prevent inequitable exclusions, and recommend a legislative correction where the statute prevents an adequate remedy."

430. **Shaw-036-05:** Beth Shaw stated, "4. Census-tract averages can erase block-level environmental injustice

Census tracts are administrative boundaries. Pollution does not stop at a census-tract line. A single tract may contain: an industrial corridor; highway-adjacent homes; public or subsidized housing; newer luxury apartment buildings; commercial properties; vacant land; and higher-income homeowners.

A tract-wide average can conceal the severe conditions experienced by residents living closest to pollution. New market-rate construction can also change a tract's average income or racial composition without removing its highways, contaminated sites, industrial uses, or historical health burdens.

The rule should require examination at the smallest reliable geographic level available, including block groups, residential areas near the facility, schools, public housing, senior buildings, shelters, and other sensitive locations. A tract should not lose protection simply because unrelated market-rate development elsewhere in the tract changes the overall demographic average."

431. **Shaw-036-06:** Beth Shaw stated, "5. Established Minneapolis Green Zones should not be ignored

Minneapolis has already identified Northside and Southside Green Zones through a local environmental-justice process. The state's rule should not fragment those recognized communities without a detailed factual explanation. MPCA should either: presumptively recognize established municipal Green Zones; provide an alternate path for locally designated environmental-justice areas; allow qualification based on documented cumulative environmental stressors even where a tract narrowly misses the demographic thresholds; or seek a legislative amendment if MPCA believes the statute prevents these protections.

A person living beside a highway, industrial facility, transfer operation, waste site, or contaminated property should not lose protection because a census tract is at 34.9 percent instead of 35 percent on a household measure."

432. **Shaw-036-08:** Beth Shaw stated, "7. Cumulative pollution should be an independent qualification route

The current structure effectively uses demographics to open the door and then uses CIMAP to evaluate environmental stressors after the area qualifies. That is backwards.

A community experiencing severe cumulative pollution should be eligible for protection because it is experiencing severe cumulative pollution, even when its current census demographics have shifted due to gentrification, displacement, student housing, institutional populations, new development, or arbitrary tract boundaries.

The final rule should allow an area to qualify through either: the statutory demographic criteria; an established state or local Green Zone designation; adverse cumulative CI-MAP stressors; documented historic pollution and health burdens; or substantial evidence presented by residents, local government, Tribal government, health professionals, or community organizations."

433. **Shaw-036-17:** Beth Shaw stated, "15. The Exclusion of the Green Zones The apparent exclusion of portions of the Southside Green Zone raises serious data-validity and Indigenous-community concerns The EJ map appears to exclude or fragment portions of the Minneapolis Southside Green Zone, including portions of East Phillips and the Little Earth community. MPCA must identify whether these areas are actually excluded, merely displayed differently because of the one-mile buffer, or divided by census-tract boundaries that do not correspond with the affected community. MPCA was also specifically aware of Little Earth during this rulemaking. The SONAR records an MPCA focus group with Little Earth elders at the Little Earth Community Center on December 8, 2025. It also records MPCA participation in a Northside/Southside Green Zone meeting and lists Little Earth and the American Indian Community Housing Organization among the organizations receiving notice. After directly consulting residents of Little Earth, MPCA cannot reasonably publish an unexplained map that appears to leave parts of the the [sic] community outside the protection created by the rule. Five-year ACS estimates are not precise head counts MPCA states that the demographic information used to identify EJ areas is available through the Census Bureau's five-year American Community Survey. The ACS is a survey, not a complete enumeration of every resident. Its figures are estimates, and the Census Bureau publishes a margin of error for each estimate because the actual population value may differ from the published number. This creates an obvious problem when the law uses rigid thresholds such as 40 percent or 35 percent. For example, a published

estimate could say that 38 percent of a tract qualifies under a particular criterion, while its margin of error means the actual percentage could reasonably be above 40 percent. MPCA must explain whether it automatically excludes that tract based only on the central estimate, despite the statistical range crossing the statutory threshold. MPCA should not treat an uncertain estimate as a certain finding of ineligibility. Tract-wide averages can erase a concentrated community This is precisely why MPCA must compare its tract-level results with smaller available geographies, including census block groups. The Census Bureau makes detailed ACS estimates available below tract level for many subjects. Missing or unreliable data cannot be converted into a finding of "not eligible" MPCA must disclose how it handles any tract or variable for which the ACS returns: no estimate; a suppressed value; an annotation instead of a numerical value; an estimate with an extremely large margin of error; a denominator too small to produce a meaningful percentage; or a result MPCA considers statistically unreliable. The Census Bureau expressly recognizes that ACS systems may return special annotation values in place of ordinary numerical estimates. If MPCA lacks reliable information, the appropriate conclusion is "qualification cannot be reliably determined from this dataset." It is not "this community fails to qualify." I'd love to know what happened to the approved MPCA Enrivonmental [sic] Justice map from 2024—did something change? Because now this link takes you to a redirect splash page, directing you to the "new and improved" site. Either way, the current MPCA Environmental Justice Map is still ridiculous. The final rule should expressly prohibit MPCA from: coding missing or suppressed data as zero; treating an unavailable estimate as evidence that a threshold was not met; ignoring a margin of error that crosses the qualification threshold; excluding a community solely because its concentrated population is diluted by tract boundaries; or denying protection because the government's chosen dataset cannot accurately represent the residents living there."

434. **Shaw-036-18:** Beth Shaw stated, "MPCA must explain: how American Indian and Alaska Native residents are counted; how residents selecting more than one race are counted; how Hispanic ethnicity is treated in the "nonwhite" calculation, meaning exactly how does your math work out regarding if someone is "Hispanic" and also an additional demographic. You need to provide the specific datasets and explanatiosn [sic] for things like these, which you've had ample time to do. whether Indigenous residents are lost or duplicated across racial categories; whether institutional, sheltered, unhoused, or other non-household populations are included; whether ACS margins of error were considered; whether Census undercounting was evaluated; and whether Little Earth was analyzed separately from the larger surrounding tract."

435. **Shaw-036-19:** Beth Shaw stated, "Required disclosure for East Phillips and Little Earth Before the hearing record closes, MPCA should publish the following for every tract and block group included in the Southside Green Zone: Census tract and block-group identification numbers. Exact geographic boundaries. The ACS dataset and five-year period used. Every Census table and variable used. The estimate, numerator, denominator, percentage, and margin of error. Any missing, suppressed, annotated, or unreliable values. Every EJ criterion the area passed or failed. Whether the confidence interval crossed a statutory threshold. How multiracial and Indigenous residents were classified. Whether the area shown on the map is an actual EJ tract or only part of a one-mile buffer. A comparison with the official Minneapolis Southside Green Zone boundary. An explanation of why MPCA's direct engagement with Little Earth residents did or did not affect the geographic methodology."

436. **Shaw-036-20:** Beth Shaw stated, "Requested correction. Where available information is uncertain, incomplete, suppressed, or geographically inappropriate, MPCA should apply a protective presumption rather than automatically excluding the area. At minimum, the final rule should provide that an area remains provisionally protected when: the margin of error overlaps a

qualification threshold; Census data are missing or unreliable; a recognized Green Zone or concentrated residential community is divided by tract boundaries; smaller-area information demonstrates qualifying demographics that are hidden by the tract average; or credible local, Tribal, municipal, housing, school, public-health, or community records demonstrate that the Census estimate does not adequately represent the population. Government data limitations must not become a loophole through which the government denies environmental protection to the residents least likely to be accurately represented in its datasets."

437. **Shaw-036-23:** Beth Shaw stated, “Conclusion. The communities most burdened by pollution should not disappear from an environmental-justice rule because of technical census boundaries, household denominators, outdated estimates, or redevelopment elsewhere in a tract. North Minneapolis and South Minneapolis residents have lived with the consequences of highways, industrial zoning, waste operations, contaminated properties, limited tree canopy, housing inequality, and unequal public investment for generations. A rule created in the name of cumulative impact=s must begin with those real conditions. I ask MPCA to revise the proposed rule so that environmental-justice protection is determined by actual people, actual exposure, actual history, and actual health burdens —not merely whether a census estimate crosses an arbitrary percentage line.”

MPCA RESPONSE

438. The Agency is required by Minn. Stat. § 116.065, subd. 5(f) to maintain an updated database of identified environmental stressors in specific census tracts and make this database accessible to the public. Some areas of interest may be split across multiple tracts. While it is not possible to display all possible geographic boundaries of interest in the map tool, the user can select an area of interest by drawing a polygon and view results for each relevant census tract. This information will also be available in the future.

439. The most current MPCA Environmental Justice Area map can be found here: [https://experience.arcgis.com/experience/bff19459422443d0816b632be0c25228/page/Page/?views=EJ-areas].

440. While the CI-MAP is a statewide tool, per part 7007.6050, subpart 3, item E of the rule [https://www.pca.state.mn.us/sites/default/files/aq-rule2-25ab.pdf], an applicant is also required to provide evidence of satisfaction of any local environmental justice or cumulative impacts ordinances with which they are required to comply.

441. The Census Bureau is the leading source for demographic and other socio-economic data in the United States and there are not alternatives to this data that have the same level of consistency and accuracy across the state. The Census Bureau also provides transparency to their methods and findings regarding the collection of data which further enhances the utility of the data source. These data are also used in other states’ cumulative impacts tools, such as those developed by New Jersey and California.

442. MPCA has opted not to consider margins of error. This aligns with methods used in similar tools created by EPA and New Jersey. We did specifically choose 5-year versus 1-year estimates at the tract level to improve the estimations and reduce the margins of error by increasing the aggregation size of the geography and increase the sample size.

443. Census respondents are asked to self-identify race and ethnicity by selecting all racial categories and the ethnic category that apply to them. Beginning with the 2027 American Community Survey (ACS), the race and ethnicity questions will be combined into one multi-select question. The U.S. Census Bureau provides more detailed descriptions of how of race and ethnicity data are collected.

See [https://www.census.gov/topics/population/race/about.html] and [https://www.census.gov/topics/population/hispanic-origin.html]. For the purposes of MPCA's Environmental Justice framework, a person of color is considered to be any respondent not solely selecting race or ethnicity categories of "white" and "non-Hispanic".

444. The U.S. Census Bureau does count institutionalized individuals and makes every effort to locate and count unhoused individuals. For detailed descriptions of how institutionalized and unhoused individuals are counted, see Appendix G in [https://www2.census.gov/programs-surveys/decennial/2020/technical-documentation/complete-tech-docs/supplemental-demographic-and-housing-characteristics-file/2020census-supplemental-dhc-techdoc.pdf].

445. Detailed information regarding data sources, specific variables used, and how stressor values are calculated can be found in the CI-MAP Technical Support Document [https://www.pca.state.mn.us/sites/default/files/aq-rule2-25an.pdf].

Comments related to implementation of the proposed rule

Permitting efficiency and timeliness

446. The MPCA received 17 comments regarding permitting efficiency and timeliness.

447. **Minnesota Chamber of Commerce-027-06**: The Minnesota Chamber of Commerce stated, "b. The proposed rule also does not impose any timeframes for MPCA to make the determinations described above, which adds to the overall regulatory uncertainty."

448. **Minnesota Chamber of Commerce-027-14**: The Minnesota Chamber of Commerce stated, "**4. SONAR Failure to Appropriately Evaluate Economic and Timeline Impacts**

a. The Chamber is concerned that the proposed rule will significantly extend the time taken to obtain an air permit. The Chamber's February 2024 report titled "Streamlining Minnesota's environmental permitting process: Essential for economic growth" (2024 report) identified significant issues associated with the timeliness of issuing Tier 2 air permits and permit amendments, especially compared to peer states. [https://www.mnchamber.com/sites/default/files/Minnesota%20Foundation%20permitting%20report.pdf] The proposed rule is likely to exacerbate long timelines, not only for facilities subject to the statute, but for all permittees due to the burden imposed on MPCA resources to support implementation of the rule.

The proposed rule is based on a similar program in New Jersey. While Minnesota's program would differ in certain respects based on the proposed rule, the New Jersey framework has been implemented and provides one empirical benchmark for estimating timeline impacts. The Chamber notes that the submittal of permit applications for projects subject to New Jersey's similar Environmental Justice rules (NJAC 7:1C, which became effective on April 17, 2023) was delayed by between 391 to 646 days as a result of its EJ process. The following table shows projects that have obtained a decision document under New Jersey's program, and the time recorded in the decision documents from the Draft Environmental Justice Impact Statements (EJIS) to the date of the decision documents. These timelines would not include the time required for the permittee to prepare the draft EJIS, which, given its contents being similar to Minnesota's proposed rule, would also be significant, adding even more time delay.

Project	Draft EJIS Submittal	Decision Document	Days
Hackensack University	4/10/2025	5/6/2026	391
Kuehne Chemical	11/25/2024	5/6/2026	527

Mercer Group	3/18/2025	5/6/2026	414
Merck Sharp & Dohme	9/6/2024	5/6/2026	607
Corning Pharmaceutical	11/5/2023	8/12/2025	646
Safety Kleen	12/8/2023	6/3/2025	543

The SONAR fails to consider an important aspect of the reasonableness of the proposed rule by not adequately evaluating the impact of the proposed rule on permitting timelines. The rule introduces multiple substantive and procedural requirements — including preparation and review of cumulative impacts analyses, expanded public participation processes, and additional MPCA determinations — that will foreseeably extend significantly the time required to issue permits and amendments. While the SONAR acknowledges that these requirements will increase complexity and duration, it does not quantify the expected timeline impacts, compare them to existing permitting timeframes, or evaluate how the additional steps interact with current permitting processes. In particular, the SONAR does not address the cumulative effect of these requirements on already lengthy permitting timelines, nor does it assess whether the resulting delays are reasonable or proportionate to the anticipated benefits of the rule. The SONAR also fails to evaluate the impacts associated with permitting uncertainty. For many projects, the inability to predict permitting timelines can affect capital planning, project scheduling, procurement activities, and investment decisions independent of the ultimate permit duration. The proposed rule should include concrete and binding timelines for public engagement and final MPCA action.

This omission in the SONAR is significant because permitting timelines are a central component of the practical and economic impact of the rule on regulated parties, affected communities, and the MPCA itself. By failing to assess the magnitude, variability, and drivers of timeline extensions — including the duration of CIAs, iterative MPCA review cycles, public participation requirements, and potential CBA negotiations—the SONAR does not provide a reasoned evaluation of a key consequence of the proposed rule. Nor does it identify measures to mitigate or manage these impacts while still achieving the statutory objectives. As a result, the SONAR does not demonstrate that MPCA has fully considered the relevant factors associated with implementation of the rule, raising concerns that the rulemaking record is incomplete with respect to an important aspect of the problem."

449. **Minnesota Chamber of Commerce-027-15**: The Minnesota Chamber of Commerce stated, "b. When deciding whether to invest in a given facility and community, Chamber members consider whether they will be able to obtain necessary environmental permits within a defined and reliable timeframe. One potential outcome of a rule that has significant time and cost implications is that affected permittees may not pursue projects that will make them subject to the rule. Without procedural constraints to ensure certainty in that respect, a company may be discouraged from continuing or expanding economic activity, investing in facility modernization, replacing aging equipment, or implementing projects that improve environmental performance even if it would not have any significant adverse impact on the surrounding community, or if the proposal may have substantial positive impacts, due to an inability to estimate the amount of time needed to navigate the CIA process. They will conduct expansions or propose new facilities outside the geography affected by the rule. This could ultimately be counterproductive to the intent of the rule; if permittees do not pursue projects subject to the rule, there will be no opportunity to implement CBAs. The rule should not be so burdensome that it discourages the very goal that was intended, benefitting communities.

450. **Minnesota Chamber of Commerce-027-20**: The Minnesota Chamber of Commerce stated, "g. The proposed rule (7007.6090, subp. 4) requires the permittee to "conduct an air quality modeling

analysis in accordance with a protocol approved in advance by MPCA" (emphasis added). Air modeling protocols required by other MPCA programs often take considerable time and effort to prepare and months for MPCA to review and approve. The Chamber recommends that a simpler protocol (not requiring e-services submittal) be sufficient for the purposes of the proposed rule. If not, we anticipate that this could add several months to the air permitting process.

451. **Minnesota Chamber of Commerce-027-21**: The Minnesota Chamber of Commerce stated, "h. The proposed rule (7007.6090, subp. 5, B) requires the permittee to "conduct an air emissions risk analysis in accordance with a protocol approved in advance by the commissioner" (emphasis added). The Chamber assumes that MPCA intends to require the existing two-stage AERA program to be followed, the first stage being the preparation, submittal, and MPCA review and approval of a detailed protocol. As with the air modeling analysis, the AERA protocol often takes considerable time and effort to prepare and months for MPCA to review and approve. The Chamber recommends that a simpler protocol (not requiring e-services submittal) be sufficient for the purposes of the proposed rule. If not, we anticipate that this could add several more months to the air permitting process."

452. **University of Minnesota-030-29**: The University of Minnesota stated, "Finally, the University relies on state legislative appropriation and project bond funding. This process requires a level of budget certainty during the early planning phases before requests are submitted to the State. The Draft Rules introduce significant timeline and budget uncertainty that conflicts with how projects are funded and executed for a public institution."

453. **Minnesota Building and Construction Trades Council-041-15**: The Minnesota Building and Construction Trades Council stated, "**The Overall Process Created by These Rules is Too Complicated, Long, and Costly**

These rules create a complicated, multi-step process that adds months of time to a permit application, significantly increasing the costs and uncertainty that project owners need and deserve. They require project proposers, potentially including some businesses that have been located in our communities for decades and have been abiding by the rules, to jump through hoops that we believe many will walk away from. Since these rules apply to any potential project that would be located in half of the Twin Cities metro area, two-thirds of Duluth, and half of Rochester, they have the potential to significantly cost our communities jobs and potential investment.

Project proposers would need to be prepared to conduct an initial assessment, a cumulative impacts analysis, hold no fewer than four public meetings, each with 45-day notices and public comment periods. They are required to respond to each comment and negotiate a vague "community benefits agreement" that has no template, no cap on costs, and no certainty about what may be agreed to by the agency. They will have to hire lawyers and consultants to do all this without ever knowing if they will get their permit.

This, of course, is on top of what they already need to do under current law to get a permit. This new process adds time, cost, and uncertainty to any project that needs a relevant permit, and we fear that companies will simply opt not to pursue their projects here. That may be a win for some advocates, but it will be a significant loss for our communities and our unions."

454. **American Petroleum Institute-042-09**: The American Petroleum Institute stated, "**1.8 PERMITTING EFFICIENCY**

MPCA acknowledges implementation will require significant Agency resources. The proposed rule introduces multiple new procedural steps, including:

- Initial Assessment,
- public notification,
- petition review,
- determination of need,
- cumulative impacts analysis,
- public meetings,
- Community Benefit Agreements.

API is concerned these additional processes could substantially extend permitting timelines for projects with limited incremental environmental impact.

Recommendation: Adopt a tiered process that reserves the most resource-intensive analyses for projects with the greatest potential for meaningful cumulative impacts.

455. **Biewen-043-06**: Todd Biewen stated, "The proposed rules introduce new steps and processes into the permitting process for affected facilities, but MPCA has done a good job of tying the new rules to existing MPCA processes that regulated facilities and environmental consultants are familiar with, including annual air toxics reporting, AERA, MNRISKS, permitting processes, recordkeeping requirements, air monitoring practices, and community engagement processes."

456. **Cordia Energy Center Minneapolis-049-06**: Cordia Energy Center Minneapolis stated, "3 SONAR Failure to Appropriately Evaluate Economic and Timeline Impacts

a. Cordia is concerned that the proposed rule will significantly extend the time taken to obtain an air permit or permit renewal. The Chamber of Commerce's February 2024 report titled "Streamlining Minnesota's environmental permitting process: Essential for economic growth" identified significant issues associated with the timeliness of issuing Tier 2 air permits and permit amendments, especially compared to peer states. The proposed rule is likely to exacerbate long timelines, not only for facilities subject to the statute, but for all permittees due to the burden imposed on MPCA resources to support implementation of the statute.

The SONAR fails to consider an important aspect of the reasonableness of the proposed rule by not adequately evaluating the impact of the proposed rule on permitting timelines. The rule introduces multiple substantive and procedural requirements — including preparation and review of cumulative impacts analyses, expanded public participation processes, and additional MPCA determinations — that will foreseeably extend the time required to issue permits and amendments. While the SONAR acknowledges that these requirements will increase complexity and duration, it does not quantify the expected timeline impacts, compare them to existing permitting timeframes, or evaluate how the additional steps interact with current permitting processes. In particular, the SONAR does not address the cumulative effect of these requirements on already lengthy permitting timelines, nor does it assess whether the resulting delays are reasonable or proportionate to the anticipated benefits of the rule. The proposed rule should include concrete and binding timelines for public engagement and final MPCA action."

457. **Cordia Energy Center Minneapolis-049-12**: Cordia Energy Center Minneapolis stated, "g. The proposed rule does not impose any timeframes for MPCA to make the determinations described in section 2 a above, which adds to the uncertainty associated with the timing of the overall permitting action."

458. **Cordia Energy Center Minneapolis-049-14**: Cordia Energy Center Minneapolis stated, "i. Similarly, the proposed rule (7007.6090, subp. 4) requires the permittee to "conduct an air quality modeling analysis in accordance with a protocol approved in advance by MPCA". Air modeling protocols required by other MPCA programs often take considerable time and effort to prepare and

months for MPCA to review and approve. Cordia recommends that a simpler protocol (not requiring e-services submittal) be sufficient for the purposes of the proposed rule. If not, we anticipate that this could add several months to the air permitting process."

459. **Cordia Energy Center Minneapolis-049-15**: Cordia Energy Center Minneapolis stated, "j. Similarly, the proposed rule (7007.6090, subp. 5) requires the permittee to "conduct an air emissions risk analysis (AERA) in accordance with a protocol approved in advance by MPCA". Cordia assumes that MPCA intends to require the existing two-stage AERA program to be followed, the first stage being the preparation, submittal, and MPCA review and approval of a detailed protocol. As with the air modeling analysis, the AERA protocol often takes considerable time and effort to prepare and months for MPCA to review and approve. Cordia recommends that a simpler protocol (not requiring e-services submittal) be sufficient for the purposes of the proposed rule. If not, we anticipate that this could add another several months to the air permitting process."

460. **Minnesota Hospital Association-051-07**: The Minnesota Hospital Association stated, "**6. Provide certainty regarding application completeness and information requests**. The rule should establish clear standards for when an application is complete, limit supplemental information requests, and define objective endpoints for cumulative impacts reviews. Regulatory certainty is essential to timely completion of healthcare infrastructure projects. The cumulative impacts process also has the potential to be very lengthy, and MHA encourages MPCA to pair the completeness determination with a reasonable but firm deadline for completing the review."

461. **Minnesota Hospital Association-051-10**: The Minnesota Hospital Association stated, "**9. Provide protections against repetitive or strategic delay.** MHA supports meaningful public participation but is concerned that petitions, multiple public meetings, and sequential review requirements could unnecessarily delay important healthcare projects. The rule should establish clear timelines and ensure decisions are based on scientific evidence and objective regulatory standards."

462. **Minnesota Hospital Association-051-18**: The Minnesota Hospital Association stated, "**Establish Application Completeness and Finality**

Part 7007.6040 - Add new Subpart 6a after line 30.23

Proposed Language:

> Subp. 6a. Completeness Determination. Within 60 calendar days of receiving an initial assessment or cumulative impacts analysis, the commissioner shall determine whether the submission is complete and identify any additional information required. Following a completeness determination, additional information requests may be made only upon a written finding that material information necessary for the permitting decision was not reasonably available at the time the completeness determination was issued.

Reason: Hospitals and other permittees require certainty regarding application requirements, project planning, and capital investment schedules."

463. **Metropolitan Airports Commission-055-02**: The Metropolitan Airports Commission stated, "Although the MAC itself, as a Registration Option D permittee, will not be subject to the Proposed Rules, we nevertheless harbor concerns about the detrimental effects the Rules may have on the MAC's statutory mandate to promote air transportation and its associated impact on economic growth and positive community benefits throughout Minnesota. Specifically, the MAC has concerns about the following aspects of the Proposed Rules:

Current and future permittees subject to the Proposed Rules may forgo new facility or expansion projects because of the additional time and costs. Recent analyses show that Minnesota already

lags peer states in the time it takes to issue or reissue complex air permits [See, e.g., Streamlining Minnesota's Environmental Permitting Process: Accessing Timeliness and Certainty: https://mnchamber.com/minnesota-chamber-foundation/streamlining-minnesotas-environmental-permitting-process-assessing]. The requirements in the Proposed Rules, which must be completed before the MPCA can even act on a requested permit action, could easily add an additional 12 to 18 months to that already prolonged process, if a facility has to complete both an Initial Assessment and a Cumulative Impacts Analysis (CIA) and then negotiate and obtain the approval of a Community Benefit Agreement. Furthermore, the $69,000 to $175,000 compliance cost estimate the MPCA included in its Statement of Need and Reasonableness [pg 176] fails to account for the opportunity costs of these permit delays. Companies looking to build new facilities, including facilities at or near MSP or other MAC airports, will look to other areas with more certain and streamlined permitting processes rather than subject themselves to the costs and delays required to obtain an air permit in an affected area of this state. Meanwhile, companies may also forgo expansion opportunities here or may undertake them at facilities outside of Minnesota. Both types of losses would blunt the MAC's statutory mandate and stunt economic growth and the associated high-paying jobs in Minnesota. The MAC therefore strongly encourages the MPCA to revise its Proposed Rules to identify efficiencies and time limits throughout this entire process to decrease the burden on regulated parties.

MPCA RESPONSE

464. Minn. Stat. § 116.065 requires the MPCA to adopt rules to review the cumulative impacts of pollution in certain parts of Minnesota during the air permitting process. The legislature has also directed the MPCA to do permitting efficiently under Minn. Stat. § 116.03, subp. 2b, which sets a permitting efficiency goal of 150 days for tier 2 permits. Applications subject to the proposed rule would fall under the tier 2 category, thus this goal will apply. However, MPCA notes that the scope of reviews and determinations under the rule, with the potential for a cumulative impacts analysis, multiple public meetings, and a community benefit agreement, means that the permitting efficiency goals would likely not be met for projects that require a cumulative impacts analysis and CBA. Therefore, for projects subject to the proposed rule, the MPCA will need to balance permitting efficiency as well as the more complex reviews for permit projects subject to the proposed rule.

465. The statute does not impose timeframes for the various steps in the proposed rule or for MPCA's determinations. MPCA's decisions are driven by information provided by the permit applicant. Historically, permit applicants require varying amounts of time to submit information due to consultant availability, staffing, size of a project, or the need for additional technical information that requires contacting equipment manufacturers, conducting engineering studies, refining emissions factors or other supporting data, or considering options to meet regulatory needs. The proposed rule is a progressive, staged analysis. Whether the permit needs a CBA is determined by the cumulative impacts analysis, and whether the permit needs a cumulative impacts analysis is determined by the initial assessment and determination of need. The MPCA may be required to request additional information to be able to make a decision at each step. To establish timelines in rule for all of these decision points and potential submittals would be nearly impossible in practice and would not allow for flexibility when and if the applicant experiences delays out of the MPCA's control.

466. MPCA is aware of the need to be efficient in processing permit actions and has built known processes and procedures into the rule. As noted by one commenter, "use of existing processes and data sources such as air toxics reporting, AERA, MNRISKS, permitting processes, recordkeeping requirements, air monitoring practices, and community engagement processes will assist the MPCA in efficient processing of permit applications subject to the CI rule." AERA and criteria pollutant

modeling are types of analyses that are identified in the rule, that have known and well understood procedures to help them be streamlined, such as the MPCA approving protocols prior to the submittal of results. This means that if a protocol is not acceptable, applicants and the MPCA do not need to prepare and review results that are not viable.

467. The MPCA recognizes that compliance with the proposed rule may increase timeframes needed for processing some permit actions subject to the rule. In order to be efficient in processing these permit actions, MPCA will work to create external and internal procedures for streamlined reviews and determinations. As MPCA implements the rule, MPCA will develop guidance for owners and operators, community members, and MPCA staff to ensure permitting moves forward in a timely manner. Implementation of the proposed rule will also involve development of standard forms; e-services options; templates; and other materials to ensure that application and supplemental application materials required under the rule are consistent and include all relevant information. The proposed rule is a new aspect of the air permitting program, and although it incorporates several known processes, there will be work to do in refining its implementation. The MPCA is a learning organization and receptive to feedback that will help make the review and determination steps proceed more efficiently.

468. MPCA recognizes that there may be additional uncertainty in both timelines for project planning and budgeting consideration as noted by some commenters. Historically, MPCA Air Permitting staff have been available to participate in pre-application meetings as a way for applicants to talk with program staff about upcoming projects and what the permitting needs might be. Projects subject to this rule would be good candidates for pre-application meetings to talk about permitting needs and timelines in the early stages of an applicant's project planning. Information about pre-application meetings can be found at https://www.pca.state.mn.us/business-with-us/air-permit-application-forms.

469. Minn. R. 1400.2070 and Minn. Stat. § 14.131 outline the requirements of the SONAR. These laws do not specify that state agencies must estimate how the rule may affect timing of an agency's decisions. The MPCA has met its obligation in the SONAR under Minn. Stat. § 14.131 to provide a reasonable estimate of projected compliance costs using readily available data, a survey of permitholders that may be subject to the rule, and standard methods. The statute requires, in part: ... "the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals." The estimate of projected compliance costs is included under Regulatory Analysis section of the SONAR (p.166-180).

470. One commenter states that "One potential outcome of a rule that has significant time and cost implications is that affected permittees may not pursue projects that will make them subject to the rule." MPCA agrees that this could be a potential outcome and discusses this and other indirect impacts of the rule in the SONAR (p. 167).

471. The rule focuses on new construction and facility expansion permits initially, and has a two year delay for applicability of reissuance applications. Therefore, MPCA's initial implementation will focus on those projects that have been identified as critical to both applicants and communities immediately. MPCA resources can be focused on efficiently processing applications subject to the proposed rule and refining the review and decision-making process. Once MPCA's implementation infrastructure is in place, reissuances will be included.

472. The proposed rule is written as a tiered process such that only certain projects will go through all of the procedural steps described in the rule as specified in Minn. Stat. § 116.065. The initial assessment is a screening step intended to determine whether a permit action is likely to impact the

environment or health of residents. The initial assessment culminates in the MPCA's determination of whether a cumulative impacts analysis is needed. For those projects where no cumulative impacts analysis is needed, the requirements of the proposed rule have been met and the rest of the permitting process will proceed without further requirements under the proposed rule. For those projects requiring a cumulative impacts analysis, if the MPCA determines that issuing the permit does not result in a substantial adverse impact, then the permitting process will proceed from there without further requirement of the rule.

473. One commenter suggests that the goal of the rule is the opportunity to implement CBAs. A CBA is only required by Minn. Stat. § 116.065, subd. 5 if the cumulative impacts analysis shows a substantial adverse impact due to issuance of the permit. If the cumulative impacts analysis result indicates a substantial adverse impact, the CBA is used to help offset harms to the EJ area by providing beneficial impacts. Otherwise, a CBA is not needed as directed by the statute.

474. One commenter suggests that the "rules apply to any potential project." These rules are limited to those sources that require an air permit for new construction, facility expansion, or reissuance in areas defined in Minn. Stat. § 116.065, subd. 1(h).

Expedited permit processing

475. The MPCA received three comments related to expedited review of permit applications subject to the proposed rule.

476. **Minnesota Chamber of Commerce-027-55**: The Minnesota Chamber of Commerce stated, "k. The proposed rule should provide a mechanism for a permittee to seek expedited reviews."

477. **Minnesota Hospital Association-051-08**: The Minnesota Hospital Association stated, "**7. Establish expedited review procedures for projects involving healthcare resiliency, patient safety, and regulatory compliance.** Hospitals frequently undertake projects necessary to ensure reliability of services, comply with federal emergency preparedness requirements, address aging infrastructure, or respond to changing patient care needs. MPCA should provide an expedited pathway for essential healthcare projects to avoid potential delays that could affect patient care."

478. **Minnesota Hospital Association-051-19**: The Minnesota Hospital Association stated, "**7. Expedited Review for Critical Healthcare Infrastructure**

Part 7007.6120 - Add new Subpart 3 after line 83.19

Proposed Language:

> Subp. 3. Expedited Review for Essential Healthcare Facilities. Upon request by a hospital licensed under Minnesota Statutes, chapter 144, the commissioner shall prioritize review of permit actions involving emergency preparedness, backup power generation, utility system reliability, patient safety improvements, public health emergency response, replacement of aging infrastructure, or projects necessary to maintain uninterrupted healthcare services.

Reason: Delays in healthcare infrastructure projects can directly affect patient safety and access to care."

MPCA RESPONSE

479. Minn. Stat. § 116.07, subd. 4d(f) allows permit applicants to request an expedited permitting process under certain circumstances. The process to request expedited review of permit applications is already in place and available to permit applicants. Therefore, a specific mechanism has not been included in the proposed rule.

Proprietary and confidential business information

480. The MPCA received one comment related to how proprietary and confidential business information is treated under the proposed rule.

481. **Minnesota Chamber of Commerce-027-53**: The Minnesota Chamber of Commerce stated, "i. The proposed rule should include clear protections for proprietary and confidential business information when preparing an initial assessment, a CIA, or a CBA."

MPCA RESPONSE

482. Minnesota air permitting rules have procedures in place under Minn. R. 7007.0550 for applicants to request confidential treatment of information; therefore, the proposed rule does not need to include specific protections for applicants with proprietary and confidential business information.

483. Part 7007.0500 identifies what is required in a permit application. Part 7007.0500, subpart 6, item B specifies that the permit application must include the initial assessment, if applicable. Thus, the information in an initial assessment is part of the application and an applicant may request that information in an initial assessment be treated as confidential as allowed under part 7007.0550. Similarly, part 7007.0500, subpart 6, item C states that, if required, the applicant must supplement the application with the cumulative impacts analysis and community benefit agreement. The cumulative impacts analysis and CBA are also part of the application and an applicant may request that the agency treat information in this supplemental information as confidential as allowed under part 7007.0550.

Compliance and enforcement mechanisms

484. The MPCA received two comments regarding the ability to ensure compliance with the proposed rules, opportunities for residents to raise concerns about noncompliance, and ensuring mechanisms exist to address these issues.

485. **Frontline Communities Protection Coalition (compiled comments)-045-175:** The Side Corridor Residents, Owatonna East stated, "16. Feedback on the proposed cumulative impact rules. We support the development of these proposed rules; however, they will only be effective if the MPCA has meaningful authority and clear mechanisms to enforce them. One of the greatest frustrations residents experience during environmental review processes is the lack of a practical way to address concerns when required procedures are not followed, analyses are incomplete, or significant inaccuracies are identified. Laws and regulations establish important protections, but those protections are limited if there is no effective way to ensure compliance.

The proposed rules should clearly authorize the Commissioner to require deficiencies to be corrected before permitting decisions are finalized. Depending on the circumstances, this may include requiring a cumulative impacts analysis to be revised or supplemented, requiring additional community participation when significant new information is identified, delaying permit decisions until deficiencies are resolved, or denying a permit when a Project Proposer fails to comply with the requirements of the rule."

486. **Frontline Communities Protection Coalition (compiled comments)-045-176:** The Side Corridor Residents, Owatonna East stated, "The rules should also establish a clear and accessible process for residents to raise concerns about noncompliance or significant deficiencies and ensure those concerns receive independent review before permitting decisions become final.

A cumulative impacts analysis should be more than a procedural exercise. Meaningful enforcement promotes accountability, encourages compliance, creates a fair process for all applicants, and builds public confidence that the cumulative impacts process will achieve its intended purpose: protecting public health, the environment, and communities experiencing environmental burdens.

Strong rules require strong enforcement. Without meaningful oversight and accountability, the cumulative impacts process risks becoming a requirement on paper rather than a meaningful protection for Minnesota communities."

MPCA RESPONSE

487. The proposed rules provide mechanisms for MPCA to request information and ensure its accuracy at part 7007.6040, subparts 1 to 5. If information is not provided, the MPCA will not be able to make the decision under the proposed rule.

488. Part 7007.1000 contains rules for issuing and denying permits. The proposed rule revises part 7007.1000, subpart 1 to establish item I such that "*all applicable provisions of Minnesota Statutes, section 116.065, and the rules adopted thereunder have been fulfilled.*" This means that all requirements of the proposed rule will need to be completed prior to a permit being issued. Part 7007.1000, subpart 2 describes the agency's grounds for denying a permit. This includes item A, for when "*The agency is unable to make any of the determinations required under subpart 1.*" With the addition of item H under subpart 1, the agency may deny a permit if unable to make a determination under the proposed rule.

489. Furthermore, part 7007.1000, subpart 2, is also revised to establish item H as grounds for denial. Item H states, "*The applicant has failed to enter into a community benefit agreement with the commissioner when a community benefit agreement is required by Minnesota Statutes, section 116.065, subdivision 5, paragraph (b), and part 7007.6110.*" These revisions were included in the proposed rule to ensure that MPCA has effective tools to require compliance with the proposed rule as well as deny a permit if the proposed rule has not been followed.

490. Additionally, under both Minn. Stat. § 116.07, subp. 9 and Minn. Stat. § 115.071, the MPCA has broad authority to ensure compliance is demonstrated and enforce Minnesota Rule and permit conditions. If inaccurate information is supplied or processes established by the rule are not met, they will be managed as outlined in the rule or if a facility continually fails to meet the requirements, elevated enforcement will be pursued. The Agency has an established enforcement process that will address issues with noncompliance of cumulative impact requirements the same as other rules, standards, and requirements. Enforcement programs determine the appropriate enforcement action and associated penalty amount, if applicable, based on the seriousness or repeat violations. All enforcement actions include corrective actions an owner or operator must complete to address noncompliance.

491. The public can assist in oversight by submitting complaints if they witness or have evidence of noncompliance with rule requirements or community benefit agreement stipulations. The types of permit holders covered by the rule are subject to routine compliance inspections by Agency staff and may also be evaluated if complaints are received or concern and questions exist.

Forms, guidelines, guidance, and other suggestions regarding implementation

492. The MPCA received five comments that provided suggestions for materials and other efforts the MPCA could take to aide in the implementation of the proposed rule.

493. **Minnesota Chamber of Commerce-027-12**: The Minnesota Chamber of Commerce stated, "**3. Recommended Procedural Changes to Accelerate Permit Actions, Avoid Duplication, and Provide Clarity**

In addition to recommending further clarity regarding benchmarks, criteria, conditions, and standards, the Chamber recommends some changes to accelerate permit actions, avoid duplicative analyses, and increase transparency and predictability.

a. MPCA should prepare "vulnerability" analyses for environmental justice areas upon promulgation of the rule.

As noted, a significant problem with the proposed rule is its imprecision and unpredictability. Air emissions have traditionally been regulated through a combination of ambient air quality standards and pollution control performance standards for source categories. These are known by permittees in advance. When contemplating a facility change that will involve emissions of a regulated pollutant, the permittee can evaluate how the emissions will be regulated, the likely cost and time needed for the permitting action, and plan accordingly. None of these is reasonably forecastable by permittees under the proposed rule. Rather, as proposed, MPCA will develop a bespoke, wide-ranging environmental assessment with the potential for evolving considerations. In addition to being unpredictable, as discussed below, this process could easily take years.

Importantly, much of the required analysis has nothing to do with the permittee's specific proposed emissions, but rather a searching assessment of the environmental conditions and vulnerabilities of nearby Environmental Justice communities. Because this analysis is independent of specific permittees, and the universe of Environmental Justice communities in the metro area is known, MPCA need not wait until specific permit actions have been proposed. Upon promulgation of the Rule, MPCA could do an assessment of the Environmental Justice communities and identify which types and quantities of incremental emissions would be reasonably likely to have a substantial adverse impact on each community. This area-specific information could then be used by MPCA to help establish benchmarks to determine whether cumulative impact analyses are necessary, and could also be used to determine in advance what types of environmental analyses are required.

This exercise would have several benefits. First, it would comply with the statute in a manner that the proposed rule does not, by enabling MPCA to provide specific criteria and benchmarks. Second, it would provide greater clarity to communities and the regulated sector regarding the environmental issues in those communities and better facilitate a determination of whether a given facility's project will impact those issues and cause a substantial impact. Third, it will slightly mitigate the Rule's impact on permitting timelines, because much of the key work required under the proposed rule (on an ad hoc, facility-specific basis) will have been performed in advance (more holistically). Fourth, it will allow immediate community engagement on the benefits and tradeoffs associated with cumulative impacts-based permitting, separate from the emotions associated with permitting specific facilities. Notably, many metro-area communities are designated as Environmental Justice communities principally because of a large proportion of people for whom English is not their predominant language. Much of the intended benefit of the proposed rule is procedural, i.e., giving these communities a voice in environmental regulation that may be difficult for them to achieve in typical statewide rulemaking. Commencing that process sooner rather than later and before the time pressures associated with individual permitting actions would be beneficial to both the communities and the regulated facility. The Chamber urges MPCA to consider this proposal, which would help MPCA ameliorate many of the concerns expressed in these comments."

494. **Minnesota Chamber of Commerce-027-44:** The Minnesota Chamber of Commerce stated, **"**d. The "vulnerability" analyses proposed above would partially alleviate the uncertainty stemming from the use of multiple environmental stressors. If permit applicants have advanced information and benchmarks regarding the types of emissions of concern to MPCA for given environmental justice areas and the relevant environmental stressors, they will have more certainty regarding determinations on the need for a CIA and what sorts of impacts are likely to be considered substantially adverse."

495. **Minnesota Public Health Association-035-06:** The Minnesota Public Health Association stated, **"Measuring public health improvements.** As noted, Minnesota Public Health Association supports the cumulative impacts law as a critical tool to address health inequities in environmental justice (EJ) communities. As discussed in the SONAR, reducing exposure to environmental stressors should improve health through reductions in premature death and chronic diseases and yield economic benefits in reduced costs to households and the health care system. We recommend that MPCA collaborate with the Minnesota Department of Health (MDH) to set measurable goals to reduce health impacts due to disproportionate pollution exposure and track health outcomes in EJ areas over time to calculate the actual health co-benefits of air pollution reductions."

496. **Health Professionals for a Healthy Climate-038-14:** Health Professionals for a Healthy Climate stated, "**GENERAL COMMENTS**

Measuring public health improvements. As noted in our introduction, HPHC supports the CI Law as a critical tool to address health inequities in EJ communities. As discussed on p.179-180 of the SONAR, reducing exposure to environmental stressors will improve health through reductions in premature death and chronic diseases and yield economic benefits in reduced costs to households and the health care system. HPHC recommends that MPCA collaborate with the Minnesota Department of Health (MDH) to include measurable goals to highlight health impacts due to disproportionate pollution exposure and track health outcomes in EJ areas over time to assess the actual health co-benefits of air pollution reductions. Utilizing the COBRA model to measure economic benefits, as discussed in the SONAR, will highlight for the public and policymakers the societal value, both economic and public health, of reducing pollution exposure."

497. **Mayo Clinic-053-02:** Mayo Clinic stated, "Healthcare organizations rely on timely permitting to maintain, modernize, and expand critical infrastructure that supports patient care. Projects requiring air permits may include replacement of aging equipment, expansion of clinical capacity, or installation of essential utility systems. Uncertainty regarding permitting expectations has the potential to delay these projects, affecting our ability to efficiently invest in infrastructure that supports the delivery of high-quality care. Greater clarity is particularly important because the proposed rule establishes a new analytical framework that will be applied by both the MPCA and permit applicants. Clearly articulated expectations at the outset will improve consistency, efficiency, and public confidence in the permitting process. We encourage the MPCA to consider incorporating additional guidance or more explicit rule language regarding:

- The required components of a cumulative impacts assessment;
- The methodologies and data sources that will be considered acceptable;
- The thresholds or criteria used to determine whether additional analysis or mitigation is necessary;
- An expected timeline for the MPCA to review cumulative impacts assessments;
- Clarification regarding how cumulative impacts assessments will apply to permit renewals, permit modifications, and other future permitting actions;
- Measures that promote consistency and predictability across permitting decisions.

Early implementation guidance will also reduce the need for iterative information requests during permit review, benefiting applicants, communities, and the MPCA alike.

Providing this additional clarity will improve transparency for all stakeholders, support consistent implementation across regulated entities, and reduce the potential for unnecessary delays while preserving the rule's environmental justice objectives."

MPCA RESPONSE

498. As MPCA implements the rule, MPCA will develop guidance for owners and operators, community members, and MPCA staff for several aspects of the rule. Implementation of the proposed rule will also involve developing standard forms; templates; and other materials to support portions of the rule such as the documentation and evaluation of environmental, health, and socioeconomic impacts. The MPCA anticipates that these forms, templates, and/or other guidance materials will identify examples of these impacts and methods/practices for documenting and/or evaluating these impacts.

Burden and available resources

499. The MPCA received one comment discussing the burden of the proposed rule and provided suggestions for resources available to businesses.

500. **Sierra Club North Star Chapter (compiled comments, set 1)-037-04**: Richard L. Jacobi stated, "Regulations for air and water pollution should be written to give communities affected by cumulative impacts direct access to redress and to appeal for prevention when new developments are expected.

Cumulative impact is easily measured by reference to the federal Toxic Release Inventory, which shows actual numbers for polluting substances as recorded by permitted businesses.

Industry representatives will say that the burden of regulation is too great. That burden is indeed heavy, and the best remedy for that is to clean up toxic emissions, to that regulation will become redundant.

It should be noted in this respect that free engineering expertise is available to businesses which want to reduce their pollution. The Minnesota Technical Assistance Program (MnTAP) has a lengthy history of helping businesses reduce their emissions with innovative cost-effective methods."

MPCA RESPONSE

501. The MPCA appreciates the feedback regarding the potential burden to businesses. The Agency understands the need to provide support to businesses and has several avenues to provide assistance, including an existing relationship forwarding businesses to MnTAP for assistance. The Small Business Environmental Assistance Program (SBEAP) within the Agency will provide assistance relating to complying with this rule to small businesses. The Agency plans to develop guidance documents for businesses to assist with complying with new requirements associated with this rule.

Challenging agency determinations

502. The MPCA received three comments requesting that the proposed rule include a process for challenging, appealing, or seeking independent review of agency determinations.

503. **Minnesota Chamber of Commerce-027-54**: The Minnesota Chamber of Commerce stated, "j. The proposed rule grants MPCA substantial discretion throughout the cumulative impacts process but does not appear to provide a meaningful mechanism for permittees to challenge, appeal, or seek independent review of agency determinations. The rule should include such a process."

504. **Frontline Communities Protection Coalition (compiled comments)-045-130:** Melissa Zimmerman stated, "Meaningful participation also requires accountability. Residents should have access to a fair, transparent, and affordable process to challenge decisions when credible evidence or community concerns are not adequately considered. Ideally, there should be opportunities for review and oversight before a matter reaches litigation. If judicial review becomes necessary after available administrative remedies have been exhausted, residents who successfully demonstrate that concerns were not properly addressed should have the ability to recover reasonable attorney fees and litigation costs. Community participation should not depend on whether individuals or communities have the financial resources to challenge decisions that they believe are inconsistent with the evidence.

The proposed community participation requirements provide a strong foundation. With additional emphasis on transparency, meaningful consideration of public input, and accessible avenues for review, these rules can help ensure that community participation is not just a required step in the process, but an essential part of better environmental decision-making.

My hope is that these rules recognize that communities bring valuable knowledge and lived experience to these processes. When residents have the information, time, and meaningful opportunities to participate, the result is stronger decisions that better protect people and the environment."

505. **Frontline Communities Protection Coalition (compiled comments)-045-164**: The Side Corridor Residents, Owatonna East stated, "The rules should also establish a fair, transparent, equitable, and cost-effective administrative process for challenging decisions when a facility declines to revise a cumulative impacts analysis despite credible evidence submitted during the public comment process. Meaningful public participation requires more than the ability to submit comments—it requires a practical mechanism to ensure that significant concerns receive independent review before permitting decisions are finalized.

If administrative remedies are exhausted and judicial review becomes necessary, the rules should include a mechanism allowing prevailing petitioners to recover reasonable attorney fees and litigation costs from the Project Proposer. Because the Project Proposer is responsible for providing accurate and complete information during the review process, residents should not bear the full financial burden of challenging analyses that fail to adequately consider credible evidence or community concerns.

Without such protections, the cost of pursuing legitimate challenges may prevent many residents from participating fully, undermining the purpose of the cumulative impacts process."

MPCA RESPONSE

506. The MPCA appreciates the commenters' suggestion, it is not necessary to create such a process within the proposed rules. Interested parties have all legal tools available to them, including contested case hearings as provided in parts 7000.1750 to 7000.2200, if they wish to challenge, appeal, or review agency determinations.

Submission guidelines for eComments platform

507. Two comments expressed concerns about the submission guidelines for the eComments platform from the Court of Administrative Hearings (CAH).

508. **Hoffenstein-15-01**: Jim Hoffenstein stated, "First and Foremost: Regarding your Undefined and Subjective Comment Moderation Policy.

The official Court of Administrative Hearings eComments platform states that all submissions become public. It also "reserves the right, without notifying the commenter beforehand, to remove comments it deems offensive, intimidating, belligerent, harassing, bullying, inappropriate, or aggressive". This is some serious Reddit Edge Lord Mod behavior.

This broad policy creates serious concerns in an environmental-justice proceeding. Residents describing decades of pollution, government neglect, illness, displacement, and unequal treatment may understandably communicate with anger, urgency, or distrust. Strong criticism of MPCA, a regulated facility, government attorneys, consultants, elected officials, or the proposed rule should not be confused with threats or harassment.

Terms such as “offensive,” “belligerent,” “inappropriate,” and “aggressive” are subjective. The platform does not clearly identify: who decides whether a comment violates the policy; whether MPCA staff, MPCA attorneys, facility representatives, or other parties may request removal; what written standards guide the decision; whether the commenter receives notice after removal; whether the commenter may appeal or resubmit; whether a removed comment remains preserved in the official administrative record; whether the Administrative Law Judge receives and considers it; whether only the objectionable portion is removed or the entire submission disappears; or whether the identity of the person requesting or authorizing removal becomes public.

These questions are especially serious because the formal rulemaking notice says the Administrative Law Judge will accept oral and written views and consider comments equally. It also directs the public to use the eComments website as one of the official submission methods. A public-participation system should distinguish genuine threats and targeted harassment from forceful criticism of government conduct. Otherwise, the people most directly affected may reasonably fear that their comments can be erased because an agency, attorney, facility, contractor, or platform administrator considers their tone offensive. Before the comment period closes, the Court of Administrative Hearings and MPCA should publicly disclose: The complete moderation standards governing this docket. The identity and role of every person authorized to remove comments. Whether MPCA, its attorneys, or regulated facilities may request removal. The number of comments removed from this proceeding and the reason for each removal. Whether removed comments are retained and provided to the Administrative Law Judge. A written notice and appeal process for affected commenters. A requirement that criticism not be removed merely because it is angry, embarrassing, accusatory, profane, or strongly opposed to the agency or regulated facility. A public log identifying removals without unnecessarily republishing genuinely threatening personal material. I request an explicit assurance that no relevant comment will be excluded from the administrative record merely because government officials, attorneys, facility representatives, or platform administrators consider its criticism offensive, uncomfortable, hostile, or damaging to the agency’s position.

Thanks, moving on: The sheer amount of difficulty involved to even get here is without question, the most difficult process I've ever endured with a public comment process. The email validation email to allow me to even post on here went to my Span folder, by the way, which appears to be another diversionary tactic. This is basically a SubReddit moderated by, well, I don't know who. I do not have the time to possibly explain all the issues with your data, methodology, and logic regarding this topic. If my comment is removed due to subjective and unexplained rules of organized behavior, I will be taking steps to ensure it is heard.”

509. **Shaw-36-16**: Beth Shaw stated, “Regarding your Undefined and Subjective Comment Moderation Policy The official Court of Administrative Hearings eComments platform states that all submissions become public. It also reserves the right, without notifying the commenter beforehand,

to remove comments it deems offensive, intimidating, belligerent, harassing, bullying, inappropriate, or aggressive. This broad policy creates serious concerns in an environmental-justice proceeding. Residents describing decades of pollution, government neglect, illness, displacement, and unequal treatment may understandably communicate with anger, urgency, or distrust. Strong criticism of MPCA, a regulated facility, government attorneys, consultants, elected officials, or the proposed rule should not be confused with threats or harassment. Terms such as "offensive," "belligerent," "inappropriate," and "aggressive" are subjective. The platform does not clearly identify: who decides whether a comment violates the policy; whether MPCA staff, MPCA attorneys, facility representatives, or other parties may request removal; what written standards guide the decision; whether the commenter receives notice after removal; whether the commenter may appeal or resubmit; whether a removed comment remains preserved in the official administrative record; whether the Administrative Law Judge receives and considers it; whether only the objectionable portion is removed or the entire submission disappears; or whether the identity of the person requesting or authorizing removal becomes public.

These questions are especially serious because the formal rulemaking notice says the Administrative Law Judge will accept oral and written views and consider comments equally. It also directs the public to use the eComments website as one of the official submission methods. A public-participation system should distinguish genuine threats and targeted harassment from forceful criticism of government conduct. Otherwise, the people most directly affected may reasonably fear that their comments can be erased because an agency, attorney, facility, contractor, or platform administrator considers their tone offensive. Before the comment period closes, the Court of Administrative Hearings and MPCA should publicly disclose: The complete moderation standards governing this docket. The identity and role of every person authorized to remove comments. Whether MPCA, its attorneys, or regulated facilities may request removal. The number of comments removed from this proceeding and the reason for each removal. Whether removed comments are retained and provided to the Administrative Law Judge. A written notice and appeal process for affected commenters. A requirement that criticism not be removed merely because it is angry, embarrassing, accusatory, profane, or strongly opposed to the agency or regulated facility. A public log identifying removals without unnecessarily republishing genuinely threatening personal material. I request an explicit assurance that no relevant comment will be excluded from the administrative record merely because government officials, attorneys, facility representatives, or platform administrators consider its criticism offensive, uncomfortable, hostile, or damaging to the agency's position."

MPCA RESPONSE

510. The MPCA appreciates the commenters' concerns. The complete Terms of Use for the CAH's eComments platform are linked on every topic page of the eComments site and available at https://mn.gov/cah/about-us/e-comments-terms-of-use.jsp. According to those terms, the MPCA has no power to delete comments and no procedure is provided for the Agency or any other party to request deletion of a comment. No relevant comment has been or will be excluded from the administrative record.

Comments outside the scope of this rule

511. The MPCA received three comments regarding topics outside the scope of this rule.

512. **Shaw-036-12**: Beth Shaw stated, "11. GRE HERC Services LLC Issue

Great River Energy operates GRE HERC Services, LLC, which operates HERC, which involves reporting requirements. This includes the Brooklyn Park Transfer Station, which is the initial point where trash

goes before it is sent to the Elk River Landfill or to HERC. Having one company in charge of so many important aspects of reporting creates some very serious issues regarding transparency. This should be looked at closer."

513. **Shaw-036-21:** Beth Shaw stated, "CO2e: CO2e has a place in environmental work, however it also opens the door for carbon offset to be used."

514. **Shaw-044-01**: Beth Shaw stated, "190 people living in 50 run-down, poorly managed, privatized units counts as 50 households. 50 people living in 50 $3,500/month apartments count as 50 households. This is such an important process, and it looks like the Downtown Council and our largest polluters wrote it...which might actually be partially true. What involvement did David Wilson, Jay Cowles, and other carbon offset stakeholders have in this process?"

MPCA RESPONSE

515. The MPCA notes these comments.

Comments specific to the Proposed Rules

The MPCA received 532 comments regarding specific rule parts which are summarized and responded to below.

PART 7007.0750 APPLICATION PRIORITY AND ISSUANCE TIMELINES

Application priority

516. The MPCA received two comments regarding how the MPCA will act on reissuance applications for sources subject to the proposed rules.

517. **Minnesota Chamber of Commerce-027-19:** The Minnesota Chamber of Commerce stated, "f. Currently, an application for a permit reissuance does not trigger any immediate action by MPCA other than a determination of completeness. In practice, this has meant that such an application may not be processed for years after submittal. The proposed rule does not impose a timeline for MPCA to determine whether a CIA is needed. The SONAR should address how MPCA intends to process reissuance applications subject to the proposed rule. Will reissuances subject to the proposed rule be given higher priority than reissuances are currently given? If a reissuance application subject to the rule is not going to be "picked up" by a permit writer for five to seven years (as an example, and not atypical under the current permitting scheme), will the determination of the need for a CIA be made after application submittal, or will it be made at the time the application is "picked up"? In any case, the CIA, if required, should only be prepared once per permit action (including timely comments). A CIA should not have to be updated if MPCA delays processing of the reissuance application by multiple years."

518. **Cordia Energy Center Minneapolis-049-11:** Cordia Energy Center of Minneapolis stated, "f. Currently, an application for a permit reissuance does not trigger any immediate action by MPCA other than a determination of completeness. In practice, this has meant that such an application may not be processed for years after submittal. The proposed rule does not impose a timeline for MPCA to determine whether a CIA is needed."

MPCA RESPONSE

519. The MPCA will prioritize reissuances and other permit actions subject to the proposed rule. The MPCA currently has the lowest air quality permit reissuance backlog in decades and applications are being assigned soon after a complete application is received. When an application with an initial

assessment is received, part 7007.6050, subpart 5 requires the MPCA to post notice of receiving an initial assessment on the agency website. The MPCA expects this notice to create a prioritization to pick up, review, and make a determination of need. Under part 7007.6070, subpart 6 this determination of need must be posted on the website within 30 calendar days after the determination is made. The MPCA also expects to permit timeliness to improve over time with familiarity with the new rules.

PART 7007.1300 INSIGNIFCANT ACTIVITY LIST

Hazardous air pollutant threshold for facility expansion benchmark

520. The MPCA received two comments related to the thresholds identified in part 7007.1300 that are used as part of determining whether a cumulative impacts analysis is required. Commenters expressed concern related to the total and individual hazardous air pollutant (HAP) thresholds and how they are used in the commissioner's determination of whether a CI analysis is required.

521. **Minnesota House of Representatives-033-05:** Representative Fue Lee stated, "**7007.1300 Insignificant Activities List, subp. 5. Threshold table; hazardous air pollutants, item B**

This proposed rule requires an applicant to conduct a cumulative impacts analysis if the applicant emits a hazardous air pollutant (HAP) at a rate 25 percent or higher than the threshold amounts listed in the table on pp. 6-14. If that level is not achieved, the emission is deemed an "insignificant activity" and under the proposed rule, no cumulative analysis is required.

The 25 percent figure comes from part 7007.1300, subpart 4, item C, subitem (1). But the rule as written overlooks an important qualification of item C in subitem (2) regarding the HAPs listed in the table. Subitem (2) lists 16 chemicals of which it says, "If the emissions unit emits one or more of the HAPs listed in this subitem, the emissions unit is not an insignificant activity under this subitem. . . ." As a result, to maintain consistency with the current rule, the proposed rule should recognize that the potential to emit any amount of these 16 HAPs is not an "insignificant activity" and require that a cumulative analysis be conducted.

A more basic criticism of this provision is that it makes a decision on whether **cumulative** impacts should be analyzed based solely on a facility's **current or future** potential to emit a certain level of HAPs. That is contradictory to the statute's meaning and displays a more basic misunderstanding of the statute's applicability and scope.

The statute's definition of "permit" "includes the reissuance of an existing permit." [Mn. Stat. section 116.065, subdivision 1, paragraph (h)] Many of these reissuances do not alter emissions limits. By making reissuances subject to the statute, **the statute authorizes the commissioner to deny a permit based on the cumulative impacts experienced in an EJA in combination with a facility's previously permitted emissions**. The statute's innovative feature is that it recognizes the harm that cumulative impacts have imposed on EJA residents and requires that these be evaluated anew and taken into account in decisionmaking, rather than ignored as they have been until now, and that by doing so the status quo – cumulative plus continuing impacts – can rise to the level of a "substantive adverse effect" and result in a permit denial.

This interpretation is in accord with the statute's definition of environmental justice: "in all decisions that have the potential to affect the environment of an environmental justice area or the public health of its residents, due consideration is given to the history of the area's and its residents' cumulative exposure to pollutants and to any current socioeconomic conditions that could increase harm to those residents from additional exposure to pollutants." [Mn. Stat. section 116.065, subdivision 1, paragraph (c), clause (2)][Emphasis added]**"**

522. **WaterLegacy-048-03:** WaterLegacy stated, "2. MPCA should revise its provision using hazardous air pollutant unit thresholds to clarify that an activity that is insignificant under 7007.1300, subp. 5(A) may still trigger either a mandatory or discretionary cumulative impacts analysis.

MPCA proposed rules seem to intend that emissions of 25 percent of the "insignificant activities" emissions unit threshold in part 7007.1300, subp. 5(A) should require a mandatory cumulative impact analysis and that emissions below this level may still require a discretionary cumulative impact analysis. However, the text of proposed rule 7007.1300, subp. 5(B) may undermine the application of cumulative impacts analysis if a mandatory analysis benchmark is not reached. The statutory policy is clear. Minn. Stat. § 116.065, neither states nor implies that a threshold applies to limit cumulative impacts analysis. To the contrary, the legislation defines "cumulative impacts" to mean "the impacts of aggregated levels of past and current air, water, and land pollution in a defined geographic area to which current residents are exposed." Minn. Stat. § 116.065, subd. 1(c). The legislation also requires a substantive determination of need for cumulative impacts analysis based on the likelihood of health impacts to community residents. Minn. Stat. § 116.065, subd. 3. Requested changes more clearly reflect this legislative intent and avoid confusion.

Requested change to MPCA proposed rule **7007.1300, subp. 5**.

Subp. 5. **Threshold table; hazardous air pollutants**. The thresholds for hazardous air pollutants listed in the following table are for determining whether:

A. an emissions unit qualifies as an insignificant activity under subpart 4, item C, subitem (1); and

B. an owner or operator must conduct a cumulative impacts analysis under part 7007.6090 according to the benchmark analysis in part 7007.6050, subpart 4, item B, subitem (2), and they do not affect the commissioner's determination under part 7007.6070, subp. 2 whether an owner or operator must conduct a cumulative impacts analysis."

MPCA RESPONSE

523. The MPCA respectfully disagrees that the proposed rule overlooks an important qualification from part 7007.1300, subpart 4, item C, subitem (2). As a reminder, part 7007.1300, subpart 4 thresholds apply to initial part 70 permit applications only. There are no HAP thresholds for determining when insignificant activities must be listed in subsequent applications under part 7007.1300, subpart 3. Furthermore, the MPCA is not using these thresholds to determine whether an activity or emission unit qualifies as an insignificant activity under part 7007.1300.

524. Rather, the MPCA is proposing emissions thresholds for HAPs to use as benchmarks under part 7007.6050, subpart 4, item B that will apply to permit applications for facility expansion. The new benchmarks are only used to determine when a cumulative impacts analysis is mandatory for a facility expansion. While the new benchmarks are based on the de minimis level table values in part 7007.1300, subpart 5, the MPCA is not proposing to use the insignificant activity list thresholds from part 7007.1300, subpart 4 in the determination of whether a cumulative impacts analysis is required.

525. One of the main differences is discussed on page 88 of the SONAR, *"Although Minn. R. 7007.1300, subp. 4(C)(2) is a threshold for actual emissions, the threshold in this rule is being set for potential emissions, making it more conservative than the threshold in Minn. R. 7007.1300, subp. 4(C)(2)."* This means the MPCA is only proposing edits to part 7007.1300, subpart 5 to allow the de minimis table to be used for a second purpose, namely as an emission rate threshold for determining whether to require a cumulative impacts analysis for a requested permit action that includes facility expansion as identified in part 7007.6050, subpart 4 , item B. The MPCA is not

proposing edits to part 7007.1300, subpart 4, and is not intending to use those thresholds, or their meaning, for the purposes of determining whether to require a cumulative impacts analysis under part 7007.6050, subpart 4, item B.

526. The MPCA respectfully disagrees with the commenter's statement that the determination of whether to require a cumulative impacts analysis is only based on current or future potential to emit. As discussed in the response to comments related to the benchmarks for reissuance and the initial assessment contents (see the response to comments for part 7007.6060), comparison to the benchmarks are only one method used to determine whether a cumulative impacts analysis is mandatory and must be required. If a permit action is below the benchmarks, the MPCA is still required to review and consider a broad set of information related to the facility, the surrounding area, environmental and health stressors, petitions, compliance history, and potential impacts when determining whether a to require a cumulative impacts analysis for a facility.

527. Additionally, the MPCA would like to clarify that part 7007.1300, subpart 5, item A, only addresses the use of the table of de minimis HAP levels for determining if an activity can be considered an insignificant activity for the purposes of an initial part 70 application under part 7007.1300, subpart 4. The proposed edits that create part 7007.1300, subpart 5, item B, allows for the table of de minimis HAP levels to also be used for the proposed rule mandatory benchmarks established under part 7007.6050, subpart 4. Any other qualifications for using this table are included in the newly proposed rules under part 7007.6050, subpart 4. Likewise, the qualifications for using this table for insignificant activities in an initial part 70 applications are qualified under part 7007.1300, subpart 4. The table of values was previously established in part 7007.1300, subpart 5 in rulemakings prior to this one. In the proposed rule, the MPCA has only proposed edits to allow for a second use of the existing table of values.

528. Furthermore, the MPCA respectfully disagrees with the commenter's statement that Minn. Stat. § 116.065 neither states nor implies that a threshold applies to limit cumulative impacts analysis. Minn. Stat. § 116.065, subd. 6(c)(1) states, "rules adopted under this section must: establish benchmarks to assist the commissioner's determination regarding the need for a cumulative impacts analysis." Please see the response to comments related to reissuance benchmarks for a discussion related to the pathways to requiring a cumulative impacts analysis on a mandatory or discretionary basis (see the response to comments for part 7007.6060). The mandatory benchmarks are only intended to be one part of the information the MPCA reviews for determining whether a cumulative impacts analysis is needed. Even if a permit action is below a benchmark, a broad range of additional environmental, health, and impact related considerations are required.

PART 7007.1450 MINOR AND MODERATE PERMITS AMENDMENTS

When a permittee may make a proposed modification or change

529. The MPCA received four comments regarding when a permittee may make a proposed modification or change. Commenters expressed concern that facilities may no longer be able to begin actual construction of a moderate amendment upon MPCA approval letter due to applicability of the new proposed rules.

530. **Minnesota Chamber of Commerce-027-51:** The Minnesota Chamber of Commerce stated, "g. Currently, a permittee may begin actual construction of a moderate amendment upon receipt of a letter of approval from MPCA authorizing the construction. The proposed rule prohibits construction until either a negative determination of the need for a CIA is issued or the amended permit has been issued. The Chamber believes it is unreasonable to override the established procedure for moderate amendments, which allows construction to begin upon receipt of an authorization letter from

MPCA."

531. **University of Minnesota-030-28:** The University of Minnesota stated, "Beyond understated compliance costs, the anticipated timeline for the CIA greatly complicates the design and engineering process for facility expansions involving emergency generators, which are auxiliary safety components, not standalone industrial expansions. The specifications for these types of expansions depend on building electrical loads, which cannot be finalized until well into the design process. Requiring a secondary safety component to undergo a two-plus year CIA creates a major project bottleneck that could delay projects that are important to the University's education, research, and outreach mission. Further, by eliminating the ability to begin project construction upon receipt of a Letter of Approval for moderate amendments under Minn. R. 7007.1450, subp. 7.B, the Draft Rules would stall major institutional projects. "

532. **University of Minnesota-030-31:** The University of Minnesota stated, "Revise the Draft Rules to remove the prohibition on construction until either a negative determination of the need for a CIA is issued or the amended permit has been issued for moderate amendments to allow a permittee to begin actual construction of a moderate amendment on receipt of an authorization letter from MPCA, consistent with existing procedure."

533. **Cordia Energy Center Minneapolis-049-09:** Cordia Energy Center Minneapolis stated, "d. Currently a permittee may begin actual construction of a moderate amendment upon receipt of a letter of approval from MPCA authorizing the construction. The proposed rule prohibits construction until either a negative determination of the need for a CIA is issued or the amended permit has been issued. Cordia believes it is unreasonable to override the established procedure for moderate amendments, which allows construction to begin upon receipt of an authorization letter from MPCA."

MPCA RESPONSE

534. The MPCA respectfully disagrees that it should remove the prohibition on beginning actual construction of a moderate amendment, if subject to the proposed rules, as proposed under part 7007.1450, subpart 7, item C. As discussed in further depth under the response to comments related to the definition of facility expansion, the MPCA is allowing for a variety of options a permittee can use to reduce the calculated emissions increase from a project to below the mandatory thresholds or to a threshold that is not subject to the proposed rules. The MPCA believes if a permittee is unable to limit or reduce emissions from a project such that it qualifies for a minor amendment, that further analysis of cumulative impacts is appropriate.

535. As discussed in the SONAR (p. 57), "If a cumulative impacts analysis is needed, the outcome of that analysis could include changes to the current or proposed operations at the facility. There could also be the potential for substantial adverse impacts and the need for a CBA. As described in the reasonableness for amendments to part 7007.1000, there are conditions where the commissioner is required to deny a permit. The commissioner must not allow a facility to begin construction of a modification identified in a permit application if it may later be required to deny that permit application. Prohibiting the owners and operators from beginning actual construction until either the commissioner determines a cumulative impacts analysis is not needed, or if one is needed until the permit is issued, is the logical conclusion for how the MPCA can both meet the potential obligation to deny a permit contemplated in Minn. Stat. § 116.065, subd. 5(b) and the ability to grant approval to begin actual construction in part 7007.1450, subp. 7."

PART 7007.6010 DEFINITIONS

Definition of “facility expansion”

536. The MPCA received 14 comments regarding the definition of facility expansion. Many commenters expressed the need for more exemptions. The MPCA also received a comment that exemptions should be removed.

537. **Minnesota Chamber of Commerce-027-56:** The Minnesota Chamber of Commerce stated, “I. Proposed projects addressing emergency engines and/or natural gas-fired boilers below a certain design capacity should be exempt from the rule or should only be required to be addressed as part of a reissuance.”

538. **University of Minnesota-030-32:** The University of Minnesota stated, “**Comment 4: To ensure the Draft Rules focus on projects with substantial impacts on the environment or health of the residents of an EJ area as intended by the Legislature, the proposed definition of "facility expansion” should be modified to explicitly exclude emergency engines, heating equipment, and IAs.**

The proposed definition of “facility expansion” is overly broad and results in an unjustified mandatory trigger for a comprehensive CIA. The Draft Rules fail to distinguish between true expansions of a facility’s primary operational capacity and the routine installation of supporting infrastructure for life safety, building comfort, and research continuity.

According to the SONAR, the MPCA excludes insignificant modifications and minor permit amendments from this definition to, “focus efforts on potential impacts on the environment and health of residents from facility expansion permits that result in higher emissions increases” and “higher regulatory analyses.” This justification supports the understanding that facility expansion was meant to apply only to large projects with higher potential impacts.

However, the Draft Rules fail to achieve this objective because they rely upon emission rates (pounds per hour) without considering intermittent, non-production equipment. Equipment installed for comfort, research support, and life safety, such as emergency generators and small institutional boilers, do not expand industrial capacity and should not trigger a mandatory CIA.”

539. **University of Minnesota-030-33:** The University of Minnesota stated, “**Emergency Generators and Small Institutional Boilers Operations**:

Emergency generators sit idle roughly 99% of the year. Outside of actual power grid failures, their operation is limited to brief reliability testing that typically lasts one hour or less each month. Although they do not operate often, emergency generators as a backup power source are essential to the provision of life-safety power, the preservation of critical research, and the continuous operation of medical and clinical facilities.

Small comfort-heating boilers have a similar operational profile. Facilities install parallel identical boilers for redundancy. Because these units alternate to share the seasonal heating load, their actual combined throughput is just 15% of their theoretical annual maximum. In both cases, this equipment exists to protect life safety.

Emergency generators are already subject to significant regulation and emissions review:

- Emergency generators undergoing a moderate amendment require screening steps and air quality dispersion modeling to ensure compliance with National Ambient Air Quality Standards via air permit forms CH-19 (Permit Action Emissions Screening) and CH-20 (Evaluation of Ambient Air Quality Impacts)
- New emergency engines are subject to federal standards through National Emission

Standards for Hazardous Air Pollutants Subpart ZZZZ, and New Source Performance Standards (NSPS) Subpart IIII and Subpart JJJJ, which together control both criteria and hazardous air pollutants through equipment standards and testing that include:
    - Non-emergency operation and readiness testing limited to 100 hours per year
    - Manufacturer certification to verify compliance with the Environmental Protection Agency (EPA) short-term emissions limits
    - Mandatory engine maintenance and runtime tracking
- In many cases, this equipment requires incorporating "Best Management Practices" into the facility's operating permit. These permit conditions include specific stack designs, strict limits on testing during poor air quality days, and requirements for non-simultaneous generator testing.

Nevertheless, a project consisting exclusively of these sources could be classified as a "facility expansion" under the Draft Rules and require a CIA. The SONAR does not justify this level of analysis for such a project and their inclusion in the scope of the Draft Rules is inappropriate."

540. **University of Minnesota-030-34:** The University of Minnesota stated, "Inconsistencies with Cited Regulatory Precedent: The SONAR relies on New Jersey's EJ Rule (N.J.A.C. Title 7, Chapter 1C) as a comparable framework within the General Reasonableness Section, stating: Specifically, these rules utilize a similar methodology to that used by the state of New Jersey in their [sic] Environmental Justice Rule.

* * *

The New Jersey rules are structured in a similar manner to what the directives in Minn. Stat. § 116.065 require the MPCA to create for the cumulative impacts rules. It is reasonable for these rules to align with other state rules when appropriate because using similar processes to evaluate environmental and health impacts provides for a common understanding and a real life example of how similar rules work and are implemented in practice.

However, the Agency's Draft Rules omit a key operational allowance made in the comparable New Jersey rule.

Specifically, New Jersey regulations recognize the unique nature of safety and heating equipment. Under its rules, qualifying equipment, including federally compliant engines (all natural gas-fired engines and diesel engines up to 30 Million British Thermal Units per hour (MMBtu/hr)) and natural gas boilers/heaters (1-50 MMBtu/hr), can be constructed and operated under a General Operating Permit. This exempts such equipment from the New Jersey EJ process until the permit is incorporated into the facility's Title V permit at renewal or modification.

While a similarly structured allowance is made for equipment included within insignificant modifications and minor amendments, these allowances in the Draft Rules are drastically narrower than the New Jersey rule cited as precedent. For example, a minor amendment in Minnesota only covers certified diesel emergency generators up to approximately 6.5 MMBtu/hr. The University believes, if Minnesota is intent on aligning its proposed rules with the regulatory precedent set by New Jersey, that Minnesota also must include comparable operational exemptions for emergency and heating equipment (or, at the very least, justify the deviation).

541. **University of Minnesota-030-35:** The University of Minnesota stated, "Recommendation: For each of the reasons listed above, explicitly excluding this emergency and heating equipment from the Cumulative Impact Rules' definition of "facility expansion" will align with MPCA's stated goal in the SONAR to exclude sources already considered to have lower impacts and to align with other applicable state rules. Minn. R. 7007.6010, subp. 19, should be amended to correct this as follows:

Minn. R. 7007.6010, subp. 19. Facility expansion.

"Facility expansion" means a modification, as defined under part 7007.0100, subpart 14, at an existing permitted stationary source that:

A. will cause an increase in emissions of an air pollutant; or

B. makes the stationary sources subject to the requirement to obtain a permit

Facility expansion does not include a modification at a permitted stationary source that is allowed under part 7007.1250, a change to permit conditions that is allowed under part 7007.1350, any administrative permit amendment under part 7007.1400, any minor permit amendment under part 7007.1450, or a physical change in or change in method of operating a stationary source, emission facility, or an emission unit that consists solely of the installation or replacement of one or more of the following equipment categories:

1. Emergency Standby Engines: Emergency compression-ignition or spark-ignition internal combustion engines that are certified by the manufacturer to meet EPA New Source Performance Standards (NSPS) under 40 CFR Part 60, Subpart IIII or Subpart JJJJ, and that support a compelling public benefit.

2. Natural gas-fired boilers and heating equipment with less than 50 MMBtu/hr heat input that support a compelling public benefit.

3. Insignificant activities as defined in Minn. R. 7007.1300, or conditionally insignificant activities that comply with Minn R. 7008.4000 to 7008.4110, if the activities support a compelling public benefit."

542. **Minnesota Building and Construction Trades Council-041-05:** Minnesota Building and Construction Trades Council sated, **"**Permit reissuances and minor permit modifications should be wholly exempt from this rule unless the agency can show that existing permits are being exceeded at levels that produce a substantial impact, and that the agency has already attempted to address the problem using existing enforcement tools. While a new facility or major expansion of a facility certainly has the potential to bring new emissions into an area and should be evaluated, the existing emissions from an already sited facility should be included in the baseline and only proposed new emissions should be measured for their potential "adverse impacts". That is to say, a facility should be judged on the incremental net impacts of a permit application – any other criteria would be inconsistent with the plain meaning of the word "cumulative"."

543. **Cordia Energy Center Minneapolis-049-17:** Cordia Energy Center Minneapolis stated, "4 Miscellaneous Comments a. In addition to establishing mandatory thresholds for a CIA, the rule should also define situations where a CIA is not required, including based on discretion. Permit actions that do not include an emissions increase should clearly meet the criteria for not substantially impacting the environment or health of residents of an environmental justice area. It is still possible that a proposed increase in emissions may not result in an adverse health impact, in which case, a CIA should not be required."

544. **Minnesota Hospital Association-051-02:** Minnesota Hospital Associated stated, "MHA respectfully requests that MPCA revise the rule to provide clear, objective, and predictable standards for Minnesota's hospitals and health systems. Specifically, MHA offers the following revisions with accompanying amendment language found in Appendix A attached to this letter:

1. **Provide a hospital-specific consideration or exemption for emergency power systems and life-saving infrastructure**. Hospitals are required by federal accreditation standards to maintain

emergency generators, backup power systems, and related equipment to ensure continuity of patient care during emergencies and power outages. Projects involving the replacement, modernization, expansion, or maintenance of these systems should be afforded streamlined treatment under the rule, particularly when the project improves reliability, efficiency, or emissions performance. Such projects are undertaken to satisfy legal and patient safety obligations rather than to expand industrial production."

545. **Minnesota Hospital Association-051-05:** Minnesota Hospital Associated stated, "**4. Differentiate between new facilities, major expansions, permit renewals, and routine infrastructure upgrades**. Hospitals routinely replace equipment and modernize systems to maintain compliance, reliability, and patient safety. These activities should not automatically receive the same level of review as new industrial development. MHA recommends that permit renewals and equipment replacement projects be subject to a more limited review process unless they are projected to result in a significant increase in emissions."

546. **Minnesota Hospital Association-051-13:** Minnesota Hospital Associated stated, "Appendix A: Recommended Amendments to Proposed Rules Relating to Cumulative Impacts Analysis in Environmental Justice Areas (Revisor ID R-4805)

The Minnesota Hospital Association (MHA) respectfully submits the following proposed amendments to the draft rule for consideration by the Minnesota Pollution Control Agency. These recommended amendments are intended to preserve the rule's environmental justice objectives while recognizing the unique public-health mission of hospitals, ensuring regulatory certainty, and avoiding unintended barriers to critical healthcare infrastructure projects. MHA's recommendations are informed by the statutory obligations hospitals must maintain emergency preparedness, backup power systems, and uninterrupted patient care.

1. Exemption for Hospital Lifesaving and Emergency Power Infrastructure

Part 7007.6020, Subpart 2 (Exemptions) - Add new Item D after line 23.20

Proposed Language:

> D. Parts 7007.6000 to 7007.6120 do not apply to a requested permit action for a hospital licensed under Minnesota Statutes, chapter 144, when the requested permit action is limited to the installation, replacement, repair, upgrade, maintenance, testing, or operation of emergency generators, backup power systems, boilers, or other life-safety equipment required by federal or state law, accreditation standards, emergency preparedness requirements, or public health guidance, unless the requested permit action results in a net increase in potential emissions exceeding major source thresholds under applicable state or federal law.

Reason: Hospitals are legally required to maintain emergency power systems to protect patients and comply with federal emergency preparedness standards. These systems exist to preserve life and public health, not to expand industrial operations."

547. **Minnesota Hospital Association-051-22:** Minnesota Hospital Associated stated, "**10. Create Definition of Essential Healthcare Facility**

Part 7007.6010 (Definitions) - Add new subpart

Proposed Language:

> "Essential healthcare facility" means a hospital licensed under Minnesota Statutes, chapter 144, or a facility operated by a licensed health system that provides inpatient, emergency, trauma, critical care, surgical, behavioral health, or other medically necessary healthcare services to the

public.

Reason: The proposed rule currently treats hospitals and industrial facilities identically despite their differing public purposes and statutory responsibilities. Recognition of hospitals as essential healthcare facilities would allow the rule to appropriately balance environmental justice goals with patient care and public health obligations."

548. **Minnesota Chamber of Commerce-027-04:** The Minnesota Chamber of Commerce stated, "In addition to establishing mandatory thresholds for a CIA, the rule should also define situations where a CIA is not required, including based on discretion. Permit actions that do not include an emissions increase, including but not limited to permit reissuances without operational changes, should clearly meet the criteria for not substantially impacting the environment or health of residents of an environmental justice area. It is still possible that a proposed increase in emissions may not result in an adverse health impact, in which case, a CIA should not be required."

549. **Minnesota Building and Construction Trades Council-041-02:** The Minnesota Building and Construction Trades Council stated, "During the legislative debate on this bill, and during the three years since that bill became law, we have heard much from advocates who want to use these rules to shut down existing businesses. We are firmly opposed to applying these rules to existing businesses that are substantially in compliance with existing permits. If those businesses are violating their permits, the agency has existing procedures to deal with them. Applying these very complicated new rules onto existing businesses for procedural permit reissuances or minor modifications would be unfair to those businesses unless the agency can show that pollution emissions in excess of existing permit maximums create a substantial impact. Our opinion is that permit reissuances and minor modifications should be categorically exempt from these new rules in the absence of such a showing from the agency, and that existing enforcement tools should be used to deal with routine compliance issues."

550. **Minnesota House of Representatives-033-07:** Representative Fue Lee stated, "**7007.6010, subp. 19. Definition of "facility expansion"**

The definition of this term is important in that it determines which facilities seeking to expand are subject to the statute. As written, it would exclude facilities from the statute that are clearly within its jurisdiction, reducing the statute's scope.

This proposed rule excludes modifications or amendments made under parts 7007.1250, 7007.1350, and 7007.1450, activities the agency considers to be minor or moderate, from the definition of "facility expansion." Since the statute clearly applies to reissued permits with no substantive changes in emissions, as shown on page 1, it also applies to those proposing minor changes. These exclusions should be removed. Administrative amendments under part 7007.1400 may be excluded as they are strictly non-substantive."

MPCA RESPONSE

551. The MPCA acknowledges the concern related to the definition of facility expansion, and the applicability of small changes such as adding an emergency generator or small boiler, especially when occurring at a hospital.

552. The MPCA agrees that there are permit actions and situations where the proposed rules should clearly not apply. Part 7007.6010, subpart 19, item B specifically excludes insignificant modifications under part 7007.1250, changes allowed under part 7007.1350, administrative amendments under part 7007.1400, and any changes requiring a minor permit amendment under part 7007.1450.

553. For insignificant modifications under part 7007.1250, subpart 1, a permittee may make a

modification without getting a permit amendment if it solely involves construction or operation of any emission units, or undertaking any activity, that is listed as an insignificant activity in part 7007.1300, subpart 2 or 3. Some of the activities not required to be listed in a permit application under subpart 2:

A. Fuel use: production of hot water for on-site personal use not related to any industrial process
B. Plant upkeep: routine maintenance of buildings, grounds, and equipment
I. Health care activities: activities and equipment directly associated with the diagnosis, care, and treatment of patients in medical or veterinary facilities or offices, not including support activities such as power plants, heating plants, emergency generators, incinerators, or other units affected by applicable requirements.

554. The MPCA excluded these changes because they are unlikely to have the potential for a substantial adverse impact or do not require a permit action to make, as discussed in the SONAR (p. 64-65).

555. The MPCA agrees that permit actions that do not include an increase of emissions should not be considered facility expansion and should not be subject to the proposed rules. As discussed in the SONAR (p. 63-64), facility expansion is defined to mean a modification, as defined under part 7007.0100, subpart 14, that will cause an increase in emissions. The MPCA chose to use the definition of modification for facility expansion because it is an established method of determining when a change results in an increase of emissions, and allows for certain changes that are not, by themselves, considered modifications. The list of changes that are not considered modification under part 7007.0100, subpart 14, item B include:

(1) a physical change or a change in the method of operation that is explicitly allowed under a permit, or allowed under a court order, consent decree, stipulation agreement, schedule of compliance, or order issued by the agency if the document states that no permit amendment is required;
(2) routine maintenance, repair, and replacement;
(3) an increase in production rate of an existing emissions unit if that increase is not in violation of a permit condition, applicable requirement, court order, consent decree, stipulation agreement, schedule of compliance, or order issued by the agency;
(4) an increase in the hours of operation that does not increase the rate of emissions and is not in violation of a permit condition, applicable requirement, court order, consent decree, stipulation agreement, schedule of compliance, or order issued by the agency; and
(5) use of an alternative fuel if the source is ordered to switch fuels by the state or federal government.

556. These changes by themselves are not considered modification, are not defined as facility expansion, and are not subject to the proposed rules.

557. Additionally, the definition of modification under part 7007.0100, subpart 14, item B, requires the use of the calculation method described in part 7007.1200 when comparing emissions before and after a change. This methodology allows for emission decreases to be accounted for under certain circumstances when determining if there is an increase in emissions that can be defined as facility expansion. As described under part 7007.1200, subpart 3, item A:

When calculating emissions before and after the physical and operational change, physical and operational limitations and emission decreases will be considered only if they:

(1) are or will be automatically required by an applicable requirement including parts 7011.0060

to 7011.0080;

(2) are or will be automatically required by an existing permit;

(3) are integral to the process;

(4) are proposed as a permit term and condition in the application for a minor, moderate, or major modification under part 7007.1450 or 7007.1500; or

(5) are calculated in records kept at the stationary source where reductions rendered the modification insignificant under part 7007.1250.

558. This means a facility that needs to install an emergency generator or boiler has options to reduce an emissions increase and qualify for a minor amendment that is not subject to the proposed rules. As discussed in the SONAR (p. 64), it is reasonable to exclude minor amendments because they are already considered to have lower impacts based on the structure of the air permitting rules.

559. The MPCA respectfully disagrees that reissuance permits should be exempted similar to small changes, or that small changes should be applicable because they are similar to a reissuance. The facility-wide scope of a five year permit term that is considered during a reissuance is distinctly different than an administrative amendment or an amendment with a small, negative, or zero emissions increase. As discussed in the SONAR (p. 89), this is because reissuance permits are a reauthorization of existing operations that may have impacts not related to the introduction of new emissions.

Definition of "health endpoint"

560. The MPCA received one comment regarding the definition of "health endpoint" included in the proposed rule.

561. **Frontline Communities Protection Coalition-034-02**: The Frontline Communities Protection Coalition stated, "**7007.6010 Definitions** Subp. 25. **Health endpoint** - We have concerns over the use of the term "observable" in this definition. We believe the current definition could be challenged as someone might claim that they need to see a significant signal in a community of a health impact, through an epidemiological study or the like. This is an extremely high burden of proof. We recommend replacing "observable" with "specific"."

562. **MPCA RESPONSE**

563. The MPCA appreciates the commenter's suggestion but does not believe the change suggested is necessary. As stated in the SONAR (p. 66-67) for this definition, the definition for this term is consistent with one way risk is assessed through risk assessments and it is a common term used in risk assessments. Health endpoints are adverse effects from exposure to a particular contaminant that have been identified through the evaluation of toxicological and/or epidemiology studies. These studies are used in the development of inhalation health benchmarks. Contaminants can be grouped by their health endpoints to help assess risk. There doesn't need to be an observable effect in a specific population (e.g., within a specific community located around a facility) to describe a potential health risk.

Definition of "impacted environmental justice area"

564. The MPCA received four comments related to the definition for impacted environmental justice area. The commenters expressed concern related to expansive facilities and the applicability of this definition. Commenters recommended that an EJ area should be within one mile of a proposed permit action rather than the property boundary of a stationary source. One commenter also expressed concern that the definition does not regard projects that bring economic development to

MSP, and new residential developments built adjacent to facilities.

565. **University of Minnesota-030-23:** The University of Minnesota stated, “In particular, applying rules by reference to a stationary source rather than to particular emissions facilities or emissions units creates the following issues:

● The Draft Rules are over-inclusive in defining Impacted EJ Areas for certain Facility Expansions.

The Draft Rules define an impacted EJ area as, “one or more environmental justice areas, in whole or in part, that are within one mile of the property boundary of a stationary source, including any environmental justice area that a stationary source is located in.” Minn. R. 7007.6010, subp. 26. In the SONAR, the MPCA justifies its one-mile radius metric by stating: "This term describes the EJ areas that are relevant to the requested permit action and stationary source," and notes this is intended to be a "plain reading of these terms" based on the applicability criteria in Minn. Stat. § 116.065, subd. 2.

However, the SONAR fails to consider expansive public institutions when making the assumption that any EJ area within one mile of a stationary source boundary is relevant to a requested permit action. For the Twin Cities campus, this includes 22 distinct EJ areas, as illustrated in Figure 1 above. This creates an unreasonably large area in which to perform a CIA for a discrete facility expansion, such as a single emergency generator used for life, safety or preservation of research.

Measuring the one-mile radius directly from the actual emission facility or unit site (permit action footprint) rather than the total stationary source would ensure public engagement, physical notices, community meetings, and CBAs are focused on immediate neighbors bearing actual potential risk. Without this distinction, the University could be required to undertake public engagement activities (including up to four public meetings) or to execute a CBA that encompasses several EJ areas for a small expansion project such as adding a single emergency backup generator.”

566. **University of Minnesota-030-25:** The University of Minnesota stated, “Recommendations: ● Add definitions for “stationary source,” “emissions facility,” and “emissions unit” to Minn. R. 7007.6010, by reference to existing definitions in Minn R. 7007.0100.”

567. **University of Minnesota-030-26:** The University of Minnesota stated, “● Define an impacted EJ area in Minn. R. 7007.6010, subp. 26. as, “one or more environmental justice areas, in whole or in part, that are within one mile of the stationary source boundary, emissions facility, or emissions unit that is the subject of the proposed permit action, ~~property boundary of a stationary source~~, including any environmental justice area that a proposed permit action ~~stationary source~~ is located in.” Minn. R. 7007.6010, subp. 26.”

568. **Metropolitan Airports Commision-055-04:** The Metropolitan Airports Commission stated, “**The Proposed Rules define “impacted environmental justice area” too broadly, without consideration of which communities may be most impacted by a proposed permit action.** MSP neighbors several different environmental justice communities with different needs. MSP is approximately 2.5 miles across, and a permit action in the southwest corner would impact different communities than one in the northeast. Nonetheless, the proposed rules define “impacted environmental justice area” as an environmental justice area that is “within one mile of the property boundary of a stationary source,” without regard for whether a change to an existing stationary source — such as the types of facility expansion projects that bring economic development to MSP — is within one mile of an environmental justice area. The MAC recommends that the MPCA consider amending the proposed definition of “impacted environmental justice area,” Minn. R. 7007.6010, subp. 26, as follows:

“one or more environmental justice areas, in whole or in part, that are within one mile of the

proposed permit action ~~property boundary of a stationary source~~, including any environmental justice area that the proposed permit action ~~stationary source~~ is located in."

Additionally, the MAC is concerned about extending the meaning of "impacted environmental justice area" to include new residential developments constructed adjacent to facilities with known environmental impacts, including certain developments recently constructed immediately adjacent to MSP. The MAC submitted comments to the relevant governmental entities concerning the operational and environmental challenges associated with further residential development immediately adjacent to MSP; yet, the developments were allowed to proceed, notwithstanding the MAC's warnings and contrary to regional planning initiatives. Under the Proposed Rules, these developments may now potentially be deemed "impacted environmental justice areas." This not only would be an entirely predictable and avoidable outcome, it also would impose regulatory burdens that, as described above, threaten critical economic development benefitting the State and area residents and could unjustly burden or even preclude certain airport activities and interfere with MAC's statutory mandate. The MAC urges MPCA to evaluate revisions to the Proposed Rules that will not prejudice the MAC, MSP tenants or other similarly situated parties regarding CIA analyses for these types of new residential developments.

The MAC appreciates all the work the MPCA has put into educating and seeking input from the public and the regulated community on this topic over the past three years as it created its Proposed Rules. We also appreciate this opportunity to provide input on the Rules. Although the MAC supports the overall goals of the Proposed Rules, we are concerned that certain aspects will suppress the development and growth of aviation facilities and blunt the MAC's statutory mandate to develop the full potentialities of the metropolitan area as an aviation center. The MAC believes that additional work is necessary to create final rules that advance the goal of environmental justice, while also providing more certainty for, and less needless regulatory burden on, current and future permittees who seek to grow aviation facilities, high-paying jobs, and the associated economic benefits so Minnesota thrives."

MPCA RESPONSE

569. The MPCA respectfully disagrees with the recommendations to change the definition. As noted in the comment, the MPCA used the definition provided in the statute under Minn. Stat. § 116.065, subd. 2(a)(1) to establish the one mile metric in rule. The definition under part 7007.6010, subpart 26 establishes that it is one mile measured from the property boundary of the stationary source. As discussed in the SONAR (p. 67), *"It is reasonable to define impacted environmental justice area to mean the EJ areas that are in, or within one mile of, the property boundary of the stationary source as that is the maximum reach of the proposed rules under the applicability criteria established in Minn. Stat. § 116.065."* The "maximum reach" of the stationary source property boundary is consistent with the area regulated by an air permit. Potential sources of impact from a facility can extend up to the property boundary where public access is restricted. The property boundary determines where ambient air accessible to the public begins, and is critical to air dispersion modeling, ambient air standards, and permitting stationary sources.

570. In accordance with Minn. Stat. § 116.065, subd. 3(a), the MPCA is responsible for determining whether a proposed permit action may substantially impact the environment or health of the residents of an EJ area. Under Chapter 7007, the MPCA has a combined permitting program where construction and operation are issued with a single permit. The MPCA understands that construction/modification in one part of a facility may change operations and activities elsewhere within the property boundary. As such, the MPCA is unable to make a determination related to potential impacts unless it considers the full extent of a stationary source's property boundary, and

the EJ areas that are within one mile of it. Additionally, using the known stationary source property boundary allows the MPCA to apply the rules equally and fairly by avoiding potential measurement disputes related to where the point of measurement should be made for a permit action. For example, emissions units can be moved, or sometimes emission units are not units but rather fugitive/volume sources like a pile, or unpaved road traffic. The MPCA does not believe it would be appropriate to exclude an EJ area because a facility took what seems like a more favorable measurement.

571. With regard to projects that bring in economic development and future residential developments, Minn. Stat. § 116.065, subd. 1(d)(2) defines environmental justice to mean, "in all decisions that have the potential to affect the environment of an environmental justice area or the public health of its residents, due consideration is given to the history of the area's and its residents' cumulative exposure to pollutants and to any current socioeconomic conditions that could increase harm to those residents from additional exposure to pollutants." This means due consideration needs to be given to the current conditions at the time an application for a permit by a facility is submitted. This includes socioeconomic conditions and impacts. If a facility believes a project will result in positive socioeconomic impacts, they can provide that information to the MPCA and public during the initial assessment of the impacts of a requested permit action, both positive and negative, under part 7007.6050, subpart 3, item G.

Definition of "socioeconomic impact"

572. The MPCA received three comments regarding the definition of "socioeconomic impact" included in the proposed rule and about models and best practices for measuring socioeconomic impact.

573. **Frontline Communities Protection Coalition-034-03**: The Frontline Communities Protection Coalition stated, "Subp. 39. **Socioeconomic Impact** - This definition should be expanded upon. There are many ways a facility can have socioeconomic impacts, both positive and negative. For example, some industrial zoning parcels border community homes, which can lead to significant socioeconomic impact through property devaluation. This definition is referenced both in the contents of the cumulative impacts analysis (line 63.1) and substantial adverse impact determination (line 68.9). As discussed in the SONAR, Subp. 39: Are there suggested models or best practices for measuring socioeconomic impact? Examples of models are Social Return on Investment, Cost Benefit Analysis, and Subjective Social Status. Social impact measurement discussed here [https://www.resonanceglobal.com/blog/measuring-social-impact-approaches-challenges-and-best-practices]."

574. **Frontline Communities Protection Coalition-034-28:** The Frontline Communities Protection Coalition stated, "Item (I) - As stated in section 7007.6010 subpart 39, we believe the MPCA should expand upon this definition and include more information about what this description includes. For example, we have heard concerns from community members about how a nearby industrial facility is impacting their home value. Providing guidance on what to consider in the socioeconomic impacts description will help ensure that each facility is properly considering their impact."

575. **Health Professionals for a Healthy Climate-038-19:** Health Professionals for a Healthy Climate stated, "Are there suggested models or best practices for measuring socioeconomic impact? Examples of models are Social Return on Investment, Cost Benefit Analysis, and Subjective Social Status. Social impact measurement discussed here [https://www.resonanceglobal.com/blog/measuring-social-impact-approaches-challenges-and-best-practices].

MPCA RESPONSE

576. The MPCA appreciates the commenters' suggestions, but does not believe the definition needs to be expanded to reference specific models or best practices for measuring socioeconomic impact. As stated in the SONAR (p. 70) for this definition, socioeconomics refers broadly to how economic activity and social behaviors influence and interact with each other with a focus on how different factors impact quality of life and opportunities. The MPCA expects that the socioeconomic impact of actions or policies associated with a requested permit will vary depending on the specific actions associated with the current and proposed operations of the stationary source, the location of that source, and specific circumstances relevant to the residents of the surrounding area.

577. Additionally, the MPCA appreciates this input. In subsections of the Regulatory Analysis portion of the SONAR that assess expected costs and benefits of the proposed rule, including potential socioeconomic impacts, the MPCA implicitly applied Cost Benefit Analysis and Return on Investment approaches. For socioeconomic impacts, this was particularly relevant in the Costs of Non-Adoption subsection of the Regulatory Analysis. In this sub-section, the MPCA addressed potential benefits of the proposed rule, such as improved public health and improved amenities, both of which can be characterized as socioeconomic benefits. The MPCA did apply tools and models to attempt to quantify these socioeconomic benefits in monetary terms, including the EPA's Co-Benefits Risk Assessment Health Screening and Mapping Tool (COBRA). However, because it was very difficult to accurately quantify the health, amenities, and other socioeconomic impacts that will result from the proposed rule, a more rigorous application of socioeconomic impact frameworks such as Cost Benefit Analysis and Social Return on Investment, was not possible to assess the socioeconomic impacts of the proposed rule.

578. As MPCA implements the rule, MPCA will develop guidance for owners and operators, community members, and MPCA staff for several aspects of the rule. Implementation of the proposed rule will also involve developing standard forms; templates; and other materials to support portions of the rule like the documentation and evaluation of socioeconomic impacts. The MPCA anticipates that these forms, templates, and/or other guidance materials will identify examples of socioeconomic impacts and methods/practices for documenting and/or evaluating socioeconomic impacts.

Creating a definition of "air toxics"

579. The MPCA received one comment suggesting the addition of a definition for the term "air toxics" to the proposed rule.

580. **Minnesota House of Representatives-033-08**: Representative Fue Lee stated, "**7007.6010. Definitions**

A definition of "air toxics" (a term used in the definitions of "acute health endpoint" and "acute inhalation risk," subparts 3 and 4 of this part, respectively) should be added, referencing the definitions in part 7019.3110, subpart 2, items A, B, and C, the air toxics emissions inventory and reporting rule."

MPCA RESPONSE

581. The MPCA appreciates the commenter's suggestion, but the term "air toxics" is already defined in part 7005.0100, subpart 2c and the proposed rule relies on that definition as identified in part 7007.6010, subpart 1 that establishes, "the definitions used in parts 7000.0100, 7005.0100, and 7007.0100 apply to parts 7007.6000 to 7007.6120 unless a term is otherwise defined in this part."

582. Part 7005.0100, subpart 2c defines air toxics as, "*pollutants, except for criteria pollutants, that*

are known or suspected to cause cancer or other serious health effects or adverse environmental and ecological effects. Air toxics includes the pollutants listed under part 7019.3110, subpart 2."

Creating a definition of "community"

583. The MPCA received two comments suggesting the addition of a definition for "community" with regard to the requested permit action and input for a community benefit agreement.

584. **Minnesota Chamber of Commerce-027-26**: The Minnesota Chamber of Commerce stated, "In addition, MPCA should clarify within the rule a definition of who or what constitutes "the community" regarding a "permit action" and input for a CBA. The proposed rule does clarify this with respect to the petition process. However, further clarifying this with regard to the permit action generally, and who can provide input on the CBA, will be necessary for best representing the appropriate affected parties. The Chamber recommends that community representatives participating in the CBA process be individuals who reside or own property in the impacted environmental justice area (i.e., the same criteria that the proposed rule requires for someone to sign a petition requesting a CIA)"

585. **Cordia Energy Center Minneapolis-049-20**: Cordia Energy Center Minneapolis stated, "In addition, MPCA should clarify within the rule a definition of who or what constitutes "the community" regarding a "permit action" and input for a CBA. The proposed rule does clarify this with respect to the petition process. However, further clarifying this with regard to the permit action generally, and who can provide input on the appropriate community benefit, will be necessary for best representing the appropriate stakeholders. Cordia recommends that community representatives participating in the community benefits agreement process be individuals who reside or own property in the impacted environmental justice area (i.e., the same criteria that the proposed rule requires for someone to sign a petition requesting a CIA)."

MPCA RESPONSE

586. The MPCA appreciates the commenters' suggestions, but does not believe it necessary to define "community" for the purposes of identifying/limiting who can participate during the broader cumulative impacts analysis process, including in providing input for a community benefit agreement. While the signatory requirements of the petition process are established by the statutory requirements of Minn. Stat. § 116.065, subd. 3(c), and reflected in the requirements established in part 7007.6060, subpart 1, item A, there is no limitation identified in statute for limiting participation elsewhere in the rule to only individuals who reside or own property in the impacted environmental justice area.

587. Conversely, Minn. Stat. § 116.065, subd. 4(d)(2) specifically provides for a broader scope of who can participate at public meetings required through requiring the owner or operator to, "accept written and oral comments, as directed by the commissioner, from any interested party." The MPCA cannot change the requirements established in Minnesota Statutes, including who is eligible to provide comments as provided by Minn. Stat. § 116.065, subd. 4(d)(2), through the administrative rulemaking process.

588. Additionally, the MPCA discusses the idea of who is eligible to provide input in one aspect of the community benefit agreement process in part 7007.6110, subpart 4, item A, subitems (1) and (2). Furthermore, part 7007.6110, subpart 4, item A, subitem (2) requires that those benefits must be discussed between the residents of the impacted environmental justice area and the owner or operator. As stated in the SONAR (p.149-150) for this subpart, the MPCA discusses that a wide range of parties may suggest benefits, including any interested person, because allowing all parties involved in the community benefit agreement to suggest benefits provides for more and varied

options of community benefits for consideration. Then the required discussions between the residents and the owner or operator provide opportunity for collaboration between the identified parties to inform which benefits could be included in the community benefit agreement.

PART 7007.6020 APPLICABILITY AND PROCEDURES

Existing facilities and exemptions

589. The MPCA received 13 comments regarding the applicability of the proposed rules to existing facilities and whether the proposed rules provide a pathway for requiring existing facilities to conduct a cumulative impacts analysis. Some commenters also identified concerns regarding the portion of the rules in part 7007.6020, subpart 2, item C that provides an applicability exemption for certain reissuance permit applications.

590. **Horner-001-01**: Sarah Horner stated, "I am writing to urge the MPCA to ensure that the final rule applies to both new air permits and air permit renewals. Most of the neighborhoods in Minnesota overburdened by pollution are already built-out, so the only way to ensure pollution levels are lower and these communities are healthier is to hold existing facilities accountable when their air permits are up renewal."

591. **Caucutt-016-03**: Amy Caucutt stated, "3) Cumulative impact should apply to those who have long-held permits, not just new ones. No "grandfather clauses.""

592. **Hankerson-019-06**: Stephanie Hankerson stated, "**No clear pathway for requiring existing facilities to conduct a cumulative impacts analysis** The rule has a serious gap pertaining to the lack of a requirement for existing facilities to conduct a CI analysis based on the current cumulative impacts burden. Many environmental justice communities are already facing a significant pollution burden, but the draft rules only require a CI analysis for permit reissuances based on RECENT enforcement actions.

This aspect is very relevant to my community where I live. There is a St Paul facility CURRENTLY undergoing a permit application and with 1) the timing of their 2025 application, 2) the fact that the proposed rule has a 2 year buffer period before it will be in effect (7007.6020 Subpart 2, item C) , AND 3) that the proposed rule draft indicates Mandatory Determination in an enforcement situation only when the permit reissuance application happens within 3 years of enforcement. The combination of these gaps could allow this facility to avoid a cumulative impacts analysis despite its long history of pollution, violations and avoidance of mandated record-keeping. It is possible this long-time polluting facility may not need to undergo the most modern regulations that exist. The state's own data from MNRisk shows that this facility in question (St Paul Brass Foundry) has significantly increased cancer risks for my community.

[*image included in comment letter*]"

593. **Dunlevy-026-02**: Leah Dunlevy stated, "The cumulative impacts law is our chance to get it right. Evaluating how the CI analysis will apply to a massive polluter like the HERC serves as a helpful framework for how it will be applied to other facilities — existing and future. With that in mind, I want to focus on two gaps in the proposed rules:

First, the proposed rules include no clear pathway for requiring existing facilities to conduct a cumulative impacts analysis. We must be proactive and rigorous in our assessment of both new facilities and existing polluters. The rules must not create additional barriers, like requiring an enforcement action, in order for a CI analysis to take place.

I recommend requiring a cumulative impact analysis for permit reissuances based on the existing

health and environmental conditions in the community. Environmental pollution is why the zip codes 55411 and 55412 in North Minneapolis have the highest asthma rates in the state; this requires the due diligence of the cumulative impacts law."

594. **Norrgard-029-02**: Jeanne Norrgard stated, "Because of HERC and other such places, the proposed Cumulative Impacts draft rules should be amended to include existing facilities, not just new ones. Existing facilities should be required to submit cumulative impacts analyses based on current, updated circumstances and data before any permit is reissued.

Especially with the added burden of bad air quality on smoky days like today, everyone living in a designated EJ area is dealing on a daily basis with multiple other negative health impacts from many layers of pollution from many sources. These neighborhoods need shielding and protection from the negative cumulative health impacts from existing and potential new facilities and industries in their neighborhoods. They need to have a say in the decision-making process on whether an industry or facility is adequately addressing and mitigating negative health impacts in their neighborhoods"

595. **Frontline Communities Protection Coalition-034-04**: The Frontline Communities Protection Coalition stated, "**7007.6020 Applicability and Procedures** Subp. 2. Exemptions, item (C) - We do not see adequate reason to provide an exemption to permit reissuances for two years after these rules go into effect. This law was passed in 2023 with three years of rulemaking following. This has already provided adequate time for existing stationary sources to prepare for implementation. If an exemption period is granted to existing facilities, it should be as short as is feasible."

596. **Norrgard-040-01**: Lois Norrgard stated, "Thank you for moving forward with cumulative impact rules, these rules must be strong and protective of overburdened communities. I appreciate that they will be requiring a Cumulative Impacts (CI) analysis for all new facilities, all permit expansions, and all permit reissuances. Note: On reissuances there should be NO "waiting period" or buffer time for companies – if a company is adding to the burden to health and safety in a community, they should be required to address this impact right away before the reissuance of any permits."

597. **Frontline Communities Protection Coalition (compiled comments)-045-08**: Aubree Derksen stated, "The Current Rule States: Requiring a Cumulative Impacts (CI) Analysis

- New permits: Anytime a new permit includes new construction, the facility must conduct a CI analysis.
- Permit expansions: There is a list of pollutants. If a facility expansion will emit any of them above certain hourly limits, the facility must conduct a CI analysis.
- Permit reissuances: A facility that has received an enforcement action (failed performance test, criminal enforcement, fine, or administrative order) in the three years leading up to its application must conduct a CI analysis.
- The Commissioner may also require a CI analysis if they review the Initial Assessment and/or a petition and determine that there is material evidence of a potential substantial impact.
- There is also a two-year buffer period for permit reissuances. Any facility applying for a permit reissuance in the 24 months following these rules going into effect will not be required to conduct a CI analysis.

I also have concerns with the final bullet, which creates a two-year buffer before the rules apply to permit reissuances. My understanding is that a CI analysis is already part of Minnesota's environmental review laws, as it is explicitly included in the AUAR, EAW, and EIS processes. Therefore, there should not need to be such a lengthy delay. The EQB Board meets monthly. If additional time is needed to update websites and applications, I suggest a six-month buffer to update paperwork and administrative processes."

598. **Frontline Communities Protection Coalition (compiled comments)-045-23**: Natasha Villanueva stated, “Additionally, there is no clear pathway for requiring existing facilities to conduct a cumulative impacts analysis. Because most incinerators are built in BIPOC communities throughout the United States, we are already at higher risk of the negative effects of compounded pollutants on Minneapolis's Northside, a historically redlined community. Add to that the fact that HERC was supposed to operate for 20 years but has now been operating for 37; that science has advanced during this period, improving our understanding of the irreversible harm caused by pollutants such as PFAS emissions; that HERC has been allowed to selectively, rather than continuously, monitor and report its own emissions; and that Hennepin County has not fulfilled its responsibility to minimize the toxicity of its ash, and you have a perfect storm.

The rules lack a requirement for existing facilities to conduct a cumulative impacts (CI) analysis based on the current cumulative impacts burden. Many environmental justice communities are already facing significant pollution burdens, but these rules only require a CI analysis for permit reissuances based on enforcement actions.”

599. **Frontline Communities Protection Coalition (compiled comments)-045-51**: Allen Campbell stated, “As a Minneapolis resident and supporter of the Urban Farm being developed in the City's East Phillips neighborhood, an environmental justice (EJ) community, I have long followed efforts to limit the cumulative impacts of polluting facilities. I believe that the biggest weakness of both the 2008 Clark-Berglin law and the current Cumulative Impacts legislation is their failure to adequately address permit reissuances. Like most EJ communities in urban areas, the harm to East Phillips has come from existing sources, not from new or expanded point sources of pollution. Therefore, my sole recommendation is that the rules go further by requiring existing facilities with expiring permits to undergo the same rigorous cumulative impacts analysis as newly proposed or expanded facilities.”

600. **Frontline Communities Protection Coalition (compiled comments)-045-110**: Allen Brundieck stated, “As I have learned more about the proposed Cumulative Impacts rules, I have become hopeful but remain cautious because there are still areas that need improvement. One of my biggest concerns is the lack of requirements for existing facilities to conduct cumulative impacts analyses. The Cumulative Impacts rules are an important step forward, but if they only apply when facilities are renewing permits, many communities will continue to experience the harmful effects of pollution from existing facilities. To me, this is a major gap that must be addressed to keep our communities safe and healthy. By establishing requirements for existing facilities to regularly evaluate the cumulative impacts of their pollution, we can create a more effective approach to protecting public health and addressing the ongoing burdens communities face.”

601. **Frontline Communities Protection Coalition (compiled comments)-045-137**: The Side Corridor Residents, Owatonna East stated, “We recommend the following improvements:

- Eliminate the two-year exemption for permit reissuances. Communities are experiencing cumulative environmental impacts now. Delaying implementation of CI requirements unnecessarily postpones protections for residents already affected by pollution and other environmental stressors.”

602. **Frontline Communities Protection Coalition (compiled comments)-045-199:** Christie Manning stated, “Unfortunately, the current proposed rules would do nothing to help this group of families, or other Minnesota families living in similar situations near already- existing polluting facilities. Though the proposed rules rightly create a strong, much-needed incentive for new polluting facilities to locate away from overburdened environmental justice (EJ) areas, they leave people like the Southport residents with no clear path toward reducing their legacy pollution burden or any

support in shutting down facilities that cause cumulative harm to their families. The rules must be strengthened so that the permit renewal and re-issuance processes address existing pollution levels - like those in the Southport neighborhood - rather than allow the current, unhealthy status quo to remain for already-overburdened communities."

MPCA RESPONSE

603. Existing facilities, as well as new facilities, may be required to conduct a cumulative impacts analysis in several cases. The first step is determining whether the proposed rules apply to the existing facility. Part 7007.6020 specifies when the proposed rules apply to the owner or operator of a facility in general, including when the rules apply to requested permit applications for existing facilities. Part 7007.6020, subpart 1 identifies that the rules apply to a requested permit action, defined in part 7007.6010, subpart 35, which includes permit applications where the owner or operator requests a permit that authorizes new construction, facility expansion, or reissuance of an expiring permit.

604. New facilities may be subject to the proposed rules when the applicability requirements in part 7007.6020 are met and the owner or operator of the facility applies for a permit application for new construction. New construction is defined at part 7007.6010, subpart 30 and includes construction of a new stationary source as well as changes at existing unpermitted stationary sources that make the source subject to the requirement to obtain a permit.

605. Existing facilities may be subject to the proposed rules when the applicability requirements in part 7007.6020 are met and the owner or operator of the facility applies for a permit application for facility expansion or reissuance of an expiring permit. Facility expansion is defined at part 7007.6010, subpart 19 and includes modifications that cause an increase in emissions of an air pollutant or modifications that make the stationary source subject to the requirement to obtain a permit. Reissuance is defined at the existing part 7007.0100, subpart 20 and means the process by which a permit is reissued at the end of its term.

606. When the applicability requirements are met, part 7007.6050, subpart 1 specifies that the owner or operator must prepare and submit an initial assessment. The initial assessment provides information the MPCA must consider, alongside the other information specified in part 7007.6070, subpart 3, item A, in determining whether a cumulative impacts analysis is required.

607. Owners and operators of facilities may have to conduct a cumulative impacts analysis when the MPCA determines one is required under part 7007.6070, subpart 1 or subpart 2. To make this determination, the MPCA must consider several sources of information as identified in part 7007.6070, subpart 3, item A and determine whether to require the owner or operator of a facility to conduct a cumulative impacts analysis under part 7007.6070, subpart 1 or subpart 2.

608. Part 7007.6070, subpart 1 provides the circumstances where the MPCA must require a cumulative impacts analysis. One of those circumstances is when the requested permit action meets or exceeds the benchmarks identified in part 7007.6050, subpart 4. For example, the MPCA would require a cumulative impacts analysis for an existing facility applying for reissuance of their expiring permit when that facility was issued an enforcement action within three years before the date the MPCA receives the application as identified under part 7007.6050, subpart 4, item C. For a facility applying for a facility expansion, the MPCA would require a cumulative impacts analysis when the facility expansion has a potential to emit one or more pollutants above the emissions rate specified in part 7007.6050, subpart 4, item B. For a facility applying for new construction, the MPCA would require a cumulative impacts analysis when the requested permit action includes new construction as defined in part 7007.6010, subpart 30.

609. Another circumstance provided by part 7007.6070, subpart 1 is when the MPCA determines issuing the requested permit action may substantially impact the environment or the health of the residents of the impacted environmental justice area according to part 7007.6070, subpart 4. In this case, the MPCA evaluates the health and environmental impacts expected to occur from the requested permit action considering the requested permit action, the initial assessment, material evidence accompanying a petition submitted under part 7007.6060 or otherwise known to the commissioner, and other information deemed relevant. The MPCA evaluates the impacts identified through this information using the criteria identified in part 7007.6070, subpart 4 to determine whether issuing the requested permit action may substantially impact the environment or the health of the residents of the impacted environmental justice area. For example, the MPCA would require a cumulative impacts analysis for an existing facility, applying for either facility expansion or permit reissuance, when the MPCA determined issuing the requested permit action may substantially impact the environment or the health of the residents of the impacted environmental justice area.

610. Subpart 2 provides the circumstances where the MPCA may require a cumulative impacts analysis (i.e., based on material evidence known to the commissioner, based on material evidence provided through a petition, or when voluntarily requested by the owner or operator). Under each of these circumstances, the MPCA may require a cumulative impacts analysis for an existing applying for either facility expansion or permit reissuance. For example, the MPCA may require a cumulative impacts analysis for an existing facility when material evidence supports that a cumulative impacts analysis is necessary. Additionally, the MPCA may require a cumulative impacts analysis for an existing facility through the petition process identified in part 7007.6060. In evaluating and determining whether to grant or deny a petition, the commissioner must consider the material evidence and other information identified in part 7007.6060, subpart 5, item C. The MPCA evaluates the impacts identified through this information using the criteria identified in part 7007.6070, subpart 4 to determine whether issuing the requested permit action may substantially impact the environment or the health of the residents of the impacted environmental justice area.

611. Regarding the comments expressing concerns over exemptions for certain reissuance permit applications, the MPCA proposed this timeframe to provide adequate time for regulated parties to prepare application materials that meet the proposed rules as explained in the Specific Reasonableness section of the SONAR (p. 72) for part 7007.6020, subpart 2. As identified there, the MPCA explained additional time is needed for regulated parties to comply with the proposed rules given that reissuance applications are the only air permit applications potentially subject to the proposed rules that have predetermined due dates (i.e., reissuance applications are generally due at least 180 days before the expiration of the existing permit as identified in part 7007.0400 subpart 2), meaning there are reissuances that will be due on or shortly after the rule becomes effective and additional time is required so that they can adhere to the new requirements of the proposed rules. The three year time period for rulemaking is for the agency to develop the proposed rules. During those three years facilities, potentially subject to the proposed rules, have no method for preparing permit applications based on rules that are not yet known to them or adopted.

612. Furthermore, this is only a temporary exemption. Future reissuance applications submitted by existing facilities subject to the proposed rules will be required to evaluate whether or not the rules apply and the MPCA will be required to determine whether a cumulative impacts analysis is required for those facilities.

Geographic and permit type applicability

613. The MPCA received seven comments regarding the geographic and permit type applicability of

the proposed rules. Commenters referenced geographic applicability with respect to different parts of the proposed rules including the initial assessment (part 7007.6050), the cumulative impacts analysis (part 7007.6090), and the community benefit agreements (part 7007.60110). Commenters provided suggestions for different distances to use for geographic applicability and for expanding the geographic locations in Minnesota where the rules apply.

614. **Minnesota Building and Construction Trades Council-041-04**: The Minnesota Building and Construction Trades Council stated, "**Overall scope of the rule**

While environmental justice areas as defined by the law are very small, discrete census tracts, this rule has the potential to impact development over a huge swath of the Twin Cities, Rochester, and Duluth. Half of the area of the seven-county metro area is located in or within one mile of an environmental justice area, as is two-thirds of Duluth and half of Rochester. Of course, this does not mean that half of the seven-county metro area and Rochester, and two-thirds of Duluth, are burdened by an unhealthy environment. In fact, it says nothing about their environment because pollution measures play no part in Minnesota's definition of an environmental justice area. Instead, it means that many residents in these areas barely earn enough to get by, inasmuch as the overwhelming majority of environmental justice census tracts are designated as such solely based on household income.

Conceptually, our unions have always agreed that special scrutiny should be applied to development projects that would be located in places where there are both a high concentration of working-class people and/or people of color, and high existing levels of pollution. Where there are environmental justice areas not also burdened by high levels of air pollution or other substantial environmental harms, however, we believe that no new procedures should apply because such measures are likely to do more harm than good. This appears to be what the agency is attempting to do with their environmental stressors map, but it greatly misses the mark."

615. **American Petroleum Institute-042-02**: The American Petroleum Institute stated, "**1.1 THE PROPOSED TRIGGERING CRITERIA REMAIN OVERLY BROAD**

API appreciates MPCA's addition of an Initial Assessment and objective benchmarks. Nevertheless, the proposed framework remains sufficiently broad that a substantial number of facilities are likely to proceed into a full CIA despite having little potential to produce meaningful incremental environmental or public health impacts. The proposed applicability criteria combine:

- geographic proximity,
- permit type,
- permit action,
- benchmark exceedances,
- discretionary Commissioner authority,
- petition authority.

Collectively, these provisions substantially expand the number of projects potentially requiring a CIA. Particularly concerning is the one-mile applicability criterion. The rule assumes that proximity alone is an appropriate surrogate for potential cumulative impacts. Actual exposure depends upon numerous factors including:

- emission characteristics,
- meteorology,
- terrain,
- stack parameters,
- atmospheric chemistry,

- receptor location,
- pollutant-specific dispersion.

A simple one-mile radius is not itself an indicator of environmental exposure or health risk.

Recommendation: Replace the geographic trigger with a tiered, exposure-based screening process that considers:

- net emissions increase,
- pollutant characteristics,
- modeled impacts,
- existing impact and stressor levels,
- existing ambient concentrations."

616. **Frontline Communities Protection Coalition (compiled comments)-045-05**: Aubree Derksen stated, "The stated rule for the Initial Assessment for Cumulative Impacts is as follows:

Initial Assessment:

- Any facility applying for a relevant permit within 1 mile of an environmental justice (EJ) area must submit an Initial Assessment.
- The assessment includes information about the facility and nearby communities, how the facility will impact the environment and the health of nearby EJ communities, upcoming construction details, mitigation efforts, compliance history, and more.
- The MPCA reviews the Initial Assessment and determines whether the facility is required to conduct a cumulative impacts (CI) analysis.
- The MPCA must post all Initial Assessments on the agency website for public access.

I worry that the draft rules will be insufficient to address the impacts that the CI analysis is intended to evaluate, particularly air pollution and the speed and scale of industrial development that Minnesota now faces. This is especially true for hyperscale data centers, which were not part of the conversation when the rules were first proposed, nor were the enormous energy demands that accompany them.

Rochester, Minnesota, is one of the designated EJ areas. I live in Pine Island, approximately 11.4 miles from the nearest 1-mile buffer area identified on the map for Rochester. Google intends to build a 3,000,000-square-foot, 482-acre hyperscale data center within 1 mile of my home. It would use 2,700 MW of power (Index 63, Court File 25-CV-25-2298), approximately nine times what the City of Rochester uses. Google has not disclosed how many backup generators will be used. In PUC Docket 26-170, that information is listed as "trade secret," and it was excluded from the AUAR environmental review, which has been under a court injunction since May 22, 2026—the first such injunction in the state of Minnesota.

Hyperscale data centers like this can require around 200 or more backup diesel generators, which are significant sources of air pollution. This report from The Better Data Center Project highlights that even a single data center can become the largest producer of air pollution in a region, if not the entire state. Data centers also produce significant amounts of fine particulate matter, which can travel 30 miles or more. Air pollution can also contribute to impaired waters through mercury contamination, for example. Pine Island's Google data center would discharge into the Zumbro River, a potential drinking water source for Rochester, meaning the cumulative impacts of air pollution extend beyond respiratory health to include drinking water contamination. A 1-mile radius will not prevent drinking water contamination when the source of the contamination is 12 miles away.

Solution: I propose a rule establishing that high-impact, high-polluting projects—such as power plants, data centers, and incinerators—located within a 30-mile radius of an EJ area, and/or projects that directly discharge into a drinking water source, a potential drinking water source, or a water body that flows into a protected drinking water source serving an EJ area, should be required to complete an Initial Assessment. There is a high probability that these projects will increase the mortality rates of already overburdened communities.

Furthermore, if a project located 30 miles away can have measurable impacts on an EJ area, then residents living even closer to the project, but outside the designated EJ area, face an even greater risk of harm. This further highlights the need to deny permits when appropriate, strengthen mitigation strategies, or stop projects altogether."

617. **Frontline Communities Protection Coalition (compiled comments)-045-139**: The Side Corridor Residents, Owatonna East stated, "Require a CI analysis for projects proposed within five miles of a designated Environmental Justice (EJ) area. Environmental impacts do not stop at neighborhood or municipal boundaries. Projects located near EJ communities can contribute to existing cumulative environmental burdens, even when they fall outside the designated area."

618. **Frontline Communities Protection Coalition (compiled comments)-045-140:** The Side Corridor Residents, Owatonna East stated, "Allow the Commissioner to require a CI analysis whenever credible evidence demonstrates that a project could create substantial cumulative environmental or public health impacts. This authority should include infrastructure projects that may facilitate future growth and development, as these projects can create long-term impacts that are not always captured during initial review."

619. **WaterLegacy-048-01**: WaterLegacy stated, "These comments are submitted on behalf of WaterLegacy. We appreciate the opportunity to comment on the cumulative impacts analysis rules. Our biggest concern with these proposed rules is that they fail to offer recognition or protection to much of the State of Minnesota. We address this issue first and then request changes to the proposed rules' narrow definition of "permit" and language regarding thresholds pertaining to the "insignificant activities list" to ensure that they do not constrict cumulative impacts analyses.

WaterLegacy believes it is a positive development that the Legislature and the Minnesota Pollution Control Agency ("MPCA") have recognized that census tracts with lower incomes, where nonwhite people or people with limited English proficiency live in the Twin Cities, other Minnesota citied of the first class, or in Indian Country as defined by the federal government should not be sacrifice zones to air pollution. However, it is troubling that the "applicability" of environmental justice cumulative impact protections excludes most rural communities, including Tribal members with Treaty-reserved usufructuary rights in Ceded Territories. See Proposed Rule 7007.6020, subp. 1 and 7007.6030, subp. 2(A); Minn. Stat. 116.065, subp. 2. This "applicability" exclusion seems to perpetuate the injustice of displacement of Tribal Nations from their lands and to treat rural communities in Northern Minnesota exposed to cumulative air pollutants as second class citizens.

In WaterLegacy's review of the U.S. Steel Minntac permit we heard from many Northern Minnesota community members that taconite air emissions of mercury and discharge of sulfate are still unregulated, poisoning the fish needed by rural residents and Tribal members for sustenance and by Tribal members for exercise of Treaty-reserved rights. We were asked why energy facilities in the Twin Cities were required to reduce mercury emissions, but taconite plants still allowed to release huge quantities of mercury with impunity. Two articles from The Timberjay related to the U.S. Steel Minntac permit are attached. They reflect concern about taconite industry mercury pollution and about the double standard where "mercury from taconite plants keeps falling into northern Minnesota lakes. It keeps accumulating in walleye and other fish in the region. It keeps triggering

fish consumption advisories that fall disproportionately on tribal communities and rural families who depend on fish for food." [See Attachment A, Opinion, The MPCA and mercury – The state talks a tough game on taconite mercury emissions, so why won't it pull the trigger? (June 4, 2026) The Timberjay, and M. Helmberger, Proposed Minntac air permit lacks stricter mercury standards (June 4, 2026), The Timberjay.]

The MPCA CI-MAP below (available at https://pca-gis02.pca.state.mn.us/ci-map/) shows the huge blank area in Northern Minnesota where cumulative impacts analysis is simply "inapplicable."

[*image included in comment letter*]

Northern Minnesotans are exposed to hazardous air pollution from wildfires across Canada and Minnesota and to taconite mine and coal combustion air emissions and discharge to surface and groundwater. They would be exposed to air emissions from a new gas resource development industry, and to particulates, toxic metals, and other pollutants in air, water, and land if proposed nickel and copper sulfide ore mines were approved. The map below shows multiple existing and potential sources of emissions from metals extraction. [This map is copied from the Minnesota Department of Natural Resources Index Map to the Iron Mining & Metallic Mineral Exploration Mapset, available as of July 16, 2026 at https://files.dnr.state.mn.us/lands_minerals/mpes_projects/mnmin2017_compile.pdf.]

[*image included in comment letter*]

WaterLegacy requests that in formulating the initial proposed Rules the MPCA specifically recognize that environmental injustice is not limited to the areas where cumulative impacts analysis is explicitly made "applicable." The MPCA's mapping tool, "Understanding environmental justice in Minnesota," illustrates many of the environmental justice areas to which its current proposed cumulative impact analysis rules are not applicable. WaterLegacy requests that MPCA include language its final proposed rules stating that the commissioner would have the discretion to determine that a cumulative impact analysis be performed pursuant to part 7007.6070, subp. 2 in census tracts and state Tribal areas that meet the statutory requirements for environmental justice areas. These areas, shown on MPCA's website [MPCA, Understanding environmental justice in Minnesota, is available on July 17, 2026 at https://experience.arcgis.com/experience/bff19459422443d0816b632be0c25228/page/Page/?views=EJ-areas, Attachment B], are copied below and provided in Attachment B.

[*image included in comment letter*]"

620. **WaterLegacy-048-04**: WaterLegacy stated, "**Conclusion**

WaterLegacy appreciates the opportunity to comment on MPCA's cumulative impact rules. We request changes to MPCA proposed rules part 7007.6010, subp. 31, which would conflict with the cumulative impacts analysis statute, Minn. Stat. § 116.065, by restricting the definition of "permit." We also propose revisions to clarify the intent of 7007.1300, subp. 5(B), so it does not undermine the statutory purpose to require cumulative impacts analysis where aggregated levels of past and current pollution may impact the environment or health of residents in an environmental area. Minn. Stat. § 116.065, subd. 3(1). These revisions are supported by Minn. Stat. §§ 14.15 and 14.26 and Minn. R. 1400.2100.

Finally, we request that MPCA's cumulative impacts analysis rules apply the evidence and understanding already available on its own website to recognize environmental justice areas throughout Minnesota, including those in Northern Minnesota where the health of rural and Tribal communities and the exercise by Tribal members of Treaty-reserved rights are threatened by

cumulative exposures to pollutants and other stressors. The beneficial process in MPCA's proposed rulemaking should be applied broadly to protect the health of residents in all environmental justice areas of Minnesota, rather than unwittingly creating yet another disparity in stressors and health outcomes."

621. **Prairie Island Indian Community-052-02**: Prairie Island Indian Community stated, "To begin, the Cumulative Impacts Mapping and Analysis Platform ("CI-MAP") identifies EJ area census tract 27049080202 (Goodhue County) as having a combined stressor score of 18 out of 26, compared to a state median of 13 and a county median of 12. The Community is located directly within this EJ area, putting it well above the average threshold of cumulative impacts within the state. However, the Community shares EJ area census tract 27037061401(Dakota County), as well. The problem at hand is that the proposed new rules do not address Goodhue County. This makes any effort to protect the Community obsolete, since we reside in both counties. Expanding the reach to include tract 21037061401 would benefit the desired health and safety protections the Community seeks.

The Community has born the impact of undue burdens and past injustices for a long time. Currently, we are in the vicinity of multiple high-polluting facilities of fine particulate matter. As we continue to steward the land and protect the Community, we are challenged with the ongoing air pollutants that originate from surrounding areas. Protecting the health of our Tribal members is a top priority and ensuring the permits issued in both EJ area census tracts 27049080202 and 27037061401 is crucial in doing so."

MPCA RESPONSE

622. The MPCA appreciates the suggestions of the commenters concerning geographic applicability and facility/permit applicability. However, both the geographic and permit applicability of the proposed rules is established by the statutory applicability requirements of Minn. Stat. § 116.065, subd. 2, and the definitions of "environmental justice area" and "permit" in Minn. Stat. § 116.065, subd. 1. These definitions and applicability requirements are reflected in the requirements established in part 7007.6010 and part 7007.6020, subpart 1. As stated in the SONAR (p. 71-72), part 7007.6020, subpart 1 provides clarity in rule regarding how the MPCA implements and applies the proposed rules so that all interested persons have a common understanding of when the rules apply.

623. Some commenters suggested that the MPCA expand the locations of Minnesota where the proposed rules would apply, referencing the potential impacts that people in other locations may experience and the importance of addressing those impacts for people living in environmental justice areas across Minnesota. The MPCA agrees that the broad work of the Agency related to environmental justice is not limited to only the geographic areas identified by Minn. Stat. § 116.065, subd. 2 and the definition of environmental justice areas in Minn. Stat. § 116.065, subd. 1(e). The MPCA recognizes the importance of environmental justice and works to incorporate environmental justice into the policies and practices of the Agency as a whole. A discussion regarding the MPCA's environmental justice policy is included in the SONAR (p. 181-186). However, the application of the proposed rules is limited to those geographic areas as identified in Minn. Stat. § 116.065, subd. 2. The MPCA cannot use its discretion to expand the identified counties or environmental justice areas through rulemaking, so that the applicable locations conflict with the geographic areas specified by Minn. Stat. § 116.065, subd. 2.

624. Regarding the commenters' suggestions to use different distances in the geographic applicability, Minn. Stat. § 116.065, subd. 2(a)(1) establishes applicability using the location of the facility based on whether it is located in an environmental justice area directly or located within one mile of an environmental justice area. The MPCA cannot change the requirements established in

Minnesota Statutes, including the one mile distance specified in Minn. Stat. § 116.065, subd. 2(a)(1), through the administrative rulemaking process.

625. Regarding the commenters' suggestions to use triggers different than geographic applicability, Minn. Stat. § 116.065, subd. 2 establishes applicability using the geographic location of the facility. Some commenters suggest using other criteria such as emissions rate increases, types of facilities, and other analyses and existing information. The MPCA cannot change the requirements established in Minnesota Statutes, including the geographic applicability specified in Minn. Stat. § 116.065, subd. 2, through the administrative rulemaking process.

626. Additionally, the MPCA would like to clarify for commenters that initial applicability (i.e., which facilities are subject to the proposed rules) is determined based off of "geographic proximity, permit type, and permit action," but applicability based on "benchmark exceedances, discretionary Commissioner authority, and petition authority" comes later. The latter items identified are part of the determination as to whether a facility is required to conduct a cumulative impacts analysis, which comes after the initial applicability based on geographic and permit applicability criteria.

627. The MPCA agrees that the impacts associated with a particular activity that is part of the current or proposed operations of a facility is more complicated than proximity alone. This is why the MPCA proposed the requirements identified in part 7007.6050 (Initial Assessment) to gather information to help understand and determine whether to require a cumulative impacts analysis for a facility subject to the proposed rules.

Applicability to expansive facilities.

628. The MPCA received three comments regarding how the proposed rules apply to facilities with a large footprint.

629. **University of Minnesota-030-02:** The University of Minnesota stated, "**Introduction**

The University of Minnesota ("the University") serves as an engaged contributor to the state's efforts to address environmental, public health, and socioeconomic disparities. The University operates more than two dozen programs directly addressing environmental justice ("EJ") issues, ranging from a comprehensive sustainability program to childhood nutrition and community healthcare access. These programs support thousands of people living in low-income and historically marginalized areas every year. Along with these community efforts, the University has reduced its permitted air emissions by over 90 percent in the last 30 years through energy reduction and facility modernization, even while expanding its facilities by several million gross square feet.

Our commitment to EJ aligns with the objectives of Minn. Stat. § 116.065 ("the Statute"). However, the University is concerned that several of the draft Cumulative Impacts Rules ("Draft Rules") requirements do not consider the size and complexity of an expansive institution like the University. The University's Twin Cities campus neighbors 22 designated EJ areas across two counties and, as described below, operates more like a city dedicated to state service than a for-profit industry.

The University's Duluth campus also falls within the applicability requirements under the Statute. Because the campus has eliminated certain historical fuel types from its operations, the University is currently evaluating a transition to a registration permit, which would not be subject to the Statute or the Draft Rules. While this permit change is under review, future expansions could still trigger these rules. Therefore, our comments primarily focus on the Twin Cities campus but apply with equal force to the Duluth campus."

630. **University of Minnesota-030-05:** The University of Minnesota stated, "**University Title V Air Permit**

The Twin Cities campus is aggregated as a single "stationary source" under a Title V Air Permit. The University's significant air emission sources consist of three centralized district energy plants: the Main Energy Plant and the Southeast Steam Plant in Minneapolis, and the St. Paul Heating Plant. Other permitted sources include decentralized, low-capacity boilers and emergency generators. These non-centralized systems exist strictly to provide critical building comfort heating, emergency power, and operational support to the campus community in our land-grant mission of world-class education, groundbreaking research, and community-engaged outreach. The systems do not serve commercial or industrial manufacturing processes.

Because these utilities function as a municipal-scale network rather than as a discrete industrial facility, the Draft Rules create distinct operational challenges for the University. Specifically, as discussed in the comments that follow, the University's stationary source boundary encompasses the entire University of Minnesota Twin Cities campus. In addition, several requirements in the Draft Rules require a consideration of EJ areas within one mile of the stationary source boundary, which includes 22 distinct EJ areas, as illustrated in Figure 1. [see image in comment letter]

The University shares the Legislature's and the Minnesota Pollution Control Agency's (MPCA or "the Agency") goals of addressing decades-old permitting and zoning decisions that resulted in heavily polluting industrial and manufacturing facilities being located near homes, schools, and parks, which result in an unequal pollution burden and disparate health outcomes [Statement of Need and Reasonableness (SONAR) at 11]. But the University is concerned that the Draft Rules do not account for the other types of facilities the Draft Rules will apply to, including the University's Twin Cities campus.

For the University, the Draft Rules would impose a considerable administrative burden by requiring data collection that is disconnected from the proposed permit action or the impacts of the action on an EJ community. For any proposed permit action at the University, the Draft Rules would require the University to evaluate the facility as a whole—including all 22 neighboring EJ communities, resulting in an unreasonably broad geographic scope. And this broad scope of analysis in the Draft Rules could apply to the addition of even a few emergency backup generators, which are necessary to ensure the University can fulfill its mission to serve the State of Minnesota through education, research, and public outreach.

The University offers the following Comments and Recommendations to tailor the Cumulative Impacts Rules to their environmental justice purpose, as "Environmental justice" is defined by the Statute: the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies; and in all decisions that have the potential to affect the environment of an environmental justice area or the public health of its residents, due consideration is given to the history of the area's and its residents' cumulative exposure to pollutants and to any current socioeconomic conditions that could increase harm to those residents from additional exposure to pollutants."

631. **Minnesota Chamber of Commerce-027-52**: The Minnesota Chamber of Commerce stated, "h. For stationary that have a large footprint, the proposed rule should clarify that a CIA/CBA, if required, would only have to address environmental justice areas within a mile of the location of the facility expansion permit action. For example, it would be unreasonable for a permit action for an expansion occurring in downtown Minneapolis to address environmental justice areas on the east side of St. Paul."

MPCA RESPONSE

632. The MPCA acknowledges that the size and complexity of an expansive institution like the University of Minnesota presents unique permitting challenges, especially when considering the broad scope of cumulative impacts. With regard to applicability, Minn. Stat. § 116.065, subd. 2(a) establishes that "This section applies to an application for a permit by a facility." Additionally, Minn. Stat. § 116.065, subd. 1(h) defines permit to mean, "*a major source air permit, as defined in Minnesota Rules, part 7007.02200, or a state air permit required under Minnesota Rules, part 7007.0250, subpart 5 or 6.*" As such, this mean the rule applies to everything included in the major source or state air permit.

633. When considering the addition of a few emergency generators, please see the discussion in the response to comments related to the facility expansion definition exemptions and the benchmarks for facility expansion. A facility that needs to install an emergency generator has options to reduce an emissions increase and qualify for a minor amendment that is not subject to the proposed rules. Additionally, a facility can present the positive impacts of their facility or project in the initial assessment under part 7007.6050, subpart 3, item G which is required to be considered when determining need and in the cumulative impacts analysis.

Use of environmental stressors throughout the rule

634. The MPCA received four comments regarding how environmental stressors factor into various parts of the proposed rule.

635. **Minnesota Chamber of Commerce-027-45**: The Minnesota Chamber of Commerce stated, "e. It is unreasonable to expect or require a facility to reduce stressors to which it does not contribute. Such stressors could be a legacy of other long-closed facilities or associated with activities by other nearby (potentially competitor) facilities, or the general population (traffic, for example) that are unrelated to the proposed permit action and over which the project proposer will have little to no control. The Chamber supports any facility acting as a good neighbor by voluntarily adopting measures in the community to reduce stressors, regardless of whether the facility contributes to those particular stressors; however, clearer definitions of the "community" and permit applicant's responsibilities with regard to community input are needed to avoid confusion."

636. **Minnesota House of Representatives-033-03**: Representative Fue Lee stated, "The methodology proposed in the rules to measure an EJA's environmental risk by comparing the EJA's levels of the 26 environmental stressors with values in distant communities and then ignore their actual magnitude distorts the real environmental risks EJA residents face, which is the crucial piece of evidence the commissioner must weigh in determining whether a cumulative impacts analysis is required. It is likely to result in fewer cumulative analyses being conducted, the opposite of what the statute requires."

637. **Minnesota House of Representatives-033-06**: Representative Fue Lee stated, "

7007.6010, subp. 5. Definition. Adverse cumulative stressors.
7007.6010, subp. 6. Definition. Adverse environmental stressor
7007.6019, subp. 22. Definition. Geographic point of comparison
7007.6020, subp. 5. Applicability and procedures. Environmental stressors database.

The proposed rules incorporate a "geographic point of comparison" concept into the definitions of both "adverse cumulative stressors" and "adverse environmental stressor," making that approach central to the commissioner's decisions on both the need for preparation of a cumulative analysis and whether, following such an analysis, a permit should be issued or denied.

The agency alters the meaning of "adverse" as it is used in section 116.065, in several Minnesota

environmental statutes, and in environmental impact analysis in general. In these contexts the term signifies a diminution in the health of human beings or wildlife or the quality or functioning of a part or process of the natural environment. An adverse impact is one that harms or diminishes these entities. The term is so intuitive that it is not defined in statute, though it is used often. [See, e.g. Minnesota Statutes, sections 115.55, subdivision 5a, paragraph (b), clause (4); 115A.03, subdivision 7a; 115A.158, subdivision 1, paragraph (a), clause (2); 115A.18, subdivision 4, paragraph (a), clause (3), item (i); 115A.193, paragraph (a), clause (2); 115A.194, paragraph (a), clause (2); 115A.24, subdivision 1, paragraph (c); 115A.411, subdivision 2, paragraph (b), clause (2); 115A.917; 116B.02, subdivision 5; and 116D.04, subdivision 2a, paragraph (a).]

The proposed rules alter it to mean higher than the lower of the median values of the environmental stressors measured throughout the whole of the county in which an EJA is located or the median value across Minnesota's 86,939 square miles. These measures have no relevance whatsoever to the actual environmental impacts experienced by a specific EJA's residents. What may harm residents of an EJA – and what the statute requires the commissioner to consider -- is the combination of past and future environmental impacts on the residents and environment **of the EJA**, irrespective of conditions elsewhere. As written, in a county containing several EJAs, like Hennepin and Ramsey, only a facility in the EJA with the highest level of stressors is likely to be required to conduct a cumulative impacts analysis, since the countywide stressor count will be inflated by the values of the other EJAs. This outcome, reducing the number of cumulative analyses conducted, is not in accord with the statute.

Further, the way the proposed rules structure this comparative method masks the actual **level** of the EJA stressors. The rules count a stressor as "adverse" if its level exceeds the lower of the county or state median; whether it does so by one percent or 300 percent is not registered, and does not affect the decision as to whether a cumulative impacts analysis is required. Both values get the same checkoff treatment on that stressor as "adverse." The simple number of EJA adverse stressors is then summed and compared with the number of county or state median stressors that exceed the corresponding EJA values. If the latter sum exceeds the former, no cumulative analysis is required. This method, by ignoring the severity of the stressors, prohibits the commissioner from seeing the true extent of the risk experienced in the EJA, which should be a prime focus of the decision to require a cumulative analysis or to deny a permit. [This methodology is described in the PCA's publication, Cumulative Impacts Mapping and Analysis Platform (CI-MAP) technical support document, March 2026, https://www.pca.state.mn.us/sites/default/files/aq-rule2-25an.pdf.]

The attempt to simplify the commissioner's decision making by utilizing a geographic comparison with respect to stressor values should be removed from the rules because it undercuts the goal of the statute. The guidelines for the commissioner to decide on the need for a cumulative analysis in section 7007.6070 and whether an adverse impact is substantial in section 7007.6100 of the proposed rules can be applied without the geographic comparison lens, allowing the commissioner to weigh the full extent of the environmental stressors in an EJA."

638. **Cordia Energy Center Minneapolis-049-21**: Cordia Energy Center Minneapolis stated, "e. It is unreasonable to expect or require the facility to reduce stressors to which it does not contribute. Such stressors could be a legacy of other long-closed facilities or associated with activities by other nearby (potentially competitor) facilities, or the general population (traffic, for example) that are unrelated to the proposed permit action and over which the project proposer will have little to no control. That said, Cordia supports any facility acting as a good neighbor by voluntarily adopting measures in the community to reduce stressors, regardless of whether the facility contributes to those particular stressors. This, however, is again why a clear and consistent definition of "community" is critical to the success of this program."

MPCA RESPONSE

639. The MPCA appreciates the commenters' suggestions and concerns, but believes the commenters are mistaken in their understanding of the actions required of facilities regarding environmental stressors and how the MPCA considers environmental stressors in decision-making.

640. The proposed rules require regulated parties to include the environmental stressor information provided by the MPCA as part of an initial assessment required under part 7007.6050 (see part 7007.6050, subpart 3, item F). The proposed rules require that the owner or operator preparing an initial assessment consider those environmental stressors as part of the assessment of impacts of the requested permit action (see part 7007.6050, subpart 3, item G). This assessment focuses on the impacts to the environment and the health of the residents of environmental justice areas, consistent with the statutory directives in Minn. Stat. § 116.065, subd. 3(a), not contributions to environmental stressors. Through this assessment, the owner or operator provides relevant information to the commissioner for evaluation so the MPCA can determine whether a cumulative impacts analysis is required for the requested permit action. This determination is not based solely on environmental stressors. Environmental stressors are one part of the information, within the initial assessment, alongside other sources of information that the MPCA must consider as part of determining the need for a cumulative impacts analysis (see part 7007.6070, subpart 3) and as part of determining whether issuing the permit would have a substantial adverse impact (see part 7007.6100, subpart 1).

641. Additionally, the MPCA disagrees with the statement that the MPCA has changed the meaning of the term "adverse" as it is used in Minn. Stat. § 116.065. While the MPCA has defined several terms regarding environmental stressors, that does not change the meaning of the statute. Providing objective measures to define the information the MPCA will provide to the public through an updated database of identified environmental stressors, as required by Minn. Stat. § 116.065, subd. 5(f), cannot change the meaning of something that the statute does not define. The MPCA can define terms in rules so that the MPCA can implement and enforce statutes and rules.

642. Furthermore, defining the different information the MPCA provides on environmental stressors does not mean the MPCA must treat all levels of adverse stressors equally. The information provided in the environmental stressor database is used to help develop the initial assessment and understand how environmental stressors may increase the adverse effects of the facility or increase the impact that the facility has on the environment or the health of residents of the impacted environmental justice area (see part 7007.6050, subpart 3, item G, subitem (4)). This information is also used to help develop the cumulative impacts analysis and understand how environmental stressors may increase the magnitude of adverse environmental or health impacts as part of the determining whether an environmental or health impact is a substantial adverse impact (see part 7007.6100, subpart 2, item E). However, providing information to compare environmental stressors across census tracts, counties, and statewide does not require the MPCA to treat all "levels" of the stressor equally nor prohibits the MPCA from considering different levels of the environmental stressor as part of the initial assessment, cumulative impacts analysis, and determinations required under the proposed rule.

PART 7007.6030 TRIBAL CONSIDERATIONS

General support

643. The MPCA received two comments expressing general support for the involvement of Tribes and other affected environmental justice communities in the overall cumulative impacts analysis process.

644. **Frontline Communities Protection Coalition-034-10**: The Frontline Communities Protection Coalition stated, "Subp. 4 **Tribal supplement to cumulative impacts analysis content** - We support the requirement of information regarding the impacts to natural and cultural resources, traditional practices, locations or areas of significance to the Minnesota Tribal Government, and access to areas. We believe that this supplemental information should be tied to subp. 3, item (B), such that the Minnesota Tribal Government may review the information included in this section and provide additional feedback."

645. **Prairie Island Indian Community-052-07**: Prairie Island Indian Community stated, "The rule also should ensure that Tribal Nations and other affected EJ communities are adequately involved in permitting decisions through meaningful consultation processes that considers the disproportionate impacts experienced in these areas and respects Tribal sovereignty."

MPCA RESPONSE

646. The MPCA appreciates the statements of support for including Tribal considerations in the proposed rule.

647. Additionally, the Tribal supplement referenced is included as part of the cumulative impacts analysis itself, see part 7007.6090, subpart 2, item B, subitem (5), that is identified by part 7007.6030, subpart 3, item B, subitem (3), unit (d) as one piece of information that the commissioner must offer to meet and share information about. This means that the Minnesota Tribal government will have the ability to meet and share information, including the Tribal supplement included as part of the cumulative impacts analysis, as the commenter requests.

Timeframe for providing materials

648. The MPCA received three comments regarding the timeframe associated with providing materials to Minnesota Tribal governments at different stages throughout the cumulative impacts analysis process.

649. **Frontline Communities Protection Coalition-034-09**: The Frontline Communities Protection Coalition stated, "**7007.6030 Tribal Considerations**

Subp. 3. **Tribal coordination; sources not in Indian Country** - We support the initiative of informing Tribal governments of permit applications in counties of interest and providing opportunities for them to engage in the process at each step. In item (B), we recommend including a deadline by which the MPCA must submit the notice to the Minnesota Tribal Government's designated contact. This will ensure that Tribes are notified in a timely fashion and will be able to engage throughout the process if desired. Additionally, in item (B), subitem (4) we would like to see clarification of what the visit to the stationary source will entail. We believe that Tribal Governments should be given access to the inside of facilities for permit expansions or reissuances in order to fully understand the potential impacts."

650. **Prairie Island Indian Community-052-08**: Prairie Island Indian Community stated, "Furthermore, in reference to section 7007.6090 Subp. 2, any Tribal Nation in an area of potential impact also should receive copies of the cumulative impacts analysis before the public meeting. This should include a minimum 45-calendar day notice to allow for meaningful review."

651. **Prairie Island Indian Community-052-10**: Prairie Island Indian Community stated, "Upon receiving a requested permit action, 7007.6030 Subp. 4 does not explicitly address a deadline in terms of days after receiving notice by which the commissioner must notify a Tribal Nation that they have received a permit application. Creating a deadline would help ensure that Tribes receive notice as soon as possible."

MPCA RESPONSE

652. The MPCA appreciates the commenters' suggestions regarding timeframes and requests for clarification on the stationary source visit.

653. The MPCA has historically visited stationary sources as part of the permitting process to aide in understanding the current and proposed operations of a source, including touring the facility itself to see the current operations. The MPCA has also historically invited Tribes to join MPCA staff when visiting a source as part of reviewing a permit application of interest to a Tribe. The intention of the site visit identified in part 7007.6030, subpart 3, item B, subitem (4) is the same as the historical practice.

654. Regarding the commenters' suggestions to provide specific timeframes for notifying Tribes, the MPCA believes its current practices and policies to provide notification of this information as it becomes available is sufficient. The MPCA typically notifies Tribes regarding air permit applications when a permit engineer has been assigned to begin review of and work on the requested permit action. Additionally, as review and work on that permit actions continues there is often ongoing communication back and forth between MPCA and the Tribe.

PART 7007.6040 GENERAL REQUIREMENTS

Duty to supplement or correct

655. The MPCA received one comment requesting to specify the timeframe for facilities to supplement or correct information.

656. **Frontline Communities Protection Coalition-034-11**: The Frontline Communities Protection Coalition stated, "**7007.6040 General Requirements** Subp. 5. **Duty to supplement or correct**, item (A) - We recommend including a deadline by which the owner or operator must provide the missing or corrected information to the Commissioner. This will help ensure that information is being quickly updated when found to be incorrect or missing. This deadline may be waived or extended upon approval from the Commissioner."

MPCA RESPONSE

657. If an owner or operator identifies relevant facts missing from application materials or incorrect information in application materials, part 7007.6040, subpart 5 requires that they submit the supplementary facts or corrected information promptly. Since there is no way of knowing what relevant facts are missing or what information needs to be corrected, or how much time is reasonable to gather and submit the information, it would be difficult to specify a deadline in rule.

Application completeness

658. The MPCA received one comment requesting to specify a completeness review process for both the initial assessment and cumulative impacts analysis submittals required by the proposed rule.

659. **Minnesota Hospital Association-051-18**: The Minnesota Hospital Association stated, "**6. Establish Application Completeness and Finality**

Part 7007.6040 - Add new Subpart 6a after line 30.23

Proposed Language:

Subp. 6a. Completeness Determination. Within 60 calendar days of receiving an initial assessment or cumulative impacts analysis, the commissioner shall determine whether the submission is complete and identify any additional information required. Following a

completeness determination, additional information requests may be made only upon a written finding that material information necessary for the permitting decision was not reasonably available at the time the completeness determination was issued.

Reason: Hospitals and other permittees require certainty regarding application requirements, project planning, and capital investment schedules."

MPCA RESPONSE

660. The initial assessment is submitted with the permit application, thus the completeness review for the initial assessment will be done within the timeframes that apply when a permit application is received. For supplemental application materials including the cumulative impacts analysis and other submittals, the rule specifies the information that is needed. Additionally, as part of implementation, MPCA will prepare guidance materials, forms, templates, and other materials to assist owners and operators in preparing complete submittals. Therefore, no specific requirements for completeness determinations are added to the rule.

PART 7007.6050 INITIAL ASSESSMENT

Applicability and scope of benchmarks

661. The MPCA received three comments related to the applicability and scope of benchmarks.

662. **Minnesota House of Representatives-033-02:** Representative Fue Lee stated, "My main observation is that the proposed rules minimize, in several ways, the impact that cumulative impacts analysis will play in permit decisions in EJAs. This is the direct opposite of what the statute requires.

The proposed rules exempt from the statute's provisions facility expansion permits the agency considers to be of minor environmental consequence. This indicates that the agency fails to appreciate the broad scope of the statute, which includes within its jurisdiction not only all new and expansion permits that affect EJAs, but also reissuances of existing facility permits as they expire. The statute's key innovation is that it requires all three of these types of permits to be analyzed anew through a cumulative impacts lens. The explicit inclusion of reissuance permits, whose emission levels most often remain the same as in the expiring permit, reveals the statute's breadth: It authorizes the commissioner to deny a permit based on an EJA's level of environmental stressors, including past pollution, in combination with a facility's **previously permitted emission levels** if issuing the permit would result in a substantial adverse impact. In contrast, the proposed rules would not even require facilities seeking permit reissuances and "minor" expansions to conduct a cumulative impacts analysis."

663. **Minnesota House of Representatives-033-11:** Representative Fue Lee stated, "**7007.6050, subp. 4 Benchmarks for requiring cumulative impacts analysis, item B**

The proposed rule exempts a facility seeking an expansion permit unless certain emission levels are exceeded. As explained on page 1, the statute applies to all facility expansion permits that affect environmental justice areas. This restriction should be removed."

664. **Minnesota House of Representatives-033-12:** Representative Fue Lee stated, "**7007.6050, subp. 4 Benchmarks for requiring cumulative impacts analysis, item C**

The proposed rule exempts a permit reissuance from conducting a cumulative impacts analysis if no enforcement action was taken against the facility by the commissioner within the three years prior to the application for reissuance. As explained on page 3, the statute applies to all permit reissuances that affect environmental justice areas, regardless of their compliance history. This provision restricting the number of facilities that must conduct a cumulative impacts analysis should

be removed."

MPCA RESPONSE

665. The MPCA acknowledges the desire to require a cumulative impacts analysis for all permit actions. The MPCA respectfully disagrees that Minn. Stat. § 116.065 broadly applies to all permit types and permit actions. The statute identifies only two permit types, major source air permits, as defined by part 7007.0200, and state air permits, as defined by part 7007.0250, subpart 5 or 6. The statute identifies three types of permit actions, as a subset of those two permit types. These three permit actions include new construction, facility expansion, or reissuance. If the statute intended for broad applicability, it would not have included these three permit actions, or would have defined these permit actions to demonstrate a clear intent that they have broad applicability.

666. The MPCA respectfully disagrees that the proposed rules would not require facilities seeking permit reissuances and "minor" expansions to conduct a cumulative impacts analysis. Every reissuance permit will be required to submit an initial assessment where a cumulative impacts analysis may be required.

667. The MPCA acknowledges that it has exempted some small changes in the definition proposed for facility expansion, and those will not be required to conduct a cumulative impacts analysis. This is because some small changes do not require a permit amendment application to make, as required by Minn. Stat. § 116.065, subd. 2(a), or are already considered to have lower impacts that are unlikely to substantially impact the environment or health, as required by Minn. Stat. § 116.065, subd. 3(a)(1). While minor amendments require an application, they are considered to have lower impacts based on the lower level of potential emissions and permit changes allowed by the amendment type, and applicants are able to make those changes seven working days after an application is received, prior to review and issuance of the permit. Small change exemptions are discussed on page 64 of the SONAR:

> *"Several types of permit actions are not included in the definition of facility expansion. For example, contravening permit terms (under part 7007.1350) and administrative amendments (under part 7007.1400) are not included as part of the facility expansion definition because these types of actions cannot involve an increase in emissions. Insignificant modifications (under part 7007.1250) are also not considered a facility expansion because there is no permit application needed to make the change. It is reasonable to exclude these types of activities from facility expansion because there would not be an emissions increase, or there would be no permit application that could be acted on"*
>
> *"Minor amendments (under part 7007.1450, subp. 2) are not included as facility expansions. A modification that qualifies for a minor amendment permit must have emissions below the thresholds in part 7007.1450, subp. 2. The existing permitting rule structure allows applicants for a minor amendment to make the modification seven working days after the application is received. This is meant to reduce the resources needed for processing these lower impact permit actions and allow the Agency to focus on the permit actions that have higher emission increases and/or higher regulatory analyses. It is reasonable to exclude minor amendments because they are already considered to have lower impacts based on the structure of the air permitting rules. By staying consistent with the current rule structure, the Agency can continue to focus efforts on potential impacts on the environment and health of residents from facility expansion permits that result in higher emissions increases or that result in a new permit."*

668. While minor amendments are exempted, all moderate and major permit amendments that increase emissions are still required to submit an initial assessment and may be required to conduct

a cumulative impacts analysis.

669. Furthermore, the proposed rules provide an avenue to consider changes that have previously occurred at the facility that are not otherwise identified in the application for the requested permit action. Part 7007.6050, subpart 3 identifies the required content of an initial assessment. Part 7007.6050, subpart 3, item K identifies that the initial assessment must include a description of certain structural or operational changes. As stated in the SONAR (p. 86), this description is intended to provide the MPCA with the relevant information needed to make an informed determination regarding whether to require a cumulative impacts analysis and could include a variety of changes that have occurred at the facility since rule adoption or the most recently approved cumulative impacts analysis.

Benchmarks for reissuance permits

670. The MPCA received 50 comments regarding the benchmarks for reissuance permits. Many commenters expressed concern that existing facilities will not be required to conduct a cumulative impacts analysis based on the enforcement action benchmarks, and that other benchmarks or pathways are needed. Many commenters emphasized the importance of evaluating existing facilities based on environmental and health conditions in the surrounding community and the actual pollution impacts of the facility. Others commented that enforcement action history is inadequate for evaluating existing facilities and that the 3-year enforcement action window is too short. At the same time, some commenters considered the enforcement action trigger unreasonable because it would apply to non-air related enforcement actions, would apply to resolved enforcement actions, and would likely cause every air permit reissuance to trigger a cumulative impacts analysis due to the applicability of minor enforcement actions.

671. **Hankerson-019-07:** Stephanie Hankerson stated, “Please broaden the pathway for facilities with existing permit reissuances to be required to be considered for CI analysis. In the case of the facility in my previous example, it has taken 3 years from Federal clean air violations to submission of a new application to the MPCA. Considering the time it takes the state, and often Federal agencies, to execute enforcement actions, I disagree that a 3 year history of enforcement actions is a long enough window A stronger and more protective approach would require cumulative impacts analyses based on the actual environmental and public health conditions experienced by the surrounding community, together with the facility's demonstrated pollution burden, rather than relying on a limited enforcement timeline.”

672. **Bonin-025-03:** Elizabeth Bonin stated, “I also see that there’s no requirement for existing facilities to conduct a cumulative impacts analysis unless it has received a violation in the past three years. I think this is an oversight, as there are many existing facilities that are extremely damaging to EJ communities that have flown under the radar, and we deserve more information on the extent of that damage. Any existing facility should be required to conduct a cumulative impacts analysis based on the health of the community, such as asthma and cancer rates. The cumulative effects should also include highways, which have a massive negative effect on community health. In addition, three years is far too short to truly measure. The benchmark of violations should be raised from three years to seven to truly get an accurate picture.”

673. **Minnesota Chamber of Commerce-027-11:** The Minnesota Chamber of Commerce stated, “Another proposed benchmark in the rule for when a CIA is required is enforcement actions. The statute (Minn. Stat. 116.065, subd. 6 (c) (1)) requires MPCA to establish benchmarks to determine the need for a CIA. The proposed rule (7007.6070, subp. 1, A and 7007.6050, subp. 4, C) requires a CIA to be conducted as part of a permit reissuance if any of four types of enforcement actions for any environmental media have been issued to the permittee in the previous three years. The

Chamber considers this unreasonable if the enforcement actions have been resolved to MPCA's satisfaction. Once corrective actions have been completed and accepted by MPCA, the enforcement action should not independently trigger future CIA requirements. This proposed benchmark also does not account for the possibility that the enforcement actions in question may have arisen from paperwork errors that did not increase emissions or otherwise contribute to environmental stressors. If retained, the Chamber requests that this provision be limited to air-related enforcement actions. Otherwise, it is likely that every air permit reissuance will trigger a CIA due to minor enforcement actions (for example, actions related to construction stormwater, industrial stormwater, tanks, etc.)."

674. **University of Minnesota-030-38:** The University of Minnesota stated, **"Comment 6: MPCA should refine the compliance history criteria under proposed Minn. R. 7007.6050 to exclude mandatory CIA triggers for monetary infractions if the violation did not result in actual emissions, discharge or environmental contamination.**

Because the University manages a large facility spanning hundreds of academic, medical, and operational programs, it maintains thousands of routine regulatory touchpoints across various local, state, and federal agencies. Within an operation of this size and complexity, minor administrative oversights inevitably occur that bear no relationship to air quality, emissions, or community health risk.

For example, in the underground storage tank (UST) program, a tank owner can be issued a $50 citation for not passing the agency-administered Class A and B UST operator exam. Additionally, under the hazardous waste program, an out-of-date emergency contact on a contingency plan or a mislabeled hazardous waste container can result in a nominal monetary fee or a technical notice of violation. Under the Draft Rules, because these technically involve a monetary penalty, they could automatically trigger a full, resource-intensive CIA during a permit reissuance."

675. **University of Minnesota-030-39:** The University of Minnesota stated, **"Recommendation:**

Minn. R. 7007.6050, subp. 4.C should be revised to state:

If the requested permit action includes reissuance of a permit, the owner or operator of a stationary source must conduct a cumulative impacts analysis under part 7007.6090 if an enforcement action was issued to the stationary source by the commissioner, a county governmental authority delegated powers by agreement with the commissioner, or the United States Environmental Protection Agency for a violation that results in unpermitted emissions, discharges, or environmental contamination to any environmental media within the three years before the date the application for reissuance is received, for a violation:

(1) ~~for~~ relating to a failed performance test;
(2) that includes criminal enforcement;
(3) that includes a forgivable or nonforgivable monetary penalty; or
(4) that results in an administrative order.

A field citation under Minn. Stat. § 116.073, or similar citations issued by a County or City, alone does not result in a cumulative impact analysis under part 7007.6090."

676. **Minnesota Environmental Justice Table-031-02:** The Minnesota Environmental Justice Table stated, "As a member of the Frontline Communities Protection Coalition, MNEJT fought for the Cumulative Impacts Law with a particular polluting facility in mind: the Hennepin Energy Recovery Center (HERC). The intent of the law passed was to force existing large polluters like HERC to examine the cumulative burden they place on EJ communities and engage with communities about

mitigating these impacts. We can see this in the law's definition of environmental justice (MN Statute 116.065, Subdivision 1, Part d): "the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." This fair treatment involves acknowledging and addressing the existing harm faced by communities already living near major polluters. MPCA has itself mentioned HERC in relation to this law on multiple occasions, including on its website.

We are deeply concerned that the rules as drafted would allow the HERC to skip the cumulative impacts analysis because it is an existing facility that has not had a violation listed in 7007.6050, Subpart 4, Item C. This is not fair treatment of the EJ communities near North Minneapolis, and we strongly urge the MPCA to reconsider this portion of the rules in particular.

Our following comments go into detail about the strengths of the rules and areas for improvement."

677. **Minnesota Environmental Justice Table-031-05:** The Minnesota Environmental Justice Table stated, "**Determination of need**

In terms of the benchmarks for requiring a CI analysis, we appreciate that new facilities must conduct a CI analysis, but we are concerned about the requirements for existing facilities.

- Existing facilities that are undergoing permit reissuances would only be required to conduct a CI analysis if they received particular violations in the last 3 years. The effects of this stipulation are unfortunate. Many large polluting facilities could avoid CI analysis even though they are major contributors to the existing cumulative impacts in those areas. **Instead, we recommend that 7007.6050, Subpart 4, Item C be replaced with one of the following three options for existing facilities undergoing permit reissuances:**
    - **These facilities are required to conduct a CI analysis upon their first permit reissuance after these rules take effect.**
    - **Such facilities that are already emitting above certain thresholds or ones that are located in communities with a high number of existing adverse stressors are required to conduct a CI analysis upon their first permit reissuance.**
    - **Community members have the opportunity to petition for a CI analysis for such an existing facility.**"

678. **Minnesota Center for Environmental Advocacy-032-02:** The Minnesota Center for Environmental Advocacy stated, **"**MCEA writes today to emphasize one section of that comment, regarding the benchmarks for mandatory cumulative impacts assessments. Under Section 7007.6050, subpart 4, of the draft rule, MPCA proposes benchmarks for when a permit applicant must perform a cumulative impacts (CI) analysis. This section of the draft rules implements Minn. Stat. section 116.065, subd. 3 (c)(2) and subd. 6(c)(1).

In subpart 4.A of the draft rule, a CI analysis is required for all permit applicants proposing a newly constructed facility. MCEA and the FCP support this provision.

However, in subpart 4.B of 7007.6050 of the draft rule, a CI analysis is only required for a facility expansion when that expansion independently has the potential to contribute to air pollution above certain listed rates. In other words, the benchmark for a cumulative impact assessment does not account for ongoing pollution from the pre-existing facility.

Similarly, in subpart 4.C of 7007.6050 of the draft rule, a CI analysis is only required for permit reissuances when the source was the target of an enforcement action for a violation within the past three years. Because of this, a stationary source seeking a permit reissuance can avoid a mandatory

CI analysis if it has not been the subject of an enforcement action, regardless of how much ongoing pollution the source is contributing to harming public health.

MCEA agrees with the recommendation stated in the FCP Coalition comment: "we strongly recommend having the benchmarks for permit expansions and permit reissuances be the same: specifically, the MPCA should set a benchmark that considers total emissions from the stationary source and any proposed expansion, as well as the existing health stressors in the community."

This approach would align the implementing rule more closely with the statute. Section 116.065, subd., 1 defines "permit" to include permits for new construction, permits for facility expansions, and permit reissuances." Nowhere in the statute does the text direct the MPCA to use different benchmarks depending on whether the facility is new or pre-existing. The pollution from old facilities is as harmful as the pollution from new facilities. This approach is consistent with what a cumulative impact regulatory structure is typically designed to address: the disparities in health and well-being from many overlapping factors, including the impacts of multiple ongoing pollution sources, social and economic stressors, and systemic environmental injustice.

Thank you for the opportunity to comment on the proposed rule implementing Minnesota's critical cumulative impacts law."

679. **Frontline Communities Protection Coalition-034-13:** The Frontline Communities Protection Coalition stated, "Subp. 4. **Benchmarks for requiring cumulative impacts analysis** - We support the requirement of a cumulative impacts analysis for any requested permit action that includes new construction. For item (B) facility expansion, we believe this benchmark should consider the total potential emissions from the stationary source rather than just from the expansion. There is no reason to view a facility expansion as a separate impact from the rest of the facility.

While we believe that enforcement actions are a reasonable benchmark for requiring permit reissuances to conduct a CI analysis, **we do not think this should be the only benchmark**. This law was passed in large part because environmental justice communities in Minnesota are already facing a cumulative impacts burden. The only way we can begin to reduce this burden is by requiring an analysis for existing facilities based on their emissions and how overburdened the community is. **We strongly recommend having the benchmarks for permit expansions and permit reissuances be the same: specifically, the MPCA should set a benchmark that considers total emissions from the stationary source and any proposed expansion, as well as the existing environmental and health stressors in the community**. Under this proposal, a facility will be required to conduct a cumulative impacts analysis if their emissions exceed pollution based benchmarks or if the community is experiencing an adverse cumulative stressor. These benchmarks should be designed to require a cumulative impacts analysis of at least some permit reissuances. This will ensure that these rules can begin addressing the existing cumulative impacts burden."

680. **Frontline Communities Protection Coalition-034-14:** The Frontline Communities Protection Coalition stated, "We also strongly recommend expanding the three year window in which facilities that have a history of enforcement actions would be subject to mandatory cumulative impacts analysis. Given the already lengthy time of enforcement actions and settlement periods, we recommend increasing this window to at least six years."

681. **Frontline Communities Protection Coalition-034-15:** The Frontline Communities Protection Coalition stated, "Environmental justice communities already experience disproportionately high pollution burdens and associated health impacts, including higher rates of asthma, cardiovascular disease, cancer, and other chronic illnesses. These existing conditions are the result of decades of emission from existing facilities. **If a cumulative impacts analysis is effectively required only for**

new facilities or only for the incremental emissions from facility expansions, the law will fail to address the very burdens it was designed to confront."

682. **Minnesota Public Health Association-035-03:** The Minnesota Public Health Association stated, "**7007.6050. Permit reissuance**. Permit reissuances need benchmarks for requiring a cumulative impacts analysis that are based on the pollution impacts of the facility and health and environmental conditions in the community, in addition to consideration of enforcement actions. Many EJ communities are already facing a cumulative impacts burden from decades of exposure to pollution from existing facilities. We recommend that an owner/operator applying for a permit reissuance be required to submit an analysis of the facility's impacts on environmental stressors of an EJ area similar to that required in the initial assessment for new facilities to determine if a complete cumulative impacts analysis would be required."

683. **Health Professionals for a Healthy Climate-038-03:** Health Professionals for a Healthy Climate stated, **"7007.6050, subp. 4, C, Permit reissuance**. HPHC agrees with the Frontline Communities Protection Coalition (FCPC) comment that permit reissuances need benchmarks that are based on the pollution impacts of the facility and health and environmental conditions in the community, in addition to consideration of enforcement actions. Considering enforcement actions alone does not comply with MN statutes 116.065, subd. 1(h), which includes "reissuance of an existing permit" in the definition of "permit," nor with the definition of environmental justice in subd. 1(d)(2), which states that for decisions that affect a community "due consideration is given to the history of the area's and its residents' cumulative exposure to pollutants."

Many EJ communities are already facing a CI burden from decades of exposure to pollution from existing facilities. We strongly recommend creating an additional set of benchmarks for permit reissuances based on emissions and existing community stressors and how the proposed facility will impact these community stressors. This will ensure that these rules can begin addressing the existing cumulative impacts burden."

684. **Norrgard-040-06:** Lois Norrgard stated, "Permit Reissuances: Permit reissuances need benchmarks for requiring a cumulative impacts analysis that are based on the pollution impacts of the facility and existing health and environmental conditions in the community. In particular the Hennepin Energy Recovery Center (HERC) is an unacceptable health impact to the surrounding community – this garbage burning facility should go through a robust Cumulative Impacts Analysis and all subsequent steps.

Our regulatory system has a history of favoring corporations over people, and that has to change.

The intent of this law is to reduce pollution in overburdened environmental justice areas, increase transparency, and provide residents a real say in which facilities get permitted. It is an opportunity to ensure the law empowers our marginalized and overburdened communities to determine for themselves if a polluting facility should be allowed in their space."

685. **Frontline Communities Protection Coalition (compiled comments)-045-08**: Aubree Derksen stated, "The Current Rule States: Requiring a Cumulative Impacts (CI) Analysis

- New permits: Anytime a new permit includes new construction, the facility must conduct a CI analysis.
- Permit expansions: There is a list of pollutants. If a facility expansion will emit any of them above certain hourly limits, the facility must conduct a CI analysis.
- Permit reissuances: A facility that has received an enforcement action (failed performance test, criminal enforcement, fine, or administrative order) in the three years leading up to its application must conduct a CI analysis.

- The Commissioner may also require a CI analysis if they review the Initial Assessment and/or a petition and determine that there is material evidence of a potential substantial impact.
- There is also a two-year buffer period for permit reissuances. Any facility applying for a permit reissuance in the 24 months following these rules going into effect will not be required to conduct a CI analysis.

I support the first two bullets and suggest a change to Bullet #3. Instead of using a three-year timeframe, the rule should use a one-year timeframe, as the goal is to minimize cumulative impacts. According to the MPCA's website, enforcement actions are expected to be corrected within 30 days. There is no need to allow a facility three years to accumulate enforcement actions. To minimize and prevent cumulative impacts, facilities need to undergo a CI analysis sooner."

686. **Frontline Communities Protection Coalition (compiled comments)-045-12:** Charles Campbell stated, "Hello, I am a concerned citizen of Minneapolis. Permit reissuances need benchmarks for requiring a cumulative impacts analysis that are based on the pollution impacts of the facility and the health and environmental conditions of the surrounding community. Many EJ communities are already facing cumulative impacts burdens from decades of exposure to pollution.

I recommend using the existing environmental stressors in impacted EJ areas, along with pollution emissions from facilities, as criteria for requiring a cumulative impacts analysis for permit reissuances. This would better accomplish the goal of the law by addressing the existing cumulative impacts burden.

As a member of the Minneapolis community, I am concerned about the well-being and health of all our residents."

687. **Frontline Communities Protection Coalition (compiled comments)-045-21:** Lynn Anderson stated, "I recommend using existing environmental stressors in impacted EJ areas, along with pollution emissions from facilities, to require a cumulative impacts analysis for permit reissuances.

The MPCA must demonstrate genuine concern and empathy for residents' concerns over time and should not continue reissuing permits without considering the long-term impacts on lower-income communities, communities of color, and, frankly, all of us and future generations."

688. **Frontline Communities Protection Coalition (compiled comments)-045-24:** Natasha Villanueva stated, "Due to the lax regulation of HERC's pollution, Hennepin County has been able to avoid enforcement actions with impunity. We must expand the threshold for requiring a CI analysis beyond enforcement actions to include regular examination of recognized sources of pollution whenever they reapply for a permit. Facilities should be required to demonstrate compliance with more stringent modern standards rather than being given the benefit of the doubt through automatic permit renewal.

MPCA should require a cumulative impacts analysis for permit reissuances based on the existing health and environmental conditions in the community and the actual pollution burden of the facility.

Polluters such as HERC must take into account existing community health conditions—including elevated rates of respiratory illness, cardiovascular disease, and cancer—before being allowed to continue contributing to those burdens. We must insist that HERC's permit renewal or denial be contingent upon a collective review of the multiple pollution sources concentrated in our area, including highway emissions, in addition to HERC's own substantial impacts on our health, longevity, and quality of life. Thank you for your attention to my recommendation as a constituent who will directly benefit from clearly defined and strong Cumulative Impacts rules and protections."

689. **Frontline Communities Protection Coalition (compiled comments)-045-30:** Ianni Houmas stated, “1. Set Clear Permit Reissuance Benchmarks. The draft rules lack health-based triggers for requiring a cumulative impacts analysis during permit renewals, ignoring decades of historical exposure. Please require a full cumulative impacts analysis for all permit reissuances whenever the existing environmental stressors in an impacted area (such as freeway pollution, aviation lead, and diesel emissions) coincide with high facility emissions.”

690. **Frontline Communities Protection Coalition (compiled comments)-045-37:** April Graves stated, “As both a mayor and a public health practitioner, I know that health outcomes are shaped by the cumulative conditions in which people live—not by a single exposure. That same principle should guide these rules. Permit renewals should require cumulative impacts analyses whenever facilities operate in communities that already experience elevated environmental and public health burdens. Existing pollution, health disparities, and environmental stressors should be considered alongside any new or continued emissions.”

691. **Frontline Communities Protection Coalition (compiled comments)-045-53:** Allan Campbell stated, “I recommend using the existing environmental stressors in impacted environmental justice (EJ) areas, along with pollution emissions from facilities, to require a cumulative impacts analysis for permit reissuances. This would better accomplish the goal of the law by addressing the existing cumulative impacts burden.”

692. **Frontline Communities Protection Coalition (compiled comments)-045-56:** Judy Gregg stated, “I personally live in a privileged community where the air is clean, and neither my health nor my neighbors' health is affected by industrial pollution. My quality of life has not been impacted. However, I care deeply about how other people are forced to live. My concern with this law is that, while it will affect new facilities, it may have no effect on HERC because it has no known violations.

My recommendation is that existing facilities like HERC be required to conduct a cumulative impacts analysis whenever their permits come up for renewal. They should not be grandfathered in. This would ensure that communities that have lived for years in areas affected by multiple sources of pollution have an opportunity for cleaner air.”

693. **Frontline Communities Protection Coalition (compiled comments)-045-60:** Karen Lunde stated, “Here are my additional concerns and recommendations regarding the proposed cumulative impacts rules:

Permit reissuances need benchmarks for requiring a cumulative impacts analysis that are based on the pollution impacts of the facility and the health and environmental conditions in the community. Many environmental justice (EJ) communities are already facing a cumulative impacts burden from decades of exposure to pollution.

I recommend using the existing environmental stressors in impacted EJ areas, along with pollution emissions from facilities, to require a cumulative impacts analysis for permit reissuances. This will better accomplish the goal of the law by addressing the existing cumulative impacts burden.”

694. **Frontline Communities Protection Coalition (compiled comments)-045-64:** Freddy Perdomo stated, “También considero importante que, cuando las instalaciones existentes renueven sus permisos, se les exija un análisis de impactos acumulativos que tome en cuenta la contaminación que ya existe en la comunidad y sus efectos en la salud.

[I also believe that when existing facilities renew their permits, they should be required to complete a cumulative impacts analysis that considers the pollution already present in the community and its effects on health.]”

695. **Frontline Communities Protection Coalition (compiled comments)-045-77:** Chel Anderson stated, “Require cumulative impacts analyses during permit reissuances. When permits are being renewed, the rules should require benchmarks that evaluate cumulative effects based on existing pollution sources and current health and environmental conditions in the community.”

696. **Frontline Communities Protection Coalition (compiled comments)-045-80:** Bridget Guiza stated, “The following are identified problems and recommended solutions: Permit reissuances need benchmarks for requiring a cumulative impacts analysis that are based on facility pollution impacts and the health and environmental conditions of the community. Many environmental justice (EJ) communities are already experiencing cumulative impacts from decades of exposure to pollution. I recommend using existing environmental stressors in impacted EJ areas, along with pollution emissions from facilities, to require a cumulative impacts analysis during permit reissuances. This would better accomplish the goal of the law by addressing existing cumulative impacts burdens.”

697. **Frontline Communities Protection Coalition (compiled comments)-045-84:** Adam Daire stated, “To truly protect environmental justice communities, the MPCA must establish clear benchmarks that trigger cumulative impacts analyses for permit renewals, specifically considering a community’s existing pollution levels and health burdens.”

698. **Frontline Communities Protection Coalition (compiled comments)-045-91**: B Pearlman stated, “I want to add my voice to others asking you to keep these laws strong and ensure they protect those who are most vulnerable. I urge you to use existing environmental stressors in impacted EJ areas, along with pollution emissions from facilities, to require a cumulative impacts analysis for permit reissuances. This will better accomplish the goal of the law to address the existing cumulative impacts burden.”

699. **Frontline Communities Protection Coalition (compiled comments)-045-97:** Beth Daniels stated, “Additionally, permit reissuances should require a CI analysis based on existing community conditions and the actual pollution burden of the facility.”

700. **Frontline Communities Protection Coalition (compiled comments)-045-144:** Side Corridor Residents, Owatonna East stated, “3. Comments on Proposed Rule: Initial Assessment: For nearly four years, our community has participated in environmental review for a development-driven transportation project. Through that experience, we learned that the information included in an Initial Assessment can determine whether additional environmental review takes place. When an Initial Assessment is incomplete, narrowly focused, or missing important information, significant cumulative impacts may never receive the level of evaluation they require.

We support requiring Initial Assessments for projects near Environmental Justice (EJ) communities and making those assessments publicly available. However, we recommend strengthening the Initial Assessment process to ensure it is independent, comprehensive, transparent, and deserving of public confidence.”

701. **Frontline Communities Protection Coalition (compiled comments)-045-145:** Side Corridor Residents, Owatonna East stated, “Initial Assessments should be required for projects proposed within five miles of a designated EJ area. Transportation corridors, increased traffic, noise, air emissions, and growth-inducing projects often impact communities far beyond a one-mile radius and can further burden communities already experiencing environmental challenges.

The Initial Assessment should evaluate not only the direct impacts of a proposed project, but also the reasonably foreseeable growth and development the project is intended to support. It should consider a broad range of cumulative environmental stressors, including noise, traffic, lighting,

vibration, stormwater impacts, habitat fragmentation, air pollution, and other environmental conditions—not only regulated emissions.

The assessment should also evaluate the presence of vulnerable populations and sensitive locations, including schools, childcare facilities, healthcare facilities, senior housing, and communities with higher concentrations of children, older adults, individuals with disabilities, and people living with chronic health conditions."

702. **Frontline Communities Protection Coalition (compiled comments)-045-146:** Side Corridor Residents, Owatonna East stated, "We are concerned that the proposed rules allow the Project Proposer to prepare the Initial Assessment that will be used to determine whether additional review is required. This creates an inherent conflict of interest because the entity seeking approval for a project is also responsible for preparing the analysis that determines whether additional scrutiny is necessary.

The Initial Assessment should instead be prepared by the MPCA or by an independent third party selected or approved by the MPCA, with the cost covered by the Project Proposer. This approach would promote objectivity, strengthen public confidence, and ensure that decisions are based on an independent evaluation rather than an assessment prepared by an applicant seeking approval."

703. **Frontline Communities Protection Coalition (compiled comments)-045-147:** Side Corridor Residents, Owatonna East stated, "The public should also have a meaningful opportunity to review and challenge the completeness and accuracy of an Initial Assessment before the MPCA determines whether a cumulative impacts analysis is required. If substantive comments or credible evidence identify material omissions, inaccuracies, or deficiencies, the MPCA should require the assessment to be corrected, supplemented, or expanded before making a final determination.

The rules should establish a clear, timely, and accessible process for incorporating new information into an Initial Assessment, with formal appeals serving as a last resort when concerns cannot otherwise be resolved."

704. **Frontline Communities Protection Coalition (compiled comments)-045-184:** Max McMeeken stated, "Many EJ communities are already facing a cumulative impacts burden from decades of exposure to pollution. I recommend using existing environmental stressors of impacted EJ areas and pollution emissions from facilities to require a cumulative impacts analysis for permit reissuances. This will better accomplish the goal of the law to address the existing cumulative impacts burden."

705. **Frontline Communities Protection Coalition (compiled comments)-045-189:** Gretchen Larson stated, "Use existing environmental stressors of impacted EJ areas and pollution emissions from facilities to require a cumulative impacts analysis for permit reissuances. This will better accomplish the goal of the law to address the existing cumulative impacts burden. No more stop gap measures including writing unenforceable, vague language into the repermiting [sic] standards."

706. **Frontline Communities Protection Coalition (compiled comments)-045-206:** Aubree Derksen stated, "I recommend using existing environmental stressors of impacted EJ areas and pollution emissions from facilities to require a cumulative impacts analysis for permit reissuances. This will better accomplish the goal of the law to address the existing cumulative impacts burden."

707. **Health Professionals for a Healthy Climate (compiled comments)-046-06:** Ava Corey Gruenes stated, "The MPCA Cumulative Impacts (CI) proposed rules support the need for consideration of cumulative impacts in air permitting decisions. Air pollution contributes to Minnesota's significant health disparities and improving air quality is critical in reducing health inequities in the Twin Cities, Duluth, and Rochester.

The draft rules lay out a detailed process for when and how a cumulative impacts analysis is conducted. However, there are three areas in the draft rules which should be strengthened to better protect environmental justice (EJ) communities consistent with the language of the law, which are the following:

1. Permit reissuances: Permit reissuances must consider pollution impacts of the facility and specific conditions in the community, in addition to consideration of past enforcement actions. An owner/operator applying for a permit reissuance should be required to submit an analysis of the facility's impacts on environmental stressors of an environmental justice area similar to that required in the initial assessment for new facilities to determine if a complete cumulative impacts analysis should be required."

708. **Health Professionals for a Healthy Climate (compiled comments)-046-10:** Ava Corey Gruenes stated, "The MPCA Cumulative Impacts (CI) proposed rules support the need for consideration of cumulative impacts in air permitting decisions. Air pollution contributes to Minnesota's significant health disparities and improving air quality is critical in reducing health inequities in the Twin Cities, Duluth, and Rochester. The draft rules lay out a detailed process for when and how a cumulative impacts analysis is conducted. However, there are three areas in the draft rules which should be strengthened to better protect environmental justice (EJ) communities consistent with the language of the law, which are the following:

1. Permit reissuances: Permit reissuances must consider pollution impacts of the facility and specific conditions in the community, in addition to consideration of past enforcement actions. An owner/operator applying for a permit reissuance should be required to submit an analysis of the facility's impacts on environmental stressors of an environmental justice area similar to that required in the initial assessment for new facilities to determine if a complete cumulative impacts analysis should be required."

709. **Health Professionals for a Healthy Climate (compiled comments)-046-14:** Ava Corey Gruenes stated, "The MPCA Cumulative Impacts (CI) proposed rules support the need for consideration of cumulative impacts in air permitting decisions. Air pollution contributes to Minnesota's significant health disparities and improving air quality is critical in reducing health inequities in the Twin Cities, Duluth, and Rochester. The draft rules lay out a detailed process for when and how a cumulative impacts analysis is conducted. However, there are three areas in the draft rules which should be strengthened to better protect environmental justice (EJ) communities consistent with the language of the law, which are the following:

1. Permit reissuances: Permit reissuances must consider pollution impacts of the facility and specific conditions in the community, in addition to consideration of past enforcement actions. An owner/operator applying for a permit reissuance should be required to submit an analysis of the facility's impacts on environmental stressors of an environmental justice area similar to that required in the initial assessment for new facilities to determine if a complete cumulative impacts analysis should be required."

710. **Health Professionals for a Healthy Climate (compiled comments)-046-18:** Ava Corey Gruenes stated, "The MPCA Cumulative Impacts (CI) proposed rules support the need for consideration of cumulative impacts in air permitting decisions. Air pollution contributes to Minnesota's significant health disparities and improving air quality is critical in reducing health inequities in the Twin Cities, Duluth, and Rochester. The draft rules lay out a detailed process for when and how a cumulative impacts analysis is conducted. However, there are three areas in the draft rules which should be strengthened to better protect environmental justice (EJ) communities consistent with the language of the law, which are the following:

1. Permit reissuances: Permit reissuances must consider pollution impacts of the facility and specific conditions in the community, in addition to consideration of past enforcement actions. An owner/operator applying for a permit reissuance should be required to submit an analysis of the facility's impacts on environmental stressors of an environmental justice area similar to that required in the initial assessment for new facilities to determine if a complete cumulative impacts analysis should be required."

711. **Health Professionals for a Healthy Climate (compiled comments)-046-22:** Ava Corey Gruenes stated, "The MPCA Cumulative Impacts (CI) proposed rules support the need for consideration of cumulative impacts in air permitting decisions. Air pollution contributes to Minnesota's significant health disparities and improving air quality is critical in reducing health inequities in the Twin Cities, Duluth, and Rochester. The draft rules lay out a detailed process for when and how a cumulative impacts analysis is conducted. However, there are three areas in the draft rules which should be strengthened to better protect environmental justice (EJ) communities consistent with the language of the law, which are the following:

1. Permit reissuances: Permit reissuances must consider pollution impacts of the facility and specific conditions in the community, in addition to consideration of past enforcement actions. An owner/operator applying for a permit reissuance should be required to submit an analysis of the facility's impacts on environmental stressors of an environmental justice area similar to that required in the initial assessment for new facilities to determine if a complete cumulative impacts analysis should be required."

712. **Health Professionals for a Healthy Climate (compiled comments)-046-26:** Ava Corey Gruenes stated, "The MPCA Cumulative Impacts (CI) proposed rules support the need for consideration of cumulative impacts in air permitting decisions. Air pollution contributes to Minnesota's significant health disparities and improving air quality is critical in reducing health inequities in the Twin Cities, Duluth, and Rochester. The draft rules lay out a detailed process for when and how a cumulative impacts analysis is conducted. However, there are three areas in the draft rules which should be strengthened to better protect environmental justice (EJ) communities consistent with the language of the law, which are the following:

1. Permit reissuances: Permit reissuances must consider pollution impacts of the facility and specific conditions in the community, in addition to consideration of past enforcement actions. An owner/operator applying for a permit reissuance should be required to submit an analysis of the facility's impacts on environmental stressors of an environmental justice area similar to that required in the initial assessment for new facilities to determine if a complete cumulative impacts analysis should be required."

713. **Health Professionals for a Healthy Climate (compiled comments)-046-30:** Ava Corey Gruenes Climate stated, "The MPCA Cumulative Impacts (CI) proposed rules support the need for consideration of cumulative impacts in air permitting decisions. Air pollution contributes to Minnesota's significant health disparities and improving air quality is critical in reducing health inequities in the Twin Cities, Duluth, and Rochester. The draft rules lay out a detailed process for when and how a cumulative impacts analysis is conducted. However, there are three areas in the draft rules which should be strengthened to better protect environmental justice (EJ) communities consistent with the language of the law, which are the following:

1. Permit reissuances: Permit reissuances must consider pollution impacts of the facility and specific conditions in the community, in addition to consideration of past enforcement actions. An owner/operator applying for a permit reissuance should be required to submit an analysis of the facility's impacts on environmental stressors of an environmental justice area similar to that

required in the initial assessment for new facilities to determine if a complete cumulative impacts analysis should be required."

714. **Health Professionals for a Healthy Climate (compiled comments)-046-34:** Ava Corey Gruenes stated, "The MPCA Cumulative Impacts (CI) proposed rules support the need for consideration of cumulative impacts in air permitting decisions. Air pollution contributes to Minnesota's significant health disparities and improving air quality is critical in reducing health inequities in the Twin Cities, Duluth, and Rochester.

The draft rules lay out a detailed process for when and how a cumulative impacts analysis is conducted. However, there are three areas in the draft rules which should be strengthened to better protect environmental justice (EJ) communities consistent with the language of the law, which are the following:

1. Permit reissuances: Permit reissuances must consider pollution impacts of the facility and specific conditions in the community, in addition to consideration of past enforcement actions. An owner/operator applying for a permit reissuance should be required to submit an analysis of the facility's impacts on environmental stressors of an environmental justice area similar to that required in the initial assessment for new facilities to determine if a complete cumulative impacts analysis should be required."

715. **Health Professionals for a Healthy Climate (compiled comments)-046-38:** Ava Corey Gruenes stated, "The MPCA Cumulative Impacts (CI) proposed rules support the need for consideration of cumulative impacts in air permitting decisions. Air pollution contributes to Minnesota's significant health disparities and improving air quality is critical in reducing health inequities in the Twin Cities, Duluth, and Rochester. The draft rules lay out a detailed process for when and how a cumulative impacts analysis is conducted. However, there are three areas in the draft rules which should be strengthened to better protect environmental justice (EJ) communities consistent with the language of the law, which are the following:

1. Permit reissuances: Permit reissuances must consider pollution impacts of the facility and specific conditions in the community, in addition to consideration of past enforcement actions. An owner/operator applying for a permit reissuance should be required to submit an analysis of the facility's impacts on environmental stressors of an environmental justice area similar to that required in the initial assessment for new facilities to determine if a complete cumulative impacts analysis should be required."

716. **Health Professionals for a Healthy Climate (compiled comments)-046-43:** Ava Corey Gruenes stated, "The MPCA Cumulative Impacts (CI) proposed rules support the need for consideration of cumulative impacts in air permitting decisions. Air pollution contributes to Minnesota's significant health disparities and improving air quality is critical in reducing health inequities in the Twin Cities, Duluth, and Rochester. The draft rules lay out a detailed process for when and how a cumulative impacts analysis is conducted. However, there are three areas in the draft rules which should be strengthened to better protect environmental justice (EJ) communities consistent with the language of the law, which are the following:

1. Permit reissuances: Permit reissuances must consider pollution impacts of the facility and specific conditions in the community, in addition to consideration of past enforcement actions. An owner/operator applying for a permit reissuance should be required to submit an analysis of the facility's impacts on environmental stressors of an environmental justice area similar to that required in the initial assessment for new facilities to determine if a complete cumulative impacts analysis should be required."

717. **Cordia Energy Center Minneapolis-049-18:** Cordia Energy Center Minneapolis stated, "The statute requires MPCA to establish benchmarks to determine the need for a CIA. The proposed rule requires a CIA to be conducted as part of a permit reissuance if any of four types of enforcement actions for any environmental media have been issued to the permittee in the previous three years. Cordia considers this unreasonable if the enforcement actions have been resolved to MPCA's satisfaction."

718. **Minnesota Hospital Association-051-14:** The Minnesota Hospital Association stated, "**2. Permit Renewal Relief for Hospitals.**

Part 7007.6050, Subpart 4(C) (Lines 37.5–37.14)

Add new paragraph following Subpart 4(C):

> For hospitals licensed under Minnesota Statutes, chapter 144, a cumulative impacts analysis shall not be required solely due to permit reissuance unless the underlying enforcement action involved documented exceedances of applicable ambient air quality standards, health-risk benchmarks, or permit violations resulting in demonstrated harm to public health or the environment.

Reason: Routine permit renewals should not trigger extensive cumulative impacts review due to minor or administrative compliance matters unrelated to community health impacts."

719. **Prairie Island Indian Community-052-11:** Prairie Island Indian Community stated, "When permits are issued, the required three-year compliance history outlined in 7007.6040 Subp. 3-J is inadequate. Tribes and the public should have at least ten years of compliance history and enforcement actions. Three years does not ever cover the term of the permits."

720. **Gorfine-061-02:** Mary Gorfine stated, "I recommend 1) Include benchmarks based on health and include healthcare professionals in that process."

MPCA RESPONSE

721. The MPCA acknowledges the substantial feedback from commenters regarding the benchmarks for reissuance permits. The MPCA appreciates these perspectives and continues to weigh the benchmarks and considerations used for determining when a cumulative impacts analysis is required for existing facility reissuance permits.

722. The MPCA would like to clarify that the enforcement action benchmarks in part 7007.6050, subpart 4, are not the only way existing facilities applying for reissuance can be required to conduct a cumulative impacts analysis. The process for determining the need for a cumulative impacts analysis is found under part 7007.6070 and discussed in the SONAR (p. 97-101). As described under part 7007.6070, subpart 1 and 2, a cumulative impacts analysis can be required on a mandatory or discretionary basis. The enforcement action benchmarks under part 7007.6050, subpart 4, item C are used to determine when a cumulative impacts analysis is mandatory for a permit reissuance under part 7007.6070, subpart 1, item A. Other parts of the rule, such as part 7007.6050, subpart 3, item F, establish that environmental stressor information is required and will be considered as part of the cumulative impact analysis determination under part 7007.6070, subpart 3, item A, subitem (2). By design, for purposes of a mandatory cumulative impact analysis, the benchmarks are intended to be a specific, easily verifiable set of criteria for determining when a cumulative impacts analysis is required with no further consideration. As such, benchmarks will be one thing the MPCA considers when determining whether to require a cumulative impacts analysis.

723. If the benchmarks in part 7007.6070, subpart 1, Item A are not met, a cumulative impacts

analysis can still be required on a mandatory basis under part 7007.6070, subpart 1, item B, or on a discretionary basis under part 7007.6070, subpart 2. These circumstances require the MPCA to make additional considerations. As discussed in the SONAR (p. 99), part 7007.6070, subpart 3 establishes the information the commissioner must consider when determining need. The required considerations include: the permit application, the initial assessment, benchmarks, petitions, material evidence otherwise known to the commissioner, any other information/data the commissioner deems relevant, and an evaluation of the impacts that may be expected to occur using the criteria in subpart 4. As required by part 7007.6050, subpart 3,item F, the initial assessment must contain environmental and health stressor information from the CI-MAP tool that includes data on: air pollution, land pollution, water pollution, traffic, public health, social, and neighborhood factors. Furthermore, part 7007.6070, subpart 4 establishes the criteria the MPCA must use when evaluating environmental and health impacts for the mandatory basis under part 7007.6070, subpart 1, item B. As discussed in the SONAR (p. 99-100):

> *"Item A requires the commissioner to consider the type, extent, and reversibility of potential impact… This is needed because environmental or health impacts vary in the severity of damage depending on the type, extent or reversibility…The reversibility of chemical stressors is important to consider because some chemicals may bioaccumulate or persist in the environment for long periods of time…The type, extent and reversibility of all impacts is needed for complete consideration of the total impact of issuing the permit."*

724. Part 7007.6070, subpart 4 also requires the MPCA to consider the cumulative impacts, other contributions to the impact, proposals to minimize impacts, how impacts are currently being minimized, other regulatory efforts to mitigate impacts, and the extent to which impacts can be controlled.

725. To summarize the determination of need process, a cumulative impacts analysis for a reissuance permit can be required based on: benchmarks, information contained in the application and initial assessment, an evaluation of impacts on environment and health, material evidence otherwise known to the MPCA, any other information and data the MPCA deems relevant, petitions, insufficient information, or because it was voluntary.

726. When a reissuance application is received, the MPCA believes starting with specific, verifiable benchmarks before proceeding to a broader set of environmental, health, pollution, and impact related considerations is appropriate for the variety of facilities, communities, areas, and situations the MCPA expects to evaluate.

727. The MPCA would like to clarify the justification for using three years of enforcement action history as the reissuance benchmark trigger for a mandatory cumulative impacts analysis under part 7007.6050, subpart 4, item C. As discussed in the SONAR (p. 89), three years was chosen to be consistent with Minn. Stat. § 541.075 which has a three-year limit for imposing penalties for violations. Additionally, since a reissuance application is typically due at least six months prior to the permit expiration date, this shortens the permit term under consideration to less than five years. Furthermore, this applies to enforcement actions that have been issued, meaning enforcement actions for violations that occur at the beginning of a five year permit term are likely to be issued later in the three year window established by the rule. The MPCA believes this provides adequate coverage of the permit term while remaining consistent with statutory limit on imposing penalties. An enforcement action window that exceeds five years would carry into the previous permit term that would have already been assessed during the previous reissuance. It is also important to note that the benchmark includes enforcement actions issued by other regulatory agencies for any environmental media and those are unlikely to align with the five year air permit term.

728. The MPCA respectfully disagrees that “it is likely that every air permit reissuance will trigger a cumulative impacts analysis due to minor enforcement actions.” or that it is “unreasonable” to assess the potential impact of resolved enforcement actions or enforcement actions for other media. Cumulative impacts is defined under part 7007.6010, subpart 13 and is the same definition provided in Minn. Stat. § 116.065, subd. 1(c). Per the rule and statute, "*Cumulative impacts means the impacts of aggregated levels of past and current air, water, and land pollution in a defined geographic area to which current residents are exposed.*" So while an enforcement action may be resolved, the past impacts from it still need to be considered. The MPCA maintains that a cumulative impacts analysis is needed to determine if there was a substantial adverse impact from an applicable enforcement action. Likewise, the definition of cumulative impacts includes air, water, and land pollution. The MPCA also maintains that an applicable enforcement action for water or land pollution could be indication of an impact to which residents were exposed and that a cumulative impacts analysis is needed to determine if it was a substantial adverse impact. As discussed in the SONAR (p. 89), the MPCA does not intend for every enforcement action to trigger a cumulative impacts analysis upon reissuance, and has chosen actions for violations that may have a substantial adverse impact on the environment or health of residents. Enforcement actions for minor violations that do not involve a monetary penalty, such as letters of warning, notices of violation, orders of sanction, red tags, requests for information, or schedules of compliance are not included in the benchmark. The MPCA did not set a minimum amount for monetary penalties because sometimes serious violations can result in small monetary penalties. Based on the substantial feedback regarding existing facility operations and reissuances, the MPCA maintains that a history of violations can be indicative of larger operational concerns that may have the potential for significant or substantial adverse impact and should be further assessed with a cumulative impacts analysis.

729. With regard to existing facilities like the Hennepin Energy Recovery Center (HERC), all facilities with an air permit that meet the statutory definitions from Minn. Stat. § 116.065, subd. 1(h) and Minn. Stat. § 116.065, subd. 2 will be subject to the rule and benchmarks when applying for new construction (first-time permit for an existing unpermitted facility), facility expansion, or reissuance, as defined under part 7007.6010. The MPCA would like to clarify that the one-mile applicability range is determined by Minn. Stat. § 116.065, subd. 2. When a subject facility is applying for one of these permit actions, Minn. Stat. § 116.065, subd. 3(b) requires additional information to be prepared and included by the applicant when submitting their permit application. This additional information is the contents of the initial assessment, proposed under part 7007.6050, subpart 3, and includes information necessary for the proposed benchmarks. The MPCA is not responsible for completing or submitting the initial assessment.

Benchmarks for facility expansion permits

730. The MPCA received four comments regarding the benchmarks for facility expansion permits and how they relate to minor, moderate, and major permit amendments. Some commenters expressed concern that the facility expansion benchmarks are too strict and should be raised. Other commenters were in support of stricter benchmarks and wanted facility expansions, reissuances, and new construction to be treated the same.

731. **Minnesota Chamber of Commerce-027-48:** The Minnesota Chamber of Commerce stated, “d. The proposed rule (7007.6070, subp. 1, A) states that a CIA is required if the requested permit action meets or exceeds any of the benchmarks specified in 7007.6050, subp. 4. The proposed rule (7007.6050, subp. 4, B) sets benchmarks for a “facility expansion” as the potential hourly emission rates that would trigger a minor amendment (i.e., emission rates greater than what would be

considered insignificant, as explained on pages 87 to 88 of the SONAR). However, "facility expansion" is defined in 7007.0020, subp. 19, to include only moderate and major permit amendments (i.e., minor amendments are exempt from the proposed rule). The proposed rule, as currently written, would require every facility expansion to conduct a CIA because all moderate and major amendments would have potential emissions greater than the "insignificant thresholds" in 7007.6050, subp. 4, B. The Chamber requests that the moderate amendment emission rate thresholds be the benchmarks for requiring a mandatory CIA under 7007.6050, subp. 4, B."

732. **University of Minnesota-030-36:** The University of Minnesota stated, "**Comment 5: The justification for the mandatory CI analysis criteria pollutant emission rate benchmark values in Minn. R. 7007.6050, subp. 4.B, do not align with the definition of "facility expansion" in Minn. R. 7007.6010, subp. 19.**

In Minn. R. 7007.6050, subp. 4.B, the Draft Rules set pollutant thresholds for facility expansions for determining when owners and operators applying for a facility expansion permit are required to conduct a cumulative impacts analysis. These thresholds are too stringent and are inconsistent with the "facility expansion" definition in Minn. R. 7007.6010, subp. 19.

Specifically, in subp. 4.B(1), the Draft Rules establish pollutant thresholds to be used as benchmarks for facility expansion permits that are based on the thresholds for insignificant modifications under Minn. R. 7007.1250, and insignificant activities. Similarly, subp 4.B(2) establishes thresholds for certain individual hazardous air pollutants (HAPs) at the same level that is used for determining whether an emissions unit qualifies as an insignificant activity for the purpose of an initial application.

These thresholds are too restrictive and contradict the definition of "facility expansion" in Minn. R. 7007.6010, subp. 19. The definition of "facility expansion" states that "Facility expansion does not include a modification at a permitted stationary source that is allowed under part 7007.1250… or any minor permit amendment under 7007.1450." (Emphasis added.) In other words, "facility expansion" excludes the same activities at the same thresholds that Minn. R. 7007.6050, subp. 4 would use to require a mandatory CIA. The emissions from equipment such as small boilers that would otherwise not trigger a mandatory CIA by themselves if permitted through a minor amendment would, if included in a major amendment, require a mandatory CIA.

The SONAR justifies setting the mandatory CIA threshold at "the level for when a permit amendment is needed because it has been previously established that emissions above those thresholds are not insignificant."[SONAR at 88] It further states "[i]t is reasonable to set facility expansion thresholds for individual HAPs at the level used to determine that an emissions unit qualifies as an insignificant activity because an increase in excess of those thresholds is no longer insignificant."[SONAR at 88] MPCA does not provide any data to support this statement, and the fact that MPCA has set thresholds at which activities are "insignificant" does not mean that any exceedance of that threshold is "no longer insignificant."

This is particularly true when, as here, the Draft Rules do not always use the same units for the thresholds. Under Minn. R. 7007.1300, subp. 5, the thresholds for de minimis levels of certain emissions are measured in tons per year, but Minn. R. 7007.6050, subp. 4.B(2) would convert those thresholds to pounds per hour with no explanation for why the more stringent pounds per hour standard is justified."

733. **University of Minnesota-030-37:** The University of Minnesota stated, "**Recommendation:**

The emission rate benchmarks established under Minn. R. 7007.6050 subp. 4.B should be increased to the minor permit amendment thresholds established in Minn. R. 7007.1450, subp. 2. This change

aligns with the proposed "facility expansion" definition, which explicitly excludes insignificant modifications under 7007.1250 and minor amendments under 7007.1450, ensuring that a cumulative impacts analysis is reserved for moderate-to-major scale facility expansions that possess the potential to substantially affect public health or the environment, consistent with the statutory intent of Minn. Stat. § 116.065.

734. **Minnesota Environmental Justice Table-031-05:** The Minnesota Environmental Justice Table stated, "**Determination of need**

In terms of the benchmarks for requiring a CI analysis, we appreciate that new facilities must conduct a CI analysis, but we are concerned about the requirements for existing facilities.

- Existing facilities that are undergoing an expansion must meet threshold requirements for at least one pollutant. It seems logically incongruent to require a CI analysis for any new facility by default but not for facility expansions when facilities that are expanding could be increasing their emissions by the same amounts that a new facility is creating. **Expanding facilities should be treated just like new facilities.**"

MPCA RESPONSE

735. The MPCA acknowledges that moderate and major permit amendments will be required to conduct a cumulative impacts analysis if they increase emissions greater than the mandatory benchmarks established under part 7007.6050, subpart 4, item B. The MPCA disagrees that every moderate and major permit amendment will be required to conduct a cumulative impacts analysis. The expansion benchmark under part 7007.6050, subpart 4, item B specifies that the emissions increase is to be calculated according to part 7007.1200, subpart 3. This is an established calculation methodology already used by facilities when determining what type of amendment to apply for. It is a comparison of potential emissions before and after the proposed change, and allows for emission limits and decreases to be accounted for under certain circumstances. This means a major permit amendment could propose limits, controls, or other decreases such that the emissions increase is below the benchmarks and a cumulative impacts analysis would not be mandatory. As discussed in the SONAR (p. 63-64), a facility expansion must include a modification, as defined under part 7007.0100, subpart 14. A modification is defined as an increase of a regulated air pollutant and is determined using the same calculation methodology under part 7007.1200. Major amendments that do not include a modification (such as a proposed change to monitoring, or a change that decreases emissions) would not meet the definition of facility expansion and would not be subject to the proposed rules.

736. The MPCA respectfully disagrees with the comment, "emissions from equipment such as small boilers that would otherwise not trigger a mandatory CIA by themselves if permitted through a minor amendment would, if included in a major amendment, require a mandatory CIA." A moderate or major amendment that includes a small emissions increase less than the benchmarks is not automatically required to conduct a mandatory cumulative impacts analysis, but may still be required to conduct one on a discretionary basis when information other than benchmarks is considered in the determination of need process. The MPCA believes this is a reasonable balance for small emissions increases that require an amendment type that typically indicates a more significant change.

737. As noted in the SONAR (p. 88), an increase in excess of the insignificant thresholds is no longer insignificant because it is required to be further evaluated and permitted by the Agency. The MPCA is not making a statement on significance beyond noting the existing threshold for when further evaluation and permitting occurs and how the CI expansion benchmarks align with that. With regard

to units, the MPCA chose hourly as discussed under the definition of facility expansion (SONAR, p. 64). By definition, a facility expansion must include a modification. Under the definition of modification (part 7007.0100, subpart 14), emissions increases are determined by comparing the rate of emissions in pounds per hour before and after the change. In order to use this existing and familiar calculation methodology, the comparison must be done on an hourly basis. The MPCA is unable to assess potential short-term impacts if only provided annual rates. This is how permit amendment types are determined when applying for a change in Minnesota, and the MPCA intends for the proposed rule to be consistent with the existing process.

738. The MPCA respectfully disagrees that facility expansion benchmarks should be stricter or that facility expansion should be treated just like new construction. The facility expansion benchmarks are currently set at the lowest possible threshold for when a permit application is first required to be submitted. This is important because Minn. Stat. § 116.065, subd. 2(a) states, "This section applies to an application for a permit by a facility." A lower threshold would include changes that do not require a permit amendment application to make that would not be subject to the proposed rules. The MPCA does acknowledge that applications for minor amendments are exempted. This was done in part to align with existing rules and to balance resources and burden. As discussed in the response to comments related to exemptions to the definition for facility expansion, and in the SONAR (p. 64):

> *"The existing permitting rule structure allows applicants for a minor amendment to make the modification seven working days after the application is received. This is meant to reduce the resources needed for processing these lower impact permit actions and allow the Agency to focus on the permit actions that have higher emission increases and/or higher regulatory analyses. It is reasonable to exclude minor amendments because they are already considered to have lower impacts based on the structure of the air permitting rules. By staying consistent with the current rule structure, the Agency can continue to focus efforts on potential impacts on the environment and health of residents from facility expansion permits that result in higher emissions increases or that result in a new permit."*

739. While minor amendments are exempted, all moderate and major permit amendments that increase emissions below the mandatory benchmark threshold are still required to submit an initial assessment and may be required to conduct a cumulative impacts analysis.

740. New construction is treated differently than facility expansion because by the nature of needing a new construction permit means they are already considered a major source of air pollution. As stated in the SONAR (p. 87):

> *"It is reasonable for the benchmark to be new construction because a new construction permit is required by Minn. Stat. § 116.065, subd. 1(h) to be a major source air permit, defined in part 7007.0200, or a state air permit defined in part 7007.0250, subparts 5 or 6. A major source air permit is for a major stationary source of air pollutants. Major stationary sources are significant sources of air pollution with a potential to emit greater than: 100 tons per year of any air pollutant, 100,000 tons per year of greenhouse gases, 25 tons of total HAPs, or 10 tons per year of individual HAPs. New state permits and waste combustors are also considered significant sources of air pollution that have the potential to emit up to those major stationary source thresholds. Stationary sources with less potential to emit typically qualify for lower-level permits that are not subject to these rules. This means new construction has the potential to impact the environment or health of residents in an EJ area due to the introduction of significant potential emissions from a source that was not previously permitted or analyzed."*

Benchmarks for new construction

741. The MPCA received one comment requesting that permit applications for new construction should not automatically require a cumulative impacts analysis.

742. **American Petroleum Institiute-042-03:** The American Petroleum Institute stated, "**1.2 NEW CONSTRUCTION SHOULD NOT AUTOMATICALLY REQUIRE A CIA.**

The proposed rule automatically requires new construction to undergo a CIA. API agrees that new major sources deserve careful review. However, automatic CIA requirements are inconsistent with risk-based permitting. Not all new facilities represent significant new environmental burdens. Modern facilities frequently employ:

- MACT controls
- NSR controls
- PSD BACT
- continuous monitoring
- lower-emitting technologies.

Accordingly, the appropriate regulatory question is not whether a facility is new, but whether the requested permit action has a reasonable potential to materially increase cumulative environmental or health impacts.

Recommendation: Require an Initial Assessment for all new facilities and reserve full CIA requirements for projects meeting scientifically supported screening criteria."

MPCA RESPONSE

743. The MPCA respectfully disagrees and maintains that new construction permits do have a reasonable potential to cause impacts that should be further assessed by a cumulative impacts analysis. As stated in the SONAR (p. 87):

> *"It is reasonable for the benchmark to be new construction because a new construction permit is required by Minn. Stat. § 116.065, subd. 1(h) to be a major source air permit, defined in part 7007.0200, or a state air permit defined in part 7007.0250, subparts 5 or 6. A major source air permit is for a major stationary source of air pollutants. Major stationary sources are significant sources of air pollution with a potential to emit greater than: 100 tons per year of any air pollutant, 100,000 tons per year of greenhouse gases, 25 tons of total HAPs, or 10 tons per year of individual HAPs. New state permits and waste combustors are also considered significant sources of air pollution that have the potential to emit up to those major stationary source thresholds. Stationary sources with less potential to emit typically qualify for lower-level permits that are not subject to these rules. This means new construction has the potential to impact the environment or health of residents in an EJ area due to the introduction of significant potential emissions from a source that was not previously permitted or analyzed."*

Benchmarks and impacts

744. The MPCA received one comment regarding the connection between benchmarks and environmental/health impacts.

745. **Minnesota Chamber of Commerce-027-10:** The Minnesota Chamber of Commerce stated, "f. The "benchmarks" that are set forth in the rule for when a CIA is required, i.e., emissions thresholds, are not indicative of potential for an impact. Environmental or health impact is a function of risk to a receptor. While there is a connection between emissions and risk, risk is a function of the resulting concentration at the receptor location, and the degree to which that concentration affects the

health of the receptor. An emissions increase at a facility, does not, in and of itself, represent a health impact.

MPCA has tools available to evaluate the impacts of a facility's emissions on the health of receptors. One example that could be incorporated into the stressor analysis is the use of MNRISKS data directly related to a facility. The MNRISKS cancer and non-cancer "score" that is currently proposed to be used in the stressor analysis is a function of the cancer and non-cancer risk to receptors in a census tract resulting from emissions from all sources (permitted or point sources, area sources, and mobile sources) contributing to the air concentrations that are the basis of the MNRISKS cancer and non-cancer risks (emphasis added). MPCA does have the ability to parse out the portion of the cancer and non-cancer risk that results from the particular facility that is proposing the permit action.

As an example, if the portion of the census tract score that results from the permittee's emissions is less than 20% of the score, then it would be reasonable to conclude that the facility, and whatever permit action the permittee is proposing, is not likely to substantially impact the environment or health of the residents in that particular census tract and therefore, would not trigger a CIA."

MPCA RESPONSE

746. As discussed in the response to comments related to the benchmarks for reissuance permits, benchmarks are intended to be a specific, easily verifiable set of criteria for determining when a cumulative impacts analysis is required with no further consideration. This is because Minn. Stat. § 116.065, subd. 3 states, "The MPCA is responsible for determining whether a proposed permit action may substantially impact the environment or health of the residents of an environmental justice area." Whether an emissions increase "may substantially impact" is a lower threshold than determining a health impact. The MPCA believes the emissions threshold benchmarks are indicative of a potential impact because changes with small or zero emissions increases have been excluded, as discussed in the response to comments related to the exemptions for the definition of facility expansion. Additionally, benchmarks are only one thing the MPCA considers when determining whether to require a cumulative impacts analysis. If the benchmarks are not met, a cumulative impacts analysis can still be required on a mandatory basis under part 7007.6070, subpart 1, item B, or on a discretionary basis under part 7007.6070, subpart 2. These require the MPCA to consider the initial assessment that contains information from the CI-map tool (part 7007.6050, subpart 3, item F) that incorporates MNRISKS data as part of an assessment of environmental and health impacts (part 7007.6050, subpart 3, item G).

Initial assessment screening process

747. The MPCA received four comments related to the initial assessment screening process.

748. **Minnesota Chamber of Commerce-027-02**: The Minnesota Chamber of Commerce stated, "**1. Failure to Implement Statutory Requirements**

a. Minn. Stat. 116.065, subd. 6 (c), indicates that rules adopted under this section must: "(1) establish benchmarks to assist the commissioner's determination regarding the need for a cumulative impacts analysis; … (3) define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact."

The proposed rule does establish emissions-based benchmarks as one mandatory trigger but allows MPCA to require a cumulative impacts analysis (CIA) based on broad discretionary considerations beyond the established benchmarks. A hybrid of partly prescriptive and partly open-ended, qualitative balancing criteria introduces material ambiguity in implementation.

Minn. Stat. 116.065, subd. 3 addresses how MPCA should determine the need for a CIA. It indicates that "The commissioner is responsible for determining whether a proposed permit action may substantially impact the environment or health of residents of an environmental justice area" [emphasis added].

The proposed rule establishes a structural framework or process for implementing the statute, but it does not provide clear, objective, or consistently reproducible decision standards for determining:

(1) When a permit action "may substantially impact" the environment or health of residents of an environmental justice area, and therefore requires a CIA; and

(2) When a permit action results in "a substantial adverse impact", therefore requiring a community benefit agreement (CBA).

Instead, the proposed rule relies on broad, case-by-case agency discretion that limits predictability, transparency, and regulatory consistency for permittees and the public. The absence of objective decision criteria creates uncertainty regarding when a CIA will be required and when a permit action may result in a finding of substantial adverse impact. This approach is inconsistent with the statutory directive to establish benchmarks and criteria for these determinations."

749. **American petroleum Insitutte-042-10:** The American Petroleum Institute stated, "**1.9 PART 7007.6050 – INITIAL ASSESSMENT**

API supports MPCA's decision to include an Initial Assessment as a screening mechanism before requiring a full cumulative impacts analysis. This represents a substantial improvement over earlier concepts because it establishes a more structured and transparent decision process. However, the Initial Assessment should function as a meaningful screening tool rather than simply the first step toward a CIA for nearly every affected facility.

The proposed Initial Assessment requires applicants to compile extensive information regarding environmental stressors, facility operations, permitting history, CI-MAP outputs, and other contextual information. While these data provide useful background, the rule should clearly identify which information is determinative in deciding whether a CIA is warranted. The current rule combines multiple independent triggers including geographic location, permit type, benchmark exceedances, petitions, and Commissioner discretion such that the Initial Assessment may not substantially narrow the universe of projects requiring a CIA.

Recommendation: MPCA could establish a tiered screening methodology in which:

- the Initial Assessment evaluates whether the requested permit action has a reasonable potential to materially increase environmental exposures;
- projects with no meaningful emissions increase or no significant modeled impacts may exit the process without requiring a CIA; and
- only projects demonstrating a plausible pathway for substantial incremental impacts proceed to a full CIA."

750. **Cordia Energy Center Minneapolis-049-02:** Cordia Energy Center Minneapolis stated, "1 Failure to Implement Statutory Requirements:

a. Minn. Stat. 116.065, subd. 6 (c), indicates that rules adopted under this section must:

(1) establish benchmarks to assist the commissioner's determination regarding the need for a cumulative impacts analysis …

(3) define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact.

The proposed rule does establish emissions-based benchmarks but allows MPCA to require a cumulative impacts analysis (CIA) based on broad discretionary considerations beyond benchmarks. A hybrid of partly prescriptive and partly open-ended, qualitative balancing criteria introduces material ambiguity in implementation. Cordia believes the decision to require a CIA should be based on objective, science-based quantitative thresholds or benchmarks and not on arbitrary discretionary agency decisions.

The proposed rule relies on broad, case-by-case agency discretion that limits predictability, transparency, and regulatory consistency for permittees and the public. This is inconsistent with the requirement in the statute."

751. **Minnesota Hospital Association-051-03:** The Minnesota Hospital Association stated, "**2. Establish clear, objective, and measurable standards for determining when a cumulative impacts analysis is required**. Hospitals and health systems routinely plan major capital projects years in advance. The final rule should provide predictable permitting outcomes by limiting cumulative impacts reviews to projects that meet clearly defined thresholds. MHA is concerned that the combination of mandatory triggers, broad agency discretion, and the petition process may create uncertainty regarding whether routine healthcare facility projects will be subjected to extensive additional review."

MPCA RESPONSE

752. The MPCA appreciates the support for using the initial assessment as a screening mechanism before requiring a full cumulative impacts analysis. The MPCA disagrees that it will require a cumulative impacts analysis for nearly every affected facility. As discussed in further detail in other responses to comments related to definitions and benchmarks, the MPCA has included exemptions for small changes and changes that do not require a permit amendment to make under the definition of facility expansion under part 7007.6010, subpart 19. Additionally, the calculation method under part 7007.1200, subpart 3, that is required to be used when calculating an emissions increase for the definition of facility expansion and the mandatory emission benchmarks, provides options for reducing emissions when comparing total emissions before and after a proposed change. These are clear options that facilities can plan for, and will reduce the number of cumulative impacts analyses required.

753. To further reduce potential uncertainty when planning, the MPCA has provided an option to conduct a voluntary analysis under part 7007.6070, subpart 2, item C. This will allow an applicant to skip the initial assessment review process and proceed to the public meeting and cumulative impacts analysis stage sooner in the permitting process.

754. The MPCA agrees that the proposed rules establish emissions-based benchmarks, as required by Minn. Stat. § 116.065, subd. 6(c)(1). The MPCA would like to clarify that Minn. Stat. § 116.065, subd. 6(c)(3): "define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact" only applies to the process for determining substantial adverse impact under part 7007.6100. For the initial assessment and determining when a cumulative impacts analysis is required, Minn. Stat. § 116.065, subd. 3(a)(1) states, the MPCA is responsible for determining "whether a proposed permit action may substantially impact the environment or health of the residents of an environmental justice area."

755. Furthermore, Minn. Stat. § 116.065, subd. 3(a) requires the MPCA to:

(1) review the permit application and the applicant's assessment of the need to conduct a cumulative analysis;
(2) assess whether the proposed permit exceeds any of the benchmarks for conducting a

cumulative impacts analysis established in rules adopted under subdivision 6; and
(3) review any other information the commissioner deems relevant, including material evidence accompanying a petition submitted under paragraph (e).

756. As such, the MPCA has selected initial assessment contents, both narrow and broad, to satisfy these statutory responsibilities and establish a tiered screening process.

Initial assessment contents scope and burden

757. The MPCA received seven comments related to initial assessment contents scope and burden for an expansive facility.

758. **University of Minnesota-030-06:** The University of Minnesota stated, "**Comment 1: The Draft Rules and Statement of Need and Reasonableness (SONAR) fail to evaluate the need and reasonableness of the data-collection scope for large-scale public institutions.**

The Draft Rules list the compliance elements that must be submitted for an Initial Assessment (Minn. R. 7007.6050, subp. 2.B) and a Cumulative Impact Analysis (CIA) (Minn. R. 7007.6090, subp. 2.B), but do not include explicit parameters, definitions, or guidance regarding the scope of the required evaluations. This open-ended framework creates an uncertain regulatory burden that is not connected to "the potential to affect the environment of an environmental justice area" in every circumstance. Consequently, data collection tasks that may be straightforward for commercial facilities become considerably more complex when scaled to a 1,200-acre public institution, as demonstrated by the following examples:

Initial Assessment

● The Draft Rules require an Initial Assessment that includes, "the location of and proximity to public spaces, residential dwellings, child day cares, prisons, and other stationary sources with air permits in and around the surrounding area." (Minn. R. 7007.6050, subp. 3.B(3)).

The University includes numerous public spaces and is supported by dormitories and other University-run residential dwellings, along with University-run childcare facilities. In addition, the neighborhoods that surround the University have more public spaces, residential dwellings, day cares, and other facilities that support the University and student life. An identification of the location and proximity of public spaces, residential dwellings, and day cares would be burdensome for a large-scale public institution like the University."

759. **University of Minnesota-030-07:** The University of Minnesota stated, "● An Initial Assessment would also need to include "a description of the stationary source's current and proposed operations, including . . . types of production equipment, types of pollution or environmental control measures and monitoring, hours of operation, traffic routes, number of employees, and other information relevant to assessing the potential for the stationary source to impact the environment or the health of the residents of the impacted environmental justice area." (Minn. R. 7007.6050, subp. 3.C(3)).

As discussed, the "stationary source" for the University includes the entire Twin Cities campus. For this large-scale public institution, the hours of operation, traffic routes, number of employees, and other information would be burdensome to compile, and varies seasonally based on the school and athletic calendars. In addition, at a campus-wide scale, the types of production equipment, types of pollution or environmental control measures, hours of operation, traffic routes, and number of employees will not always be relevant to assessing the potential for the proposed permit action to impact the environment or health of residents in the EJ area."

760. **University of Minnesota-030-12:** The University of Minnesota stated, “Recommendations: ● Revise Minn. R. 7007.6050, subp. 1, to add, “emissions facility,” and “emissions unit” after “stationary source” to reflect instances where a proposed permit action will involve less than the entire “stationary source.”

761. **University of Minnesota-030-13:** The University of Minnesota stated, "●Revise the content requirements for an initial assessment under Minn. R. 7007.6050, subp. 3, to limit the required information to just information for the area surrounding the stationary source, emissions facility, or emissions unit that is the subject of the proposed permit action.

762. **University of Minnesota-030-15:** The University of Minnesota stated, “●To reduce the administrative burden of an Initial Assessment and CIA, add a clause to Minn. R. 7007.6050, subp. 3 and Minn. R. 7007.6090, subp. 3 to allow for the submission of substantially similar, representative information from a previous environmental review or other studies as follows:

○ Minn. R. 7007.6050, subp. 3.M: <u>For the purposes of this subpart, the owner or operator may submit information from a previously completed environmental review or other study that provides the same or substantially similar information.</u>

○ Minn. R. 7007.6090, subp. 3.J: <u>For the purposes of this subpart, the owner or operator may submit information from a previously completed environmental review or other study that provides the same or substantially similar information.</u>”

763. **University of Minnesota-030-16:** The University of Minnesota stated, “• Revise Minn. R. 7007.6050, subp. 3 to tailor the administrative burden of preparing an Initial Assessment as follows:

B(3) <u>a description of</u> the location of and proximity to public spaces, residential dwellings, child day cares, prisons, and other stationary sources with air permits in and around the surrounding area, and

C(3) <u>a description of the</u> types of production equipment, types of pollution or environmental control measures and monitoring, hours of operation, traffic routes, number of employees, and other information, <u>as</u> relevant to assessing the potential for the stationary source, <u>emissions facility, or emissions unit that is the subject of the proposed permit action</u> to impact the environment or the health of the residents of the impacted environmental justice area; and

D a list of all federal, state, and local <u>environmental</u> permits that are required, or will be required, for construction or operation of the stationary source<u>, emissions facility, or emissions unit that is the subject of the proposed permit action,</u> including and in addition to those listed in part 7007.6010, subpart 31;

J a detailed and complete environmental compliance history for the stationary source, including copies of any environmental enforcement actions issued to the stationary source, emissions facility, or emissions unit that is the subject of the proposed permit action, for the three years preceding the date the requested permit action is received<u>, but not including citations issued under Minn. Stat. § 116.073, or related citations issued by a County or City</u>;

K a description of any structural or operational changes <u>with the potential to impact permitted emissions</u> that have occurred at the stationary source<u>, emissions facility, or emissions unit that is the subject of the proposed permit action,</u> since the effective date of this part, or the date the most recent permit was issued with a cumulative impacts analysis approved under parts 7007.6000 to 7007.6120, whichever is later; and”

764. **University of Minnesota-030-22:** The University of Minnesota stated, “**Comment 2: The Draft**

Rules are inconsistent with the Statute's requirement that the MPCA evaluate the impacts of the specific proposed permit action.

The Statute directs the commissioner to evaluate whether a ***proposed permit action*** will result in adverse impacts on the environment or health of an EJ area and its residents, but the Draft Rules evaluate a facility as a whole. As applied to the University, this inconsistency between the plain language of the Statute and the Draft Rules imposes excessive regulatory burdens that are untethered to the commissioner's determination of whether a CIA or a Community Benefit Agreement (CBA) should be required.

The statutory purpose of the Initial Assessment is to determine if a specific proposed permit action may substantially impact the environment or health of the residents of an EJ area. Minn. Stat. § 116.065, subds. 3(a)(1) & 3(d)(2) [Similarly, a CBA is required for a facility located in an EJ area if the commissioner "determines that *issuing the permit*, in combination with the environmental stressors present in the environmental justice area and considering the socioeconomic impact of the facility to the residents of the environmental justice area, would have a substantial adverse impact on the environment or health of the environmental justice area and its residents." Minn. Stat. § 116.065, subd. 5(b) (emphasis added)]. The plain language of the Statute gives the commissioner authority to regulate whether the requested permit action results in impacts to an EJ community. However, the Draft Rules and accompanying SONAR fail to distinguish between the scope of information required for a localized facility expansion versus a total facility permit reissuance and instead measure from the stationary source location and property boundary.

Under existing state air rules (Minn R. 7007.0100, specifically), the MPCA maintains clear operational distinctions between a "stationary source" (the collective contiguous property), an "emission facility" (a specific building or structure), and an "emission unit" (individual equipment). The MPCA failed to consider that localized facility expansions at the emission facility or emissions unit level would represent a significantly less costly, less intrusive, and more technically accurate method that still fully achieves the legislative directive to consider impacts of the proposed permit action. While the University appreciates that impacts from a stationary source versus an emissions facility or emissions unit may be similar for other facilities, this distinction is particularly critical for expansive public institutions like the University."

765. **University of Minnesota-030-30:** The University of Minnesota stated, "Recommendations:

• In considering the amount of information that is reasonable and necessary for MPCA to require an Applicant to submit as part of an Initial Assessment or CIA, MPCA should consider the costs of collecting information within one mile of a stationary source boundary for an expansive public institution. There are less costly methods to evaluate whether a proposed permit action may substantially impact the environment or health of the residents of an EJ area, or if issuing a proposed permit action would have a substantial adverse impact on the environment or health of the EJ area and its residents, including by implementing Recommendations 1 and 2, above, which would tailor the Draft Rules to the information required to evaluate the proposed permit action."

MPCA RESPONSE

766. The MPCA acknowledges that the size and complexity of an expansive institution like the University of Minnesota presents unique permitting challenges, especially when considering the broad scope of cumulative impacts and the supporting information contained in the initial assessment. The MPCA agrees that such facilities will need to provide more facility, geographic, and impact related information due to their large-scale nature.

767. When making a determination of need, Minn. Stat. § 116.065, subd. 3(a) requires the MPCA to:

(1) review the permit application and the applicant's assessment of the need to conduct a cumulative analysis;
(2) assess whether the proposed permit exceeds any of the benchmarks for conducting a cumulative impacts analysis established in rules adopted under subdivision 6; and
(3) review any other information the commissioner deems relevant, including material evidence accompanying a petition submitted under paragraph (e).

768. The MPCA has selected the initial assessment contents to satisfy these statutory responsibilities. Some of the contents in the initial assessment are intended to provide the MPCA with the permittee's perspective and familiarity of the surrounding area as it relates to activities, operations, and potential impacts. This represents the applicant's assessment of need. As such, the MPCA has not provided additional instructions or guidance in the rule language for this self-assessment. Other required contents represent information the MPCA has deemed relevant. The MPCA does expect to provide some additional guidance and form instruction when implementing the rules. If a large facility believes parts of their operations are completely irrelevant to a permit action and potential impacts, it can inform the MPCA and public of that by providing that information in the initial assessment. The rule language for contents is broad enough to allow for that perspective. The MPCA is unable to make a determination of need without this information, and as such, it needs to be included in the initial assessment that is submitted with the initial application for a project.

769. The MPCA disagrees that only select portions of a facility should be considered in an initial assessment and determination of need when a permit action involves less than the whole stationary source. Please see the response to comments related to the definition of impacted environmental justice area for further discussion of this applicability.

Initial assessment contents

770. The MPCA received one comment requesting a change to the proposed rule language for the contents of an initial assessment with respect to stages and operation of the stationary source.

771. **Minnesota Chamber of Commerce-027-47:** The Minnesota Chamber of Commerce stated, "c. The proposed rule (7007.6050, subp. 3, G (3)) requires the initial assessment to "identify the impacts at every stage of construction and operation of the stationary source". For facilities like landfills, mines, and quarries, there can be many stages over the stationary source's lifetime. The Chamber recommends that the requirement instead say, "identify the impacts at the stages of construction and operation of the stationary source representing worst case conditions, as known at the time of permitting"."

MPCA RESPONSE

772. The MPCA believes the many stages for these sources is covered by the phrasing, "at every stage of construction and operation of the stationary." The MPCA also prefers the use the term "impact" because this a cumulative impacts rule focused on evaluating impacts, determining if the permit may substantially impact, and determining substantial adverse impacts. As stated in the SONAR (p. 54), "*Item B requires that a permit application must include the initial assessment required under part 7007.6050, which includes the applicant's determination of whether the permit action is likely to impact the environment or the health of the residents of an EJ area and the data and information used by the applicant to make that determination. This aligns directly with the statutory language in Minn. Stat. § 116.065, subd. 3(b)(1) and 3(b)(2).*" Additionally, the permitting process also has many stages so "known at the time of permitting" is not specific enough.

MPCA review of an initial assessment

773. The MPCA received two comments regarding the review of the information contained within an initial assessment by MPCA and other interested parties.

774. **Minnesota Environmental Justice Table-031-03:** The Minnesota Environmental Justice Table stated, "**Initial Assessment**

Overall the content requirements of the initial assessment are fair. If completed accurately, all of this information is important for determining whether a CI analysis is needed. However, we have some concerns about facilities' capacity (and motivation) for conducting this work as completely and accurately as needed for a fully-informed Determination of Need.

The facility is required to provide "the location of and proximity to public spaces, residential dwellings, child day cares, prisons, and other stationary sources with air permits in and around the surrounding area". Facility management might not be familiar with the surrounding area and may miss key information that could affect the Commissioner's decision. Much like the CI-MAP tool provides a standardized tool for the environmental stressors, **creating another tool that provides a standardized interface to key neighborhood information would help ensure that the facility's assessments are complete. Ultimately, we would like MPCA to verify the accuracy of these assessments and share this verification when providing information on initial assessments.**

Finally, to facilitate transparency and increase access to information, we ask that the MPCA **create a notification system that emails interested parties when an initial assessment is posted.** A user should be able to subscribe to notifications for all postings or postings within geographical areas that they select."

775. **Frontline Communities Protection Coalition (compiled comments)-045-148:** Side Corridor Residents, Owatonna East stated, "Finally, Initial Assessments should be made publicly available in a searchable and downloadable format and accompanied by a plain-language summary so residents can understand proposed projects and participate meaningfully in the review process.

An Initial Assessment is the foundation for determining whether additional environmental review will occur. That decision should not depend primarily on information provided by the permit applicant. A more independent, transparent, and comprehensive Initial Assessment process will improve public confidence, strengthen environmental decision-making, and help ensure cumulative environmental impacts are identified before communities become overburdened."

MPCA RESPONSE

776. The MPCA acknowledges the concern regarding the accuracy and quality of initial assessment information submitted by the permittee. As with all permitting applications and submittals, initial assessment and cumulative impacts analysis information is required to be certified for truth, accuracy, and completeness under part 7007.6040. Part 7007.6040 includes provisions for accuracy, and the duty to supplement or correct. Additionally, part 7007.6070, subpart 5 establishes that the MPCA can require a cumulative impacts analysis when there is insufficient information to make a decision.

777. Some of the information contained within the initial assessment is intended to demonstrate the permittee's perspective and familiarity of the surrounding area, or lack thereof. In accordance with Minn. Stat. § 116.065, subd. 3(b)(1), the initial assessment must include "the applicant's determination of whether the permit action sought is likely to impact the environment or the health of residents of an environmental justice area." So while the MPCA will be reviewing and verifying this information to the best of its ability and knowledge, the MPCA acknowledges it may know even

less about the surrounding area. This is in part why a previously approved cumulative analysis is part of the required initial assessment contents under part 7007.6050, subpart 3, item L, and why there is a petition process under part 7007.6060 so the public can inform the MPCA when key community information may have been missed. The MPCA expects knowledge of cumulative impacts and the specifics of these impacted communities to grow and become more familiar over time and result in more effective reviews and assessments.

778. Part 7007.6050, subpart 5 outlines the notice of initial assessment procedures. The MPCA must post notice of receiving an initial assessment along with a statement that a persons may file a petition requesting the MPCA to require a cumulative impacts analysis. The MPCA continues to consider the best and most effective ways to alert interested parties beyond just posting it on our website. This includes incorporating the proposed rule notices in our existing email alert systems.

PART 7007.6060 PETITION PROCESS

Material evidence

779. The MPCA received seven comments regarding material evidence. Commenters provided suggestions regarding the process of collecting and providing material evidence, how difficult material evidence may be to obtain, defining the term material evidence, and how material evidence should be evaluated under the petition process established in part 7007.6060.

780. **Hamline Midway Coalition-003-05**: The Hamline Midway Coalition stated, "We support the justification in the Statement of Need and Reasonableness (SONAR) for the use of modifiers in 7007.6060 Subp.2, item a, subitem 6 that leaves open the possibility that more analysis may be necessary because it would avoid placing a burden of proof onto impacted communities."

781. **Hamline Midway Coalition-003-06**: The Hamline Midway Coalition stated, "We are concerned about the lack of definition for material evidence. Over-defining "material evidence" has the potential to create a barrier for petitioners, however, leaving no definition leaves communities in the dark about where the bar for consideration is. Lived experience and testimony are powerful forms of evidence that often go overlooked and undercounted. We recommend that the rule language be amended to commit to considering this type of evidence equally to other forms of legal and scientific evidence."

782. **Frontline Communities Protection Coalition-034-16**: The Frontline Communities Protection Coalition stated, "**7007.6060 Petition process** Subp. 2. **Content**, item (A), subitem (6) - We believe that the current phrasing puts too large of a burden of proof on the petitioners. Particularly when considered in conjunction with item (B) which prohibits citation of external sources, the petition content requires community members to submit highly technical information that will be difficult to obtain. The subpart should include a provision whereby the petitioners can cite to the web version of the initial assessment materials submitted by a permit applicant."

783. **Shaw-036-10**: Beth Shaw stated, "require MPCA to help residents obtain relevant agency records;"

784. **Shaw-036-10**: Beth Shaw stated, "MPCA already possesses permits, inspections, enforcement records, emissions inventories, complaints, monitoring data, and information about nearby regulated facilities. Residents should not carry the primary burden of assembling evidence that government already controls."

785. **American Petroleum Institute-042-11**: The American Petroleum Institute stated, "**1.10 PART 7007.6060 – PETITION PROCESS** API supports meaningful public participation. However, the petition

process should be supported by objective technical information that relates directly to the permitting decision. Currently, petitions may prompt the Commissioner to require a CIA where supported by "material evidence."

The rule does not define:

- material evidence,
- evidentiary standards,
- minimum technical information,
- relationship to the requested permit action.

Without these parameters, applicants face significant uncertainty. Community concerns are valuable and should inform permitting decisions. However, concerns alone should not substitute for technical evidence demonstrating a reasonable potential for cumulative environmental or health impacts attributable to the proposed permit action.

Recommendation: The rule should define "material evidence" to include:

- credible environmental monitoring;
- validated exposure information;
- peer-reviewed scientific literature;
- site-specific emissions information;
- demonstrated exposure pathways.

The rule should clarify that generalized concerns unrelated to the permitted emissions are insufficient to require a CIA."

786. **Frontline Communities Protection Coalition (compiled comments)-045-201**: Christie Manning stated, "Finally, the current rules make residents meet an unreasonably high bar of proof. Demanding rigorous 'material evidence' and a high number of signatures is a difficult feat for EJ communities. They likely lack the time, funding, and specific expertise to gather and organize the necessary data. Please simplify the petition process. Reduce the signature threshold and require the MPCA to provide technical assistance or accessible public data to communities and groups seeking to file a petition. A lack of financial and other resources should never not bar a community from seeking protection. Indeed, communities' lack of financial (and other) resources is basically why they have been stuck breathing polluted air for so many decades."

MPCA RESPONSE

787. The MPCA appreciates the commenters' suggestions surrounding material evidence. The support and the concerns identified by the commenters regarding the process of collecting and providing material evidence, including how difficult material evidence may be to obtain, and defining the term material evidence is addressed in the explanation included in the SONAR (p. 91-93) for part 7007.6060, subpart 2. The concerns regarding how material evidence is evaluated is addressed in the SONAR (p. 95-96) for part 7007.6060, subpart 5.

788. The MPCA proposed rule language in part 7007.6060, subpart 2 to identify the required content of a petition, including the requirement to provide material evidence. Part 7007.6060, subpart 2, item A, subitems (5) and (6) identifies that the petition must include a description of the potential environmental or health impacts of the requested permit action and material evidence that demonstrates the requested permit action may have the potential to substantially impact the environment or the health of the residents of the impacted environmental justice area if the permit is issued. As discussed in the SONAR (p. 92-93) for these subitems, these subitems establish that the petitioners must identify the potential impacts they anticipate will occur and provide material

evidence to support any potentially substantial environmental or health impacts that may occur if the permit were issued. This information provides the MPCA the basis on which to determine if the requested permit action may have the potential to substantially impact the environment or the health of the residents of the impacted environmental justice area.

789. The petitions must identify the potential impacts they anticipate will occur and provide information to help support those concerns so that MPCA can evaluate the petition regarding the requested permit action and determine whether there is enough that supports the need for a cumulative impacts analysis. As mentioned in the SONAR (p. 92), the intent of the material evidence requirement is not to require a comprehensive analysis of scientific evidence by petitioners, but to bring credible concerns to the attention of the MPCA.

790. Additionally, other material evidence beyond the information submitted by the petitioners is part of the evaluation process of the petition identified in part 7007.6060, subpart 5 (SONAR, p. 95-96). Other material evidence and information that the MPCA must consider is identified in subpart 5, item C and the process to evaluate the impacts that may be expected to occur from the requested permit action is identified in subpart 5, item D. This information and process supports the evaluation conducted by the MPCA to determine whether to grant or deny the petition using an identified set of information and criteria to consider.

791. As MPCA implements the rule, MPCA will develop guidance for owners and operators, community members, and MPCA staff for several aspects of the rule. Implementation of the proposed rule will also involve developing standard forms; templates; and other materials to support portions of the rule like the petition process identified in part 7007.6060. Additionally, the MPCA must create a form for environmental justice area residents to use in submitting a petition to the MPCA as identified by Minn. Stat. § 116.065, subd. 6(c)(5). The MPCA anticipates that this form and/or other guidance materials will identify examples of material evidence that petitioners could include within a petition.

Petition decision process

792. The MPCA received three comments regarding the decision to grant or deny a petition under part 7007.6060. Commenters provided suggestions regarding how material evidence should be evaluated under the petition process established in part 7007.6060 and reconciling multiple petitions.

793. **Minnesota Hospital Association-051-21**: The Minnesota Hospital Association stated, "**9. Petition Process Standards**

Part 7007.6060, Subpart 5(A) - Amend lines 40.16–40.20 as follows:

> The commissioner shall grant a petition only when the petition demonstrates, through material and scientifically supportable evidence, a reasonable likelihood that emissions associated with the requested permit action will cause a significant environmental or health impact that cannot be adequately evaluated through existing permitting requirements.

Reason: The petition process should be based on objective evidence and not serve as a mechanism for indefinite delay of critical healthcare infrastructure projects."

794. **Saint Paul-Ramsey County Public Health-054-02**: The Saint Paul-Ramsey County Public Health stated, "SPRCPH supports the proposed rules that require robust community engagement outlined in Minnesota Rule 7007.6080, subparts 1-11, but recommends the following modifications to provide additional support and guidance to communities. In the resident petition for a cumulative impact analysis process outlined in Minnesota Rule 7007.6060, SPRCPH supports including a process

to reconcile multiple petitions."

795. **Frontline Communities Protection Coalition (compiled comments)-045-153**: The Side Corridor Residents, Owatonna East stated, "7. Comments on Proposed Rule: Petition Process – Petition Evaluation

Through our work, we also support other communities in understanding environmental review processes and their rights to participate. We have firsthand experience with Minnesota's public participation processes, including Environmental Assessment Worksheet (EAW) petitions and reverse referendum petitions.

The petition process should provide a meaningful opportunity for residents to demonstrate when a cumulative impacts (CI) analysis is warranted. When a petition identifies material omissions, inaccuracies, or other credible evidence demonstrating the potential for substantial environmental or public health impacts, the MPCA should fully evaluate that information before determining whether a CI analysis is required.

If substantive comments or credible evidence identify material deficiencies in the available information, the MPCA should require the record to be corrected, supplemented, or expanded before making its determination. Public participation should serve as a tool to improve environmental decision-making, not simply become another document added to the administrative record after decisions have effectively been made.

The MPCA should review petitions to determine whether they meet the rule's eligibility and evidentiary requirements, while the Responsible Governmental Unit (RGU) should be responsible for verifying required signatures. Once a petition is determined to be valid and the required signatures have been verified, a cumulative impacts analysis should be required.

This approach would ensure that community concerns supported by credible evidence receive meaningful consideration and that the petition process fulfills its intended purpose of identifying potential cumulative impacts before they result in further harm.

MPCA RESPONSE

796. The process for evaluating petitions identified in part 7007.6060, subpart 5 provides for an objective evaluation of evidence and information available to the MPCA, including relevant information from multiple sources of material evidence such as material evidence provided by petitioners, the owner or operator of the facility, other persons, and the commissioner. This could include information that supports those impacts are addressed through existing permitting requirements as one commenter suggests.

797. The material evidence and information that the MPCA must consider is identified in subpart 5, item C and the process to evaluate the impacts that may be expected to occur from the requested permit action is identified in subpart 5, item D. This information and process supports the evaluation conducted by the MPCA to determine whether to grant or deny the petition using an identified set of information and criteria to consider.

798. Part 7007.6060, subpart 5, item D requires the MPCA must use the criteria identified in part 7007.6070, subpart 4 to evaluate the expected environmental and health impacts of the requested permit action. This process includes evaluating the impacts using information available to the MPCA such as existing and proposed permitting and other regulatory requirements or evidence included in multiple petitions. The criteria specified in part 7007.6070, subpart 4 establish a consistent methodology to evaluate the information available to the MPCA such that the MPCA is able to come to a reasoned decision regarding whether to grant or deny a petition, or petitions, submitted

regarding a requested permit action.

Community participation, petition notifications, and petition submittal deadlines

799. The MPCA received six comments regarding participation in petition process. Commenters provided suggestions for how the MPCA make information available to enable communities to participate and use the petition process available to them. Commenters also provided suggestions regarding what information should and shouldn't be posted as part of providing notice of the opportunity to submit a petition. Furthermore, commenters provided suggestions regarding the deadline for submitting a petition identified in part 7007.6060, subpart 1, item B.

800. **Minnesota Chamber of Commerce-027-17**: The Minnesota Chamber of Commerce stated, "d. The proposed rule (7007.6060, subp. 1, B) allows a petition to conduct a CIA to be filed with MPCA up to and including the date the public notice and comment period for the draft permit ends. A requested permit action may have been reviewed and processed by MPCA, received a negative declaration regarding the need for a CIA, and a draft permit prepared, negotiated, and posted for public comment, only for the process to revert back to requiring a CIA right before the final permit was about to be issued. This creates significant uncertainty for the permittee and could have real-world implications for the procurement of equipment for the project. The Chamber recommends that the final rule require a petition to be filed within 60 days of MPCA posting notice of receipt of an initial assessment as part of a requested permit action. Within that 60-day period, MPCA should not wait to see whether a petition will be filed, but should proceed with deciding the need for a CIA, and processing the permit application if a petition is not received."

801. **Minnesota Environmental Justice Table-031-04**: The Minnesota Environmental Justice Table stated, "The draft rules state that a petition may be filed in between the submission of an initial assessment and the end of the comment period for the draft air permit. The MPCA air permits page [www.pca.state.mn.us/business-with-us/air-permits/] indicates that this time frame is 150 days for new constructions, but it is unclear what the time frame would be for other types of permit actions. We understand that these time frames can vary but **ask that the MPCA make timeline information publicly available** so that communities can best prepare for the petition process."

802. **Shaw-036-10**: Beth Shaw stated, "protect personal addresses from unnecessary disclosure;"

803. **Frontline Communities Protection Coalition (compiled comments)-045-07**: Aubree Derksen stated, "The Current Rule States: Petition Process

- If a facility is not required to conduct a cumulative impacts (CI) analysis, residents of nearby environmental justice (EJ) areas can petition the MPCA requesting a CI analysis.
- Requires 100 signatures from people who reside or own property in an EJ area within 1 mile of the facility.
- Must include information about the facility's permit, information for a petition representative, and material evidence that the requested permit has the potential to substantially impact the environment or the health of nearby EJ areas.
- Must be submitted before the comment period on the draft permit ends.

Bullet #4 will disenfranchise the communities these rules are intended to protect by restricting their ability to petition for a CI analysis.

Remove this restriction and allow a CI analysis to be petitioned at any point, even if one has already been completed earlier in the process. High-polluting industries often fail to comply with the law and may hide the full extent of their projects or, for example, operate backup generators 24/7 instead of only during emergencies.

804. **Frontline Communities Protection Coalition (compiled comments)-045-149**: The Side Corridor Residents, Owatonna East stated, "4. Comments on Proposed Rule: Petition Process – Public Notice

Meaningful participation begins with meaningful notice. All residents and property owners within one mile of a proposed project should receive written notice of the opportunity to submit a petition at least 45 days before the petition deadline, or longer if the permitting process provides additional time.

Because the petition deadline expires at the end of the public comment period, timely notice is essential to ensure residents have a realistic opportunity to understand the proposed project, attend public meetings or open houses, engage with neighbors, gather signatures, and participate before that opportunity is lost.

The notice should include all information necessary for residents to understand and complete the petition process, including, but not limited to:

- A description of the proposed project;
- Permit information and relevant project details;
- Applicable deadlines;
- Dates and locations of public meetings or open houses;
- Public comment period dates; and
- A plain-language explanation of the petition process, including eligibility requirements, signature requirements, where to obtain petition forms, and all information required to submit a complete petition.

Residents cannot meaningfully participate in a process they do not know exists or do not have enough time to understand. Clear, timely, and accessible notice is essential to ensuring that community members have a fair opportunity to participate in decisions that may affect their health, environment, and quality of life."

805. **Cordia Energy Center Minneapolis-049-08**: Cordia Energy Center Minneapolis stated, "c. The proposed rule (7007.6060, Subp. 1, B) allows a petition to conduct a CIA to be filed with MPCA up to and including the date the public notice and comment period for the draft permit ends. A requested permit action may have been reviewed and processed by MPCA and received a negative declaration regarding the need for a CIA, and a draft permit prepared, negotiated, and posted for public comment, only for the process to revert back to requiring a CIA right before the final permit was about to be issued. This creates significant uncertainty for the permittee and could have real-world implications for the procurement of equipment for the project. Cordia recommends that the final rule require a petition to be filed within 60 days of MPCA posting notice of receipt of an initial assessment as part of a requested permit action. Within that 60-day period, MPCA should not wait to see whether a petition will be filed, but should proceed with deciding the need for a CIA, and processing the permit application if a petition is not received."

MPCA RESPONSE

806. The MPCA appreciates the commenters' suggestions regarding the community participation aspects and timeframe associated with the petition process established in part 7007.6060. The MPCA believes the proposed rules provide a reasonable timeframe regarding petition submittals and opportunities for interested persons to utilize the petition process.

807. Part 7007.6050, subpart 5 requires the MPCA must post notice of receiving an initial assessment on the agency website. The intention of this subpart is to provide awareness and opportunity for interested persons to prepare and submit a petition for the requested permit action. Providing this

notice when the MPCA first receives the initial assessment alongside the permit application provides the early notice and a substantial amount of time for interested persons to gather information and prepare a petition. This notice includes identifying information relevant to the requested permit action and where interested persons may find additional information that is public.

808. Additionally, a similar notice is required when the MPCA receives a petition for a requested permit action as identified in part 7007.6060, subpart 6. In addition to providing identifying information relevant to the requested permit action and where interested persons may find additional information that is public.

809. Regarding the deadline to submit a petition, the deadline serves a dual purpose of making it clear to both interested persons and regulated parties the latest date a petition could be submitted regarding a requested permit action. Additionally, specifying this timeframe for submitting a petition ensures that interested persons have relevant information regarding the requested permit action via the availability of the draft permit and technical support document. Furthermore, at this point is likely when the MPCA has the most comprehensive information relevant to the requested permit action, barring any information provided through the public notice period, as the commissioner has determined whether to issue or deny the permit and has placed the draft permit on public notice. The SONAR (p. 90-91) discusses the reasonableness of the deadline established in part 7007.6060, subpart 1, item B.

Petition process statutory requirements

810. The MPCA received nine comments regarding aspects of the petition process that are established by statutory requirements under Minn. Stat. § 116.065. Commenters included suggestions regarding alternative signature thresholds, alternative petition methods for Tribes, applicability to existing facilities, requirement to include material evidence, and general support for the inclusion of a petition process as part of the proposed rules.

811. **Minnesota Environmental Justice Table-031-04**: The Minnesota Environmental Justice Table stated, "**Petition** We appreciate the MPCA's inclusion of the petition process to give communities a voice and understand the basis for the material requirements of the petition. However, some of the material requirements are steep. ● Requiring 100 signatures is a substantial organizing endeavor. The community, which is already facing burdens, must take time to research, understand, and communicate concerns to neighbors outside of their work and family time. **The signature threshold should be lowered or be considered flexibly in consideration of the entire petition.** (e.g., 90 signatures might suffice in light of the other information in the petition.)"

812. **Shaw-036-10**: Beth Shaw stated, "9. The petition requirement creates an unfair burden for residents

When MPCA does not automatically require a cumulative impacts analysis, residents may be forced to submit a petition containing at least 100 signatures, mailing addresses, and material evidence. A deficient petition must be corrected within 15 calendar days or it becomes void. Residents should not have to become unpaid epidemiologists, air modelers, attorneys, and petition organizers merely to make MPCA study a facility that MPCA regulates. The petition process should be revised to:

reduce or eliminate the 100-signature requirement;

permit petitions from recognized neighborhood, tenant, environmental, health, or Tribal organizations;

accept electronic signatures;

813. **Minnesota Building and Construction Trades Council-041-14**: The Minnesota Building and Construction Trades Council stated, "**Petition Process Should Not Be Weaponized**

Before, during, and since passage of this law, we have witnessed advocates and some organizations expressly advocating for the closure of certain (or all) industrial facilities. In addition to ensuring that permit reissuances and minor modifications do not trigger these processes or require cumulative impacts analyses, the rules should preclude the petition process to be used for existing facilities unless there is a proposed expansion or substantial exceedance of permitted emissions that has not been resolved through previous agency action as previously described.

814. **Frontline Communities Protection Coalition (compiled comments)-045-07**: Aubree Derksen stated, "The Current Rule States: Petition Process

- If a facility is not required to conduct a cumulative impacts (CI) analysis, residents of nearby environmental justice (EJ) areas can petition the MPCA requesting a CI analysis.
- Requires 100 signatures from people who reside or own property in an EJ area within 1 mile of the facility.
- Must include information about the facility's permit, information for a petition representative, and material evidence that the requested permit has the potential to substantially impact the environment or the health of nearby EJ areas.
- Must be submitted before the comment period on the draft permit ends.

Bullet #2 will end up disenfranchising the very people it is designed to protect. The Environmental Assessment Worksheet (EAW) petition process requires 100 signatures from residents of the county and bordering counties. Limiting this petition process to 100 signatures from within 1 mile of a particular facility, when a facility may only be surrounded by three houses, means the task will be impossible for some due to circumstances completely outside of their control.

Follow the same rules as the EAW petition process by requiring 100 signatures from the county and bordering counties. Cumulative impacts do not stay confined within a small 1-mile radius, and in some cases, the EJ area itself may cross county lines.

815. **Frontline Communities Protection Coalition (compiled comments)-045-08**: Aubree Derksen stated, "The Current Rule States: Requiring a Cumulative Impacts (CI) Analysis

- New permits: Anytime a new permit includes new construction, the facility must conduct a CI analysis.
- Permit expansions: There is a list of pollutants. If a facility expansion will emit any of them above certain hourly limits, the facility must conduct a CI analysis.
- Permit reissuances: A facility that has received an enforcement action (failed performance test, criminal enforcement, fine, or administrative order) in the three years leading up to its application must conduct a CI analysis.
- The Commissioner may also require a CI analysis if they review the Initial Assessment and/or a petition and determine that there is material evidence of a potential substantial impact.
- There is also a two-year buffer period for permit reissuances. Any facility applying for a permit reissuance in the 24 months following these rules going into effect will not be required to conduct a CI analysis.

I also suggest adding the following bullet to the rule:

- Community members, including those who do not live in an EJ area, should be able to request that a CI analysis be completed for a project through the EAW petition process."

816. **Frontline Communities Protection Coalition (compiled comments)-045-141**: The Side Corridor

Residents, Owatonna East stated, “Allow a well-supported community petition, accompanied by credible evidence, to independently trigger a CI analysis. Community members often have firsthand knowledge of existing environmental conditions and reasonably foreseeable cumulative impacts that may not be apparent from permit applications or technical documents alone.”

817. **Frontline Communities Protection Coalition (compiled comments)-045-150**: The Side Corridor Residents, Owatonna East stated, “5. Comments on Proposed Rule: Petition Process – Petition Threshold

The proposed requirement of 100 signatures from residents or property owners within one mile of a facility may be achievable in densely populated areas, but it could create a significant barrier to participation in smaller communities and rural areas. A fixed numerical threshold does not account for the substantial differences in population density across Minnesota.

The purpose of a petition requirement should be to demonstrate meaningful community concern, not to create a barrier that prevents communities from raising legitimate concerns about projects that may affect their health, environment, and quality of life.

The MPCA should consider a more flexible and equitable approach by scaling the petition threshold based on the population of the affected area. One option would be to require signatures from a percentage of the residents who received the required written notice of the proposed project, such as 10% or 25%. Because the permit applicant would already be required to provide notice to these residents and property owners, this approach would establish a clear, objective, and community-specific threshold.

Alternatively, the MPCA could allow a petition supported by 100 signatures from residents or property owners within the county and any adjacent county, similar to the Environmental Quality Board’s petition process.

A petition process should be accessible to all communities across Minnesota, not only those with enough population density to meet an arbitrary numerical requirement. A more flexible standard would better support meaningful public participation while still ensuring that petitions reflect demonstrated community concern.

818. **Frontline Communities Protection Coalition (compiled comments)-045-201**: Christie Manning stated, “Finally, the current rules make residents meet an unreasonably high bar of proof. Demanding rigorous 'material evidence' and a high number of signatures is a difficult feat for EJ communities. They likely lack the time, funding, and specific expertise to gather and organize the necessary data. Please simplify the petition process. Reduce the signature threshold and require the MPCA to provide technical assistance or accessible public data to communities and groups seeking to file a petition. A lack of financial and other resources should never not bar a community from seeking protection. Indeed, communities' lack of financial (and other) resources is basically why they have been stuck breathing polluted air for so many decades.”

819. **Prairie Island Indian Community-052-09**: Prairie Island Indian Community stated, “Building on to this, section 7007.6060 Subp. 1 should be amended so that a formal request from a Tribal government qualifies as sufficient to petition the commissioner to require a cumulative impacts assessment without the need for obtaining 100 signatures from residents of the County where the proposed project is located.”

MPCA RESPONSE

820. The MPCA appreciates the commenters’ suggestions, but the signatory requirements of the petition process is established by the statutory requirements of Minn. Stat. § 116.065, subd. 3(c)

and reflected in the requirements established in part 7007.6060, subpart 1, item A. As stated in the SONAR (p. 90-91), part 7007.6060, subpart 1, item A provides clarity in rule regarding how the MPCA implements and applies the petition process in the proposed rules so that all interested persons have a common understanding of the signature requirements associated with the petition process.

821. Regarding the commenters' suggestions to use different signature and material evidence requirements for the petition process, Minn. Stat. § 116.065, subd. 3(c) establishes the signature requirements for the petition process. This includes the number of signatures the petition must include, who is eligible as a signatory to a petition, and that the petition must be supported by material evidence. The MPCA cannot change the requirements established in Minnesota Statutes, including the signatory requirements specified in Minn. Stat. § 116.065, subd. 3(c), through the administrative rulemaking process.

822. Additionally, the statutory applicability requirements identified in Minn. Stat. § 116.065, subd. 2 and reflected in part 7007.6020 provide that this process only applies to permit applications meeting the applicability criteria specified therein. This includes applications for facility expansion and reissuance of an expiring permit from existing facilities. Through the requirements established in part 7007.6060, the MPCA has met the obligation to create a petition process as required by Minn. Stat. § 116.065, subd. 6(c)(5), including how the MPCA will evaluate information provided through a petition in determining whether to grant or deny the petition and subsequently to determine whether a cumulative impacts analysis is needed.

823. Furthermore, the MPCA cannot use its discretion to create an alternative petition process route for formal requests from Minnesota Tribal governments through rulemaking. Doing so would conflict with the requirements established in Minnesota Statutes, including the signatory requirements specified in Minn. Stat. § 116.065, subd. 3(c). However, the MPCA has established a process for Tribal consultation in part 7007.6030 which provides opportunity for Minnesota Tribal governments to elect to apply the requirements of Minn. Stat. § 116.065 and parts 7007.6000 to 7007.6120 to stationary sources located in Indian Country through consultation consistent with Minn. Stat. § 10.65. MPCA has also established a process for Tribal coordination in part 7007.6030 which provides opportunity for Minnesota Tribal governments to meet and share information throughout the overall cumulative impacts analysis process. These opportunities provide mechanisms for Tribes to provide information, including during the initial assessment stage, that MPCA could use as part of determining whether to require a cumulative impacts analysis.

MPCA review of a submitted petition

824. The MPCA received four comments regarding how MPCA will review information provided as part of a petition. Commenters included suggestions regarding the completeness review process and verification of signatures.

825. **Minnesota Chamber of Commerce-027-28**: The Minnesota Chamber of Commerce stated, "f. The proposed rule (7007.6060, subp. 4, A) requires MPCA to determine whether the petition complies with subparts 1 to 3. The Chamber seeks clarification whether MPCA will confirm that at least 100 of the individuals signing the petition either reside or own property in the impacted EJ area."

826. **Shaw-036-10**: Beth Shaw stated, "require an analysis whenever credible evidence indicates potential harm, even if a petition has a procedural defect."

827. **Frontline Communities Protection Coalition (compiled comments)-045-151**: The Side Corridor Residents, Owatonna East stated, "6. Comments on Proposed Rule: Petition Process – Petition Information

The petition process should not require residents to provide information that has not been reasonably made available to the public. A petition should not be rejected or considered incomplete because it is missing information that was not included in the required public notice or otherwise provided by the permit applicant or the MPCA.

If information necessary to complete a petition has not been made available, the MPCA should require the permit applicant to provide that information and allow the petition process to continue rather than rejecting the petition based on circumstances outside the petitioners' control. Residents should not lose the opportunity to request a cumulative impacts analysis simply because required information was unavailable to them.

828. **Cordia Energy Center Minneapolis-049-25**: Cordia Energy Center Minneapolis stated, "i. The proposed rule (7007.6060, Subp. 4, A) requires MPCA to determine whether the petition complies with subparts 1 to 3. Cordia seeks clarification whether MPCA will confirm that at least 100 of the individuals signing the petition either reside or own property in the impacted EJ area."

MPCA RESPONSE

829. The process for evaluating whether petitions contain all the required information is identified in part 7007.6060, subpart 4 which provides that the commissioner must determine whether the petition complies with the requirements of part 7007.6060, subparts 1 to 3. This includes verifying whether the petition includes the required signatures and information to verify that the signatories meet the eligibility requirements specified by Minn. Stat. § 116.065, subd. 3(c) and part 7007.6060, subpart 1, item A.

830. The MPCA provided an explanation of the reasoning behind the completeness process identified by part 7007.6060, subpart 4 in the SONAR (p. 94-95). While petitions may be considered incomplete, petitioners have the ability to correct those deficiencies so that a petition can be acted upon by the MPCA.

831. Furthermore, petitioners are not required to submit information that is unavailable to them. Rather, the petition process is meant to provide an opportunity for the petitioners to provide information to the MPCA that they believe the MPCA should consider in determining whether to require a facility to conduct a cumulative impacts analysis.

Timeline for correcting incomplete petitions

832. The MPCA received five comments regarding the timeline for correcting incomplete petitions. Commenters expressed support for the ability to revise a petition if deemed incomplete and suggested that the MPCA provided a different amount of time than the 15 calendar days specified in part 7007.6060, subpart 4, item D, subitem (4).

833. **Hamline Midway Coalition-003-04**: The Hamline Midway Coalition stated, "We support the creation of the petition process as an essential component that gives communities a clear pathway to trigger a discretionary analysis if benchmarks are not met. However, the 15 day deadline required in subpart 4, item E to correct petitions that are incomplete is an unreasonable standard for community groups. Many small, community-based nonprofits operate on a 30 day cycle, often consisting of mostly volunteers. We recommend that the deadline for this be extended to 60 days to give sufficient time for petitioners to fully understand and address deficiencies."

834. **Minnesota Environmental Justice Table-031-04**: The Minnesota Environmental Justice Table stated, "We appreciate the MPCA giving communities the chance to revise their petition if information is missing, but the requirement to resubmit within 15 days under penalty of voiding the petition could be a hard requirement to meet. We ask the MPCA to **consider extending the**

resubmission deadline if the petition represents the first time the community is working with the Agency."

835. **Frontline Communities Protection Coalition-034-17**: The Frontline Communities Protection Coalition stated, "Subp. 4. **Completeness review**, item (E) - Setting a 15 day deadline for petitioners to rectify any issues is far too limiting. These petitions are an opportunity for community members to advocate for protecting their health and environment. Many communities lack the resources and capacity to address technical issues in such a short timeline. We believe that a 45 day deadline will provide a more comfortable opportunity for community members to gather any additional resources or information to comply with the petition requirements."

836. **Shaw-036-10**: Beth Shaw stated, "provide at least 30 days to correct technical deficiencies;"

837. **Frontline Communities Protection Coalition (compiled comments)-045-152**: The Side Corridor Residents, Owatonna East stated, "Additionally, if a petition is determined to be incomplete or not in compliance with the requirements, the petitioner should be given an opportunity to correct or supplement the petition, as long as sufficient time remains before the close of the public comment period.

A fair petition process should focus on ensuring that communities have a meaningful opportunity to participate, rather than creating procedural barriers that prevent valid concerns from being considered."

MPCA RESPONSE

838. The MPCA appreciates the commenters' suggestions regarding the process and timeframe associated with correcting a deficient petition. The completeness review process identified in part 7007.6060, subpart 4 is meant to be a non-substantive evaluation of the petition to make sure that all the required information specified by part 7007.6060, subparts 1 to 3 is included.

839. The MPCA provided an explanation for reasonableness of the 15 calendar day timeframe in the SONAR (p. 94-95) for correcting any deficiencies. Additionally, the MPCA must advise petitioners how the can fix any deficiencies as identified in part 7007.6060, subpart 4, item D, subitem (3) which provides petitioners with an explanation of how to correct any of the problems.

840. Furthermore, petitioners are always able to resubmit a petition up until the deadline specified in part 7007.6060, subpart 1, item B, which provides for additional time for petitioners to remedy any deficiencies identified as well. This paired with the notice of initial assessment required by part 7007.6050, subpart 5 provides ample time for petitioners to prepare and potentially revise a petition.

PART 7007.6070 DETERMINATION OF NEED

Support for environmental and health impacts as criteria

841. The MPCA received two comments expressing support regarding the inclusion of the ability to require a cumulative impacts analysis based on the environmental or health impacts associated with a requested permit action.

842. **Frontline Communities Protection Coalition-034-18:** The Frontline Communities Protection Coalition stated, "**7007.6070 Determination of Need**

Subp. 1. **Mandatory cumulative impacts analysis**, item (B) - We support the inclusion of requiring a cumulative impacts analysis if the Commissioner determines that issuing the requested permit action may substantially impact the environment or health of the residents of the impacted

environmental justice area. There will be permit applications and stationary sources that may not meet the specific benchmarks outlined in 7007.6050, subpart 4, but still present a danger to impacted environmental justice areas."

843. **Ohse-050-02:** Madonna Ohse stated, "In addition, I emphatically recommend that permit issuances require CI analysis based on existing health and environmental conditions in the community and actual pollution burden of the facility. There are many beneficial community assets that improve the quality of my, my family and neighbors' lives that I want to protect. We enjoy Lincoln Park with its forested trails, beauty of Miller Creek, playground, picnic area and community event space by which connection with others create joyful experiences and provide helpful, vital information. Harrison Community Center is a gathering place important to my family's well being. A farmer's market provides us with healthy food, friendships, an enduring sense of delight. Also at Harrison, family friendly programming and events bring us together with community for learning and comaraderie [sic], as well as, space for exercise-related activities."

MPCA RESPONSE

844. The MPA appreciates the statement of support for including environmental and health impacts as part of the determination of whether to require a cumulative impacts analysis.

845. Minn. Stat. § 116.065, subd. 3 establishes several requirements regarding the commissioner's determination of need for a cumulative impacts analysis. Part 7007.6070 identifies the scenarios, in which MPCA may consider information beyond the benchmarks, as expressly required or allowed under Minn. Stat. § 116.065, subd. 3(d)(2) and 3(e). Additionally, Minn. Stat. § 116.065, subd. 3(c) establishes requirements surrounding the determination of whether a cumulative impacts analysis is required, including reviewing information provided by the application, assessing benchmarks, and reviewing any other information deemed relevant by the commissioner.

846. Regarding the determination of whether a cumulative impacts analysis is required, the proposed rule, in part 7007.6070, subpart 3, establishes information MPCA must consider, including the objective benchmark criteria, and requires MPCA, in part 7007.6070, subpart 4, to consider the environmental and health impacts that may be expected to occur from issuing the requested permit action. The proposed rule's required information and criteria that will be used to evaluate the impacts and inform MPCA cumulative impact analysis determination, establishes decision criteria that is consistent with the statutory requirements in Minn. Stat. § 116.065, subd. 3(c), 3(d), and 3(e).

Transparency in decision making

847. The MPCA received three comments regarding transparency in decision-making regarding the determination of need established in part 7007.6070.

848. **Frontline Communities Protection Coalition (compiled comments)-045-142**: The Side Corridor Residents, Owatonna East stated, "Require written findings whenever the Commissioner grants or denies a discretionary CI analysis. A written explanation would improve transparency, promote consistency in decision-making, and strengthen public confidence in the process."

849. **Frontline Communities Protection Coalition (compiled comments)-045-166:** The Side Corridor Residents, Owatonna East stated, "11. Feedback on the proposed cumulative impact rules

Transparency is essential to meaningful public participation. Residents should have the ability to understand how a cumulative impacts analysis was developed and independently evaluate whether it accurately reflects the conditions experienced by the affected community.

The proposed rules should require that all significant assumptions, modeling inputs, methodologies,

background data, emission estimates, and supporting information used in the analysis be clearly documented and made publicly available. This information should be provided alongside the draft cumulative impacts analysis so community members have a meaningful opportunity to review the information, ask informed questions, and provide substantive comments before the analysis is finalized.

Greater transparency will strengthen the quality of public participation, improve accountability, and increase public confidence in the cumulative impacts and permitting processes."

850. **Saint Paul-Ramsey County Public Health-054-05:** Saint Paul-Ramsey County Public Health stated, "SPRCPH supports proposed rules that increase transparency in decision-making processes, particularly regarding how health impacts and benefits were evaluated. SPRCPH supports Proposed Minnesota Rules 7007.6070 subp. 6 and 7007.6100 subp. 4 that require MPCA to publish decision documents that explain the basis for determinations of need for a cumulative impacts analysis and determination of substantial adverse impact. To facilitate greater transparency and objectivity, SPRCPH recommends establishing additional quantitative methods to assess cumulative impacts within the significant impact determination process that extend beyond air emissions risk analysis and air quality modeling. The 26 stressors used in the environmental stressors database and initial assessment provide an appropriate foundation for these methods because they capture a broad range of public health and environmental impacts. For example, the analysis could evaluate whether facility activities worsen an existing stressor or increase a stressor above that stressor's respective reference value or geographic point of comparison. Incorporating these stressors into the decision-making process would also maintain consistency with the preliminary analysis framework outlined in the rules."

MPCA RESPONSE

851. The MPCA thanks the commenters for taking the time to address transparency within the proposed rule. The MPCA would like to note that Minn. Stat. § 116.065, subd. 3(f), requires the Commissioner to prepare and post a decision document regarding the determination of whether a cumulative impacts analysis is required. Within the decision documents, the MPCA will identify the statutory or rule language that is used within a determination, what information the MPCA used within that determination, how the commissioner came to their conclusion, including any applicable methodologies in making a determination, and what if any steps and actions are next based on the determination concluded. Additionally, the proposed rule establishes the requirement for the commissioner to prepare decision documents for these decision points in part 7007.6070, subpart 6 and part 7007.6100, subpart 4.

852. Regarding one commenter's request to establish additional quantitative methods beyond air emissions risks analyses and air quality modeling, the MPCA talks about the avenues in which a determination can be made within the substantial adverse impacts section of the SONAR (p. 138-143). This includes the quantitative methods identified by the commenter, but also includes methods to evaluate broader environmental and health impacts that are associated with a requested permit action. While this evaluation does not identify specific quantitative methods to evaluate these impacts, it also does not prohibit the use of quantitative methods. However, as stated in the SONAR (p. 140) the MPCA chose to provide different, non-numerical criteria for evaluating health and environmental impacts given the many possibilities of the potential environmental and health impacts that could be identified in the course of conducting a cumulative impacts analysis.

853. Regarding the use of environmental stressors as part of the decision-making process, the proposed rules already require the consideration of environmental stressors in multiple parts. The

proposed rules require regulated parties to include the environmental stressor information provided by the MPCA as part of an initial assessment required under part 7007.6050 (see part 7007.6050, subpart 3, item F). The proposed rules require that the owner or operator preparing an initial assessment consider those environmental stressors as part of the assessment of impacts of the requested permit action (see part 7007.6050, subpart 3, item G). This assessment focuses on the impacts to the environment and the health of the residents of environmental justice areas, consistent with the statutory directives in Minn. Stat. § 116.065, subd. 3(a), not contributions to environmental stressors. Through this assessment, the owner or operator provides relevant information to the commissioner for evaluation so the MPCA can determine whether a cumulative impacts analysis is required for the requested permit action. This determination is not based solely on environmental stressors. Environmental stressors are one part of the information, within the initial assessment, alongside other sources of information that the MPCA must consider as part of determining the need for a cumulative impacts analysis (see part 7007.6070, subpart 3) and as part of determining whether issuing the permit would have a substantial adverse impact (see part 7007.6100, subpart 1).

854. For further information on which methodologies the MPCA will use to determine substantial adverse impacts, including the topic of qualitative versus quantitative methods to assess impacts, see the response to comments for part 7007.6100, subpart 4.

Reversibility of potential impacts and determination of need

855. The MPCA received one comment regarding the consideration of reversibility of potential impacts regarding the determination of need established in part 7007.6070.

856. **Frontline Communities Protection Coalition-034-19:** The Frontline Communities Protection Coalition stated, "Subp. 4. **Determining substantial impact** - While reversibility of potential impacts may be an important consideration, the ability of impacts to be reversed does not mean this outcome will happen. We believe the Commissioner should consider the likelihood of impacts being reversed in this section.

Additionally, in item (B) we would like subitem (2) to be clarified. This could be interpreted either as individual impacts from the permit action being less significant due to the presence of many other contributing sources, or as individual impacts from the permit action being more significant since they are contributing to existing contributions, thereby amplifying the overall effects. We assert that the latter interpretation is in line with the concept of cumulative impacts and the spirit of the law, and would recommend clarifying this subitem to align with this concept."

MPCA RESPONSE

857. The MPCA appreciates the commenter's concerns regarding the reversibility of potential impacts as one part of the criteria used to determine whether issuing a permit may substantially impact the environment or health of the residents of an environmental justice area. The MPCA agrees and believes the proposed rule accommodates the consideration of likelihood an impact would be reversed. As identified in the SONAR (p. 99), "The reversibility of chemical stressors is important to consider because some chemicals may bioaccumulate or persist in the environment for long periods of time before breaking down or changing form, resulting in potentially longer exposure times or increased concentrations over time. The type, extent and reversibility of all impacts is needed for complete consideration of the total impact of issuing the permit."

858. Regarding the commenter's request for clarification on item B, subitem (2), the MPCA agrees that there are multiple ways to evaluate the significance of a potential impact, and this could include the scenarios envisioned by the commenter, but does not believe changes to the rule text are

needed. As stated in the SONAR (p. 100) for item B, subitems (1) and (2), there are considerations of the significance of potential impacts to provide contextual information for the MPCA's evaluation of the potential impacts associated with the requested permit action in light of other contributions to those impacts.

859. Additionally, other contributions to environmental or health impacts will vary, but could include contributors such as other stationary sources, nearby roadways, construction, and other actions or activities that may contribute to an environmental or health impact associated with the environmental or health impacts of the requested permit action. Each requested permit action and initial assessment will be unique in complexity with potential for co-occurring impacts that may have increased negative cumulative potential impacts based on the other environmental/health impacts occurring in the same area. The proposed rule language in part 7007.6070, item B provides a methodology to understand and evaluate cumulative potential impacts including contextualizing information such as other contributions to those impacts.

PART 7007.6080 Public Participation

Support for public participation plans

860. The MPCA received one comment expressing support for the public participation plan portions of the proposed rule.

861. **Frontline Communities Protection Coalition-034-20:** The Frontline Communities Protection Coalition stated, "7007.6080 Public participation

Subp. 2. **Cumulative impacts analysis; public participation plan** - We support the creation of public participation plans to ensure that facility owners or operators are being transparent about how they plan to conduct community engagement. The ability to hire a third party will also create opportunities for community engagement to be supported by skilled facilitators and community outreach organizations."

MPCA RESPONSE

862. The MPCA appreciates the support for the creation of the public participation plan and the rule language surrounding the permit applicant to hire a third party for outreach and engagement. These provisions allow the rule to better fulfill the statutory requirements related to public outreach, engagement, and participation.

Importance of public participation in the implementation of the proposed rule

863. The MPCA received two comments emphasizing the importance of public participation in implementing the proposed rule.

864. **Health Professionals for a Healthy Climate (compiled comments)-046-41:** Emily Onello stated, "*A cumulative impact analysis is a critical step toward health equity and environmental justice. It is critical to allow impacted citizens and communities a meaningful role in deciding how and if projects will move forward and how the project may impact human health and wellness.*"

865. **Caucutt-016-06**: Amy Caucutt stated, "PS. According to your map of affected areas in Rochester, the neighborhood west of Hwy 52 called Sunset Terrace is one of the most impacted. I regularly volunteer in the elementary school there, which is 2nd or 3rd most poverty impacted in Rochester. My church, which I attend regularly, is also in this neighborhood. When you are determining who may be impacted by air pollution, do not just look to where people live, but where people go to school, church, work, etc. when you ask for input."

MPCA RESPONSE

866. The MPCA appreciates the comment emphasizing that the cumulative impacts analysis is a critical step towards health equity and environmental justice. The Agency recognizes that public participation and community engagement is essential for effective implementation of the rule. The Agency established requirements in part 7007.6080 to fulfill the Minn. Stat. § 116.065, subd. 4(d)(1) requirement for "robust public and Tribal engagement" -- allowing the public to have a meaningful involvement in the cumulative impacts analysis permitting process.

867. The MPCA also appreciates the guidance to consider not only where people live, but also where people regularly visit. The statute language only allows the rule to apply to census tracts designated as environmental justice areas as identified by Minn. Stat. § 116.065, subd. 2(a)(1). Furthermore, the statutory language focuses on residents of the environmental justice area impacted by the facility (e.g., Minn. Stat. § 116.065, subd. 3(a)(1) and 3(d)(2)). However, the public meetings and public comments are open to all interested parties. This provides the public with the ability to share how the regulated party impacts places like churches, schools, parks, and other regularly attended spaces as well as their enjoyment of those places. Opportunities to leave input are available and welcomed during the petition process, public meetings, and comment periods. The MPCA will consider the information submitted during these processes when making its determinations.

Non-specific deficiencies, apprehension, or dislike of part 7007.6080 Public Participation

868. The MPCA received three comments where commenters stated they felt the proposed rule fell short regarding requirements for meaningful public engagement and involvement of the residents of an environmental justice area.

869. **Hamline Midway Coalition-003-11**: The Hamline Midway Coalition stated, **"**While the rules proposed by the Minnesota Pollution Control Agency are needed and reasonable, they fall short in key touchpoints for community involvement. The recommendations we provided in this letter will better serve impacted communities like Hamline Midway that this rule is intended to benefit. On behalf of the board and staff of Hamline Midway Coalition, thank you for this opportunity to provide comments on this proposed rule."

870. **Coming Clean Network-024-07:** Coming Clean Network stated, "**Weak or Inadequate Requirements Community outreach is led by the polluting facility.** Facilities do not have existing relationships or trust within EJ communities. Outreach run entirely by the facility ensures many community members will have doubts about engaging. This risks low participation at a critical point in the process, which prevents MPCA from having high-quality information necessary to improve health conditions in the community where the facility is located."

871. **Frontline Communities Protection Coalition (compiled comments)-045-28**: Michael L. Burwell stated, "I am Michael L. Burwell, Ph.D., and I live in Eagan, Minnesota. I am a member of the Caring for Creation group associated with Gloria Dei Lutheran Church in the Highland Park neighborhood of St. Paul. Although our primary concern is climate change in general, we also consider it part of our mission to advocate for clean air and clean water.

I am heartened to learn of all the work that the MPCA has put into its draft rules relating to environmental justice.

However, the rules articulated in the proposed Environmental Justice rule leave most of the decision-making up to the MPCA Commissioner, who can be influenced by industry and commercial interests to favor businesses over protecting communities. To better realize the goals of this law, these rules should be changed to better reflect the desires and priorities of impacted communities.

It is clear that the MPCA has invested considerable effort in developing the proposed Cumulative Impacts Analysis for Permit Decisions in Environmental Justice Areas (Minnesota Rules Chapter 7007; Revisor's ID Number R-4805). No one disputes that we all want clean, unpolluted air that reduces health risks for people living in vulnerable communities.

My principal concern is that residents of those communities should have a greater voice in determining how these rules are implemented and enforced. At the same time, the authority of the MPCA Commissioner should be more balanced than what is currently proposed. I recommend a stronger partnership between affected community residents and the MPCA Commissioner so that permitting decisions better reflect the needs and priorities of the people most impacted."

MPCA RESPONSE

872. The MPCA appreciates the commenter's recognition that the requirements in the rule are needed and reasonable to fulfill the statutory requirements. The commenters also states that the rule may fall short of desires or expectations from various parties to create meaningful involvement for residents of the impacted environmental justice area for various reasons. one commenter provided recommendations to meet the needs and desires of the public to a greater extent, and the MPCA responded to these recommendations in other portions of the document. In general, the MPCA established requirements in the rule creating increased transparency and opportunities for the public to be engaged in the permitting process.

873. The MPCA understands that the public's trust in the regulated parties impacts the implementation of the rule. To address the challenges associated with trust and participation during the implementation of the proposed rule, the MPCA included language meant to increase trust, transparency, and permitted parties' ability to conduct outreach and engagement.

874. The rule language in part 7007.6080 and associated section of the SONAR (p. 101-128) addresses concerns associated with the public's trust in the facility and a facility's ability to complete the outreach and engagement detailed in the rule. The rule also provides enough opportunities for organizations to perform the role requested by the commenters.

875. Although the rule does not require facilities to consult or engage local community groups, there is language allowing them to do so. To address the possibility that the facilities may need assistance in fulfilling the requirements in part 7007.6080, subpart 2, item E and part 7007.6080, subpart 3, item E allows for the facilities to hire third parties "to assist in developing and implementing" a public participation plan. The provision addresses the concern that public and informal comments received during the rule development that facilities may not have the skills, knowledge, or expertise needed to complete the outreach and engagement required in the rule. Hiring third parties may provide facilities with the necessary expertise and resources to conduct effective outreach and engagement (SONAR, p. 104, 106, and 107).

876. The MPCA avoids being overly prescriptive in a way that can prevent effective outreach and engagement in the variety of communities affected by the rule. The requirements in part 7007.6080 are broad enough to allow for facilities to conduct outreach and engagement that meets the specific needs of the community they are in. However, it is not too broad in a way that is detrimental to the public. All stakeholders have enough regulations and guidance to know what to expect. In extension, part 7007.6080, subpart 2, items C and D and part 7007.6080, subpart 3, items C and D requires the submission of public participation plans so the MPCA can verify the facility's ability to comply with the rule language and meet the requirements of Minn. Stat. § 116.065, subd. 4(d)(1) and Minn. Stat. § 116.065, subd. 4(a). If the Agency identifies deficiencies in the plan, the facility must remedy them before they can begin outreach and engagement (SONAR p. 103). As needed, the facility can also

conduct additional outreach and engagement to meet the specific needs of the communities in impacted EJ areas (SONAR p. 127-128).

877. Part 7007.6080, subpart 9 requires the Agency to maintain documents related to background information on the stationary source and their requested permit actions, required submissions from owners and operators, and determinations by the MPCA to be made publicly available on the Agency's website. Documents listed in the subpart will be posted at least 30 days before the applicable public meetings. As described in the SONAR, this will provide interested parties with enough time to review and discuss the documents ahead of public meetings. Community organizations can review the documents and act on the information as they see fit, which may include providing residents with support to meaningfully participate in the public meetings (SONAR, p. 124-126).

Requesting greater MPCA involvement in the implementation of the rule

878. The MPCA received one comment requesting greater MPCA involvement in different aspects of implementing the proposed rule.

879. **Health Professionals for a Healthy Climate-038-15:** The Health Professionals for a Healthy Climate stated, "**Building enduring relationships with EJ communities**. The SONAR describes the extensive stakeholder processes which the MPCA conducted during the development of the proposed rules. The proposed rules set forth a detailed and thorough process for owner/operators to engage communities in developing a CI analysis and a community benefit agreement. While owner/operator engagement is critical to assure that the concerns of the community are heard and the needs of the community are addressed, we suggest that the MPCA build on stakeholder work carried out during the rulemaking process and continue to allocate resources and staff to develop long term relationships with EJ communities as an avenue for listening to community stories and concerns as a qualitative lens on community members' lived experience.

The agency's continued community engagement will provide insight into the kind of community needs and improvements discussed on p. 180 of the SONAR, relating to improved amenities, like air quality, recreation, property values, and economic opportunities. These factors help close racial and income equity gaps and contribute to the improved quality of life that defines healthy communities."

MPCA RESPONSE

880. The MPCA appreciates the comment affirming the previous outreach and engagement conducted by the Agency during the rulemaking process and the existing public participation requirements in the rule language. The Agency recognizes that public participation and community engagement is essential for effective implementation of the rule.

881. The Agency agrees with the commenter on the need for Agency staff to maintain relationships with the residents of impacted environmental justice areas. Part 7007.6080, subpart 5, item E requires MPCA staff to be present at the public meetings identified in part 7007.6080, subpart 4. It is reasonable that MPCA staff should attend and interact with residents of the impacted EJ area, since staff will also regularly interface with regulated parties. This will provide staff with perspectives from all parties. Environmental justice area residents and advocates have emphasized the importance of MPCA representation at these meetings to hear directly from them and understand their perspectives. The MPCA needs to attend all required public meetings, so the Agency has the information from the owners and operators and residents of the impacted EJ area to make the determinations and decisions present in the rule (SONAR, p. 111).

882. The Office of Equity and Environmental Justice, Community Affairs, and other staff at the Agency will continue to build relationships with residents and organizations in environmental justice areas. These relationships will improve the Agency's ability to implement the rule and understand the needs of the community as described in the SONAR (p. 180).

Establishing a community Council to represent the environmental justice residents in the rule implementation

883. The MPCA received 10 comments requesting the proposed rule specify more detail regarding how public input is assessed as part of the proposed rule. Commenters also requested that the MPCA create and require a community council as part of the public participation requirements in the proposed rule.

884. **Caucutt-016-02:** Amy Caucutt stated, "2) You should require a community council of sorts to give you advice, else it is just the large potential polluter & MPCA working things out."

885. **Minnesota Chamber of Commerce-027-24**: The Minnesota Chamber of Commerce stated, "b. The technical details of the analysis will not be very accessible to the general public. MPCA and project proposers will need to reference details and include that complexity in decision-making while simplifying the process and outcomes as much as possible for public engagement. The Chamber recommends that the proposed rule indicate that information shared with the community should clearly indicate whether it is based on what is known, what is unknown, and what is uncertain, given constraints. The Chamber also recommends that information focuses on the specific impacts and stressors relevant to the permit action at issue, and not on other, unrelated environmental stressors. Meetings and informational documents related to a specific proposed permit action should not be focused on problems that, however meaningful and real, are not relevant to the impacts from the project at issue."

886. **Minnesota Chamber of Commerce-027-25:** The Minnesota Chamber of Commerce stated, "c. The proposed rule does not include measures for qualifying the representativeness of the engaged individuals. In many public permitting processes, there is a small number of very engaged people from the community and a slightly larger number who are paying attention. Most people are often not engaged at all. MPCA should not assume that the engaged group represents the views of the larger disengaged group. MPCA should therefore consider how to weigh such community input into decision-making."

887. **Frontline Communities Protection Coalition (compiled comments)-045-20** Lynn Anderson stated, "The MPCA should create a community council with the authority to survey residents in the area, engage with industry management, negotiate solutions, and make recommendations on whether a permit should be approved or denied. The MPCA Commissioner should be required to respond to those recommendations and provide logical reasons for their decision."

888. **Frontline Communities Protection Coalition (compiled comments)-045-69:** Charles Stephens stated, "While I appreciate the cumulative impacts rules proposed by the MPCA, there is a need for clearer definitions of both health and social harms, as well as a stronger mechanism—such as a community council—to review proposed permits and make recommendations that support both communities and businesses over the long term. Cumulative impacts rules are important, and I encourage you to strengthen them as they move forward."

889. **Frontline Communities Protection Coalition (compiled comments)-045-72:** Kjirstin Campos stated, "Please create a community council to represent residents and ensure that community voices have a real role in decisions that affect their health and future."

890. **Frontline Communities Protection Coalition (compiled comments)-045-93:** Eric W Larson stated, "Finally, I urge you to ensure that facility owners and the MPCA work with community organizations and leaders to create a community council to represent the community. This is consistent with our founding principles of representative governance and the importance of community oversight and accountability. Thank you for your consideration."

891. **Cordia Energy Center Minneapolis-049-19:** Cordia Energy Center Minneapolis stated, "c. Public participation will be a challenging aspect of the cumulative impacts rule. The technical details of the analysis will not be very accessible to the general public. The MPCA and project proposers will need to reference details and include that complexity in decision making while simplifying the process and outcomes as much as possible for public engagement. Information shared with the community should clearly indicate whether it is based on what is known, what is unknown, and what is uncertain, given constraints.

The draft rule does not include measures for qualifying the representativeness of the engaged individuals. In many public permitting processes, there is a small number of very engaged people from the community and a slightly larger number who are paying attention. Most people are often not engaged at all. The MPCA should not assume that the engaged group represents the views of the larger disengaged group. The MPCA should therefore consider how to weigh such community input into decision-making."

892. **Saint Paul-Ramsey County Public Health-054-06**: Saint Paul-Ramsey County Public Health stated**,** "Lastly, SPRCPH supports proposed rules that increase community input in decision-making, including requirements that public comments be considered in the development of community benefit agreements and the MPCA commissioner's decision on whether to enter into such agreements (proposed Minnesota Rules 7007.6080 subp. 5, subp. 8; 7007.6100 subp. 1, item A, subitem 4). Public participation in these processes can improve residents' understanding of environmental health information and understanding of potential environmental impacts while fostering trust in the process. Residents are more likely to engage when they feel heard and represented. SPRCPH also supports developing the following additional rules to elevate resident voices: engaging community councils to advise the MPCA on decision related to community benefit agreements. This may include engaging existing community councils such as Saint Paul's district council system, or establishing new project-specific community councils comprised of residents in impacted areas. SPRCPH supports Proposed Minnesota rule 7007.6110, subp. 5 that requires ongoing reporting of community benefit agreement implementation to ensure commitments are fulfilled. SPRCPH is committed to collaborating with residents, MPCA, and interested parties in the protection of environmental and public health through the implementation of this law."

893. **Bisht-059-03:** Richa Bisht stated, "I also support the establishment of a community council process, which empowers communities and will give them a voice during negotiations with facilties/industries [sic]."

MPCA RESPONSE

894. The MPCA's interpretation of these comments is a desire to improve the public's ability to be involved in the rulemaking process by advising the MPCA and influencing determinations listed in the rule. The current rule language fulfills the statutory requirements in Minn. Stat. § 116.065, subd. 4(d)(1) to "provide an opportunity for robust public and Tribal engagement" and in Minn. Stat. § 116.065, subd. 6(c)(4)(i) to achieve "active outreach to residents of the impacted environmental justice area designed to achieve significant community participation" in a reasonable manner while maintaining legal standing for determinations and decision making. Minn. Stat. § 116.065, subd. 3 provides the commissioner with the authority to determine the need for a cumulative impacts

analysis and defining what constitutes a substantial adverse impact. Minn. Stat. § 116.065, subd. 5 mandates that the commissioner and the owners or operators of the facility enters into the community benefit agreement. The rule reasonably establishes the process for making these determinations and agreements, and they fulfill the statutory requirements.

895. The MPCA provides sufficient access to information and notice for public meetings and comment periods for the public to process, simplify, and disseminate information—addressing commenters' concerns over the complexity of information presented to the public. The public can also self-organize when submitting public comments (SONAR, p. 116-118 and 124-126). The access to information extends to established councils operating in an impacted environmental justice area. A facility's decision to recognize an impacted entity or council's determination beyond what is listed in the rule is possible, but it is up to their discretion to do so. It is reasonable to have this option as each impacted environmental justice area may have unique outreach and engagement needs not described in the rule language (SONAR, p. 127-128). Decisions on the content of the rule language related to requiring regulated parties to meet with and recognize local organizations were made with considerations to the Agency's ability to enforce these requirements. The MPCA would not be able to enforce a legal agreement, consultation services, or collaboration between a local organization and a facility. This would be an independent agreement; if violated, it would not be subject to an MPCA enforcement action, but rather, the responsibility of the parties to the legal agreement to enforce.

896. To address the concerns about the MPCA and a facility's consideration of the public's input during the permitting process, there are currently up to four required meetings, to be held by the regulated parties. These meetings are required in the development and approval of a cumulative impacts analysis and community benefit agreement. These meetings are one of the opportunities for the public to leave public comments. Part 7007.6080, subpart 6 requires the facility to provide the commissioner and the public with a summary of the comments received during public meetings and comment periods, a summary of the owner's or operator's response to the comments, and summaries of how these comments impact the cumulative impacts analysis and community benefit agreement. These comments may inform the actions and decisions made by the owners and operators of the facility and the MPCA (SONAR, p. 120-124). The requirements create transparency for the public, require the facility to demonstrate how input from the public was considered in their decision making, and provide the public with the necessary information to effectively engage in public meetings and comment periods (SONAR, p. 112-113).

897. These reasonable measures allow the facility and MPCA to fulfill the statutory requirements to consider public comments and give priority to considerations that directly impact the residents of the environmental justice area.

898. Some commenters also expressed concerns regarding the accessibility of technical materials due to the foreseen complexity and offered suggestions regarding how information should be shared at public meetings and in informational documents. Facilities may present information in a way that adds the most clarity during their public meeting. There are no barriers that prevent owners and operators presenting information in the way the commenter has requested, so long as it is not misleading, false, or intentionally harmful. However, the Agency maintains that the public should have access to all the information related to impacts and stressors, not just those that the facility believes are relevant to the permit action. In accessing the information, the public will be able to have a more comprehensive view, allowing them to more accurately assess the impacts of the facility on their lives. The public may be able to provide comments during public meetings, comment periods and petition processes, that uncover, support, or highlight impacts that the facility and agency may not be aware of or fully understand. As seen in previous comments, there may be

members of the public or groups of people who understand and desire all of the information found during the initial assessment and cumulative impacts analysis.

Timeline associated with public participation

899. The MPCA received two comments regarding the timeline associated with the public participation requirements of the proposed rule. Commenters discussed and expressed apprehension over the timeline included in the rule for the cumulative impacts and air permitting process should a community benefit agreement be required.

900. **Minnesota Chamber of Commerce-027-18:** The Minnesota Chamber of Commerce stated, "e. The proposed rule imposes specific timelines associated with conducting public meetings, of which a minimum of four are required (one before and one after conducting a CIA, and one before and one after preparing a CBA, if a CBA is required). These timelines include:

> (1) Submitting a public participation plan to MPCA within 30 days of MPCA determining (i) the need for a CIA and (ii) the need for a CBA;
> (2) Providing MPCA with written notice of each public meeting at least 45 calendar days before each meeting;
> (3) Posting notice of each public meeting at least 30 calendar days before each meeting;
> (4) Providing at least 30 calendar days for public comment after each public meeting;
> (5) Posting a video and audio recording of each public meeting within 15 calendar days after each meeting
> (6) Providing MPCA an electronic copy of all written comments and a transcript of all oral comments received at each public meeting within 30 calendar days after each meeting; and
> (7) Providing MPCA with a report responding to each public comment within 30 calendar days after the end of each public comment period and at least 45 calendar days before the next public meeting.

Collectively, these requirements may add approximately fourteen months to the current air permitting timeline (four public meetings, each requiring 45 days prior notice, a 30-day comment period, and 30 days post-meeting follow-up), which seems unreasonable. One suggestion to shorten the timeline would be to allow the permittee to request that the post-CIA and pre-CBA public meetings be merged if the permittee believes it is likely that a CBA will be required."

901. **Cordia Energy Center Minneapolis-049-10:** Cordia Energy Center Minneapolis stated, **"**e. The proposed rule imposes specific timelines associated with conducting public meetings, of which a minimum of four are required (one before and one after conducting a CIA, and one before and one after preparing a CBA). These timelines include:

> Submitting a public participation plan to MPCA within 30 days of MPCA determining (i) the need for a CIA and (ii) the need for a CBA;
> Providing MPCA written notice of each public meeting at least 45 calendar days before each meeting;
> Posting notice of each public meeting at least 30 calendar days before each meeting;
> Providing at least 30 calendar days for public comment after each public meeting;
> Posting a video and audio recording of each public meeting within 15 calendar days after each meeting
> Providing MPCA an electronic copy of all written comments and a transcript of all oral comments received at each public meeting within 30 calendar days after each meeting;

Providing MPCA with a report responding to each public comment within 30 calendar days after the end of each public comment period and at least 45 calendar days before the next public meeting.

Collectively, these requirements may add approximately fourteen months to the current air permitting timeline (four public meetings, each requiring 45 days prior notice, a 30 day comment period, and 30 days post-meeting follow-up)."

MPCA RESPONSE

902. The commenter is correct in stating that the process required in the rule may take over a year to complete. However, the timeline listed in the comment does not accurately reflect the length of time required for the cumulative impacts process. The comment displays the timelines as strictly sequential, whereas the timeline events listed contain overlapping work and may happen simultaneously. For example, the timing of several requirements can overlap. A facility can post the video of the meeting, submit the electronic copy of all written comments and a transcript of all oral comments received at each public meeting, and begin constructing responses to public comments within the required 30 calendar days for a public comment period after each meeting.

903. The 30-day post-meeting timeline is meant to give a facility a reasonable amount of time to do the tasks being required of them after a public meeting. Permitted parties do not need to use the entire time period if they do not need it, which could potentially shorten the permitting process. Part 7007.6080, subpart 8, item A requires the comment period to extend at least 15 days after a required public meeting. The proposed rule provides that the owner or operator can start the public comment period 15 days before the associated public meeting in order to shorten the timeline.

904. Nonetheless, the MPCA does acknowledge that the permitting process will be lengthy should a facility be determined to have a substantial adverse impact on residents of an environmental justice area and be required to do a community benefit agreement. Due to the complexity of the rule and the Minn. Stat. § 116.065, subd. 4(d)(1) and Minn. Stat. § 116.065, subd. 6(c)(4)(i) requirements for "robust public and Tribal engagement" throughout the permitting process and "active outreach to residents of the impacted environmental justice area designed to achieve significant community participation" during the community benefit agreement process, the current timeline is needed and reasonable. It will allow for the effective implementation of the rule.

905. The timelines established allows the public to be effectively engaged and participate in the rule implementation process. Shortening any of the timelines will be detrimental to the implementation of the rule and disrupt the public's ability to be alerted to upcoming public meetings and attend the meetings in a meaningful way. As Cordia Energy Center Minneapolis pointed out in comment 049-19, the materials that permitted parties provide to the public during the permitting process may be complex and technical. The timelines described in the rule are essential for allowing the public to understand the complex information and construct informed public comments during the public comment periods and public meetings. These timelines also allow the public the necessary time to request accommodations needed to attend public meetings (SONAR, p. 116-120).

906. The commenters also suggest combining the "post-CIA and pre-CBA public meetings ... if the permittee believes it is likely that a CBA will be required." The Agency believes that merging these meetings will have a detrimental effect on rule implementation and is unreasonable. It is unreasonable to expect the public to receive information about the cumulative impacts analysis and provide informed input meant to improve the permitted party's prospective community benefit agreement during the same meeting. The information provided to the public will be technical, potentially complex, and describe current living conditions. It is reasonable to expect that the public

will need time to process the information and provide responses that will benefit the permitted party's ability to create a community benefit agreement. Merging the meetings will also preclude the MPCA's ability to require additional outreach and engagement as needed to establish the community benefit agreement and the requirement in Minn. Stat. § 116.065, subd. 6(c)(4)(i) to conduct "active outreach to residents of the impacted environmental justice area designed to achieve significant community participation" during the community benefit agreement process.

Public meeting requirements

907. The MPCA received five comments regarding the requirements for holding public meetings specified in the proposed rule. Commenters made comments on or requested changes to the public meeting requirements.

908. **Minnesota Chamber of Commerce-027-31:** The Minnesota Chamber of Commerce stated, **"**i. The proposed rule (7007.6080, subp. 5, B) requires the following: "An owner or operator must hold a public meeting...at a location that is convenient to persons expected to attend the meeting." Convenience will vary in the community; a better way to frame the location would be "a centrally located, accessible venue."

909. **Minnesota Chamber of Commerce-027-32:** The Minnesota Chamber of Commerce stated, "j. The proposed rule (7007.6080, subp. 5, C (2)) requires the following: 'include a video and audio recording of the entirety of the public meeting that is made available online for the public to view.' The 'entirety' of the public meeting could be difficult to capture and could limit the format/effectiveness of the public meeting; a better way to frame the requirement would be '...recording of the public meeting presentation…'"

910. **Frontline Communities Protection Coalition-034-22:** The Frontline Communities Protection Coalition stated, "Subp. 6. **Meeting-specific requirements** - We support the inclusion of an explanation of how comments informed cumulative impacts analysis and draft community benefit agreements under item (B), subitem (3) and item (D), subitem (3). We believe this practice is essential for transparency and accountability when comment periods are conducted."

911. **Frontline Communities Protection Coalition (compiled comments)-045-154**: The Side Corridor Residents, Owatonna East stated, "8. Comments on Proposed Rule: Community Meetings

We support the proposed requirement for two community meetings during the cumulative impacts analysis process. Holding one meeting before the analysis begins and another after the draft analysis is completed, but before approval, creates important opportunities for community members to engage, provide input, and help shape the final analysis."

912. **Frontline Communities Protection Coalition (compiled comments)-045-158**: The Side Corridor Residents, Owatonna East stated, "9. Comments on Proposed Rule: Community Benefit Agreement (CBA) Meetings

We support the proposed requirement to hold two public meetings when a Community Benefit Agreement (CBA) is required. Providing opportunities for community input before a draft agreement is developed and again after a draft is available will strengthen transparency, accountability, and public participation."

MPCA Response

913. The Agency appreciates the statements submitted. The comments varied in topics, from the meeting venue to how the information is presented during the meetings. The comments also varied in the support for requirements and the apprehension of the requirements listed in part 7007.6080.

914. The MPCA appreciates the comments supporting the quantity and timing of the required public meetings. The MPCA also appreciates the statements supporting requirements for an explanation of how public comments informed the cumulative impacts analysis and the community benefit agreement.

915. The MPCA respectfully disagrees with one commenter's statement that a better way to state language in part 7007.6080, subpart 5, item B will be to include "a centrally located, accessible venue." By including a geographic characteristic in the language, the requirements may be overly prescriptive. The impacted census tracts vary across the state. Some census tracts may not have centrally located venues suitable for public meetings. The suitable public spaces may be on the periphery of an impacted environmental justice area. The MPCA does not want to preclude the use of these spaces so that owners and operators of a stationary source can comply with the rule and should the use of those spaces lead to greater public participation and public engagement (SONAR, p. 109).

916. The MPCA received multiple comments about recording the public meetings. The MPCA appreciates portions of the comments in support of recording the entirety of the public meetings. The MPCA understands and acknowledges the difficulty in recording the entirety of meetings. The MPCA finds that recording the entire meeting is needed and reasonable for the rule's implementation. With a recording of the entire meeting, the facility will document public sentiment and extra information not included in the presentation, which will make the information accessible to residents and interested parties who may not be able to attend. If interested parties cannot attend the meeting and the discussion after the presentation is not recorded, they may miss information needed to fully engage in the permitting process (SONAR, p. 110).

917. One commenter commented on the ability of the Commissioner to review the fact sheets presented by the facility that are required in part 7007.6080, subpart 5, item F. The MPCA agrees it is essential that required information must be factual and accurate. Per part 7007.6080, subpart 5, item G, subitem (3), the fact sheets will be submitted 45 days before the public meeting. The MPCA has the authority to review and ensure the permitted party's compliance to with part 70007.6080, subpart 5, item F (SONAR, p. 112 & 113).

Public comments and public comment periods

918. The MPCA received five comments regarding the requirements for public comment periods and handling public comments specified in the proposed rule.

919. **Frontline Communities Protection Coalition (compiled comments)-045-129:** Melissa Zimmerman stated, "Public comments should also be treated as an opportunity to strengthen and improve the process, not simply as a procedural requirement to check a box. When residents identify significant omissions, inaccuracies, or additional cumulative impacts supported by credible evidence, those concerns should be meaningfully considered. The cumulative impacts analysis or Community Benefit Agreement should be revised or supplemented when appropriate before decisions are finalized. Simply responding to comments does not necessarily create meaningful participation if community input cannot influence the final outcome."

920. **Frontline Communities Protection Coalition (compiled comments)-045-157:** The Side Corridor Residents, Owatonna East stated, **"**Finally, the rules should require that substantive public comments identifying material omissions, inaccuracies, or additional cumulative impacts be meaningfully considered and incorporated into the cumulative impacts analysis when warranted. Public meetings should serve as an opportunity to improve the quality and accuracy of the analysis—not simply provide information after key decisions have already been made.

Strengthening these provisions will help ensure that required community meetings result in meaningful public participation and contribute to a more complete, accurate, and accountable cumulative impacts analysis."

921. **Frontline Communities Protection Coalition (compiled comments)-045-162:** The Side Corridor Residents, Owatonna East stated, **"**10. Comments on Proposed Rule: Public Comments and Responses

We support providing 30-day public comment periods surrounding each required community meeting and allowing residents to submit comments during those meetings. However, requiring the facility to simply respond to comments does not ensure that public participation meaningfully influences the cumulative impacts analysis."

922. **Frontline Communities Protection Coalition (compiled comments)-045-163:** The Side Corridor Residents, Owatonna East stated, **"**The proposed rules should require that substantive comments identifying material omissions, inaccuracies, additional cumulative impacts, or other relevant information be carefully evaluated and incorporated into the cumulative impacts analysis when appropriate before the analysis is finalized. If the facility determines that revisions are not warranted, the response should clearly explain the factual and technical basis for that decision and identify the evidence relied upon."

923. **Frontline Communities Protection Coalition (compiled comments)-045-165:** The Side Corridor Residents, Owatonna East stated, "Public participation should strengthen the quality, accuracy, and completeness of cumulative impacts analyses. It should not simply result in written responses that become part of the administrative record after decisions have effectively been made."

MPCA Response

924. The MPCA appreciates the support from commenters for the requirement to hold a 30-day public comment period for each required public meeting. However, some commenters stated that they have concerns regarding the rule language addressing public comments.

925. The commenter believes that the public comments should not be "simply a procedural requirement to check a box" and that "substantive comments" should be meaningfully considered by the MPCA and the owners and operators of the facilities when making determinations and planning actions. They express that public participation, of which public comments is an essential component, is necessary for the effective implementation of the rule. The MPCA agrees with this sentiment and included needed and reasonable requirements to compel the permitted parties and the Agency to meaningfully consider public input in the rule implementation.

926. Part 7007.6080, subpart 8 (public comments); part 7007.6080, subpart 6, item D, subitem 3 (how comments informed information included in a CBA); part 7007.6100, subpart 1, item B, subitem (5) (environmental stressors present in the impacted environmental justice area); and part 7007.6110, subpart 9, item B, subitem (6) (consideration of the facility response to public comments in determining whether to enter into a CBA) contain requirements meant to address concerns over the permitted party's meaningful consideration and incorporation of input from the public.

927. Part 7007.6080, subpart 8 requires the permitted parties to respond to the comments submitted by the public. The MPCA recognizes that a response to the public may not be sufficient in showing that the permitted parties considered the public comments in the cumulative impacts analysis or community benefit agreement. To address the concern, part 7007.6080, subpart 6, item B, subitem (3) and part 7007.6080, subpart 6, item D, subitem (3) requires permitted parties to provide an explanation of how the comments informed the cumulative impacts analysis and the

community benefit agreement. Without these measures, the public and the commissioner will not understand how the permitted parties considered public input in the form of public comments (SONAR, p. 113-116).

928. The commenter also expressed concern over the Agency's consideration of public comments while making determinations for the substantial adverse impacts and entering into the community benefit agreement. Part 7007.6100, subpart 1, item B, subitems (4) and (5) require the commissioner to consider the comments and the permitted party's responses to comments as part of the determination on substantial adverse impacts while part 7007.6110, subpart 8, item C, subitem (6) requires the Commissioner to consider these responses as part of the determination on whether to enter into community benefit agreement. The Commissioner's decision documents for the substantial adverse impact determinations and the community benefit agreement required in parts 7007.6100, subpart 4 and part 7007.6110, subpart 10 will describe how the commissioner considered public input and their assessment permitted party's consideration of public input. These requirements provide needed transparency while providing structure to incorporate public input into the implementation of the rule.

Improved transparency, outreach, and engagement

929. The MPCA received 10 comments requesting improved transparency, increased consideration of public health, and increased requirements or clarity for outreach and engagement.

930. **Amanda-004-02:** Amanda stated**, "**Adding to this, having to live with the noticeable pollution coming right off interstate 94 has become very tiresome and dangerous. MPCA has declared in the past that it wants to hear from underrepresented communities, make sure you do that. I believe they will voice opinions that can differ from choices the organization is taking."

931. **Peña-007-02:** Eva Peña stated, "I would appreciate more investment into pollution relief that considers the community of people in the area. More public town halls that are better advertised would be appreciated as well. As of right now, I am not even sure if these measures are being taken in my communities. That information isn't reaching me, which means that it is also not reaching other people. To address this, I recommend that there are more efforts taken to reach all community members of the impacted areas."

932. **West-011-02:** Margaret West stated, "I believe we need more public information and participation. We live on steep hills, so heavy traffic impacts our air quality and plants. I regularly have to wash black soot off of house inside and out. My husband has asthma, is elderly, so pollution during SW wind days is difficult."

933. **Bonin-025-04:** Elizabeth Bonin stated, "I urge the MPCA to put the community's health first and center the voices of folks from EJ communities."

934. **Minnesota Chamber of Commerce-027-23:** The Minnesota Chamber of Commerce stated, "**5. Greater Clarity Regarding Community Participation and the Requirements for a Petition**

a. Public participation will be a challenging aspect of the Cumulative Impacts rule. The Chamber recommends that the proposed rule be amended to provide greater clarity regarding the process and requirements for public participation. Similarly, the Chamber also recommends that MPCA amend the petition portions of the rule."

935. **Minnesota Environmental Justice Table-031-06:** The Minnesota Environmental Justice Table stated**,** "Public engagement. Overall, we found that the public engagement portion of the draft rules thoughtfully considered the frequency of public meetings and the information made available to the community.

We see an area of improvement in the public participation plan for both the cumulative impacts analysis and the community benefits agreement. Currently, these plans are submitted to the MPCA, and the MPCA is currently the sole reviewer. **We recommend that the impacted community be able to see these draft plans and give feedback.** The community will have a deeper understanding of how they want communication with the facility to proceed, including aspects like trusted channels for outreach about public meetings, format of information provided by the facility, and availability constraints of residents who would like to attend these meetings. **Furthermore, the MPCA should be required to address this community feedback in its decision making.**"

936. **Frontline Communities Protection Coalition (compiled comments)-045-128:** Melissa Zimmerman stated, "However, based on my experience, meaningful public participation requires more than simply creating opportunities for residents to attend meetings and submit comments. It requires sufficient time for communities to understand a proposed project, review supporting information, ask informed questions, and provide feedback while there is still a meaningful opportunity to influence decisions.

Meeting materials, draft analyses, and draft Community Benefit Agreements should be made available before public meetings so that residents have the opportunity to prepare and engage thoughtfully, rather than encountering important information for the first time during a presentation."

937. **Frontline Communities Protection Coalition (compiled comments)-045-130:** Melissa Zimmerman stated, "Meaningful participation also requires accountability. Residents should have access to a fair, transparent, and affordable process to challenge decisions when credible evidence or community concerns are not adequately considered. Ideally, there should be opportunities for review and oversight before a matter reaches litigation. If judicial review becomes necessary after available administrative remedies have been exhausted, residents who successfully demonstrate that concerns were not properly addressed should have the ability to recover reasonable attorney fees and litigation costs. Community participation should not depend on whether individuals or communities have the financial resources to challenge decisions that they believe are inconsistent with the evidence.

The proposed community participation requirements provide a strong foundation. With additional emphasis on transparency, meaningful consideration of public input, and accessible avenues for review, these rules can help ensure that community participation is not just a required step in the process, but an essential part of better environmental decision-making.

My hope is that these rules recognize that communities bring valuable knowledge and lived experience to these processes. When residents have the information, time, and meaningful opportunities to participate, the result is stronger decisions that better protect people and the environment."

938. **Frontline Communities Protection Coalition (compiled comments)-045-156**: The Side Corridor Residents, Owatonna East stated, "Meeting agendas, presentation materials, draft analyses, and supporting documents should also be made publicly available at least seven days before each meeting. Providing materials in advance allows residents to prepare informed questions and comments rather than encountering important information for the first time during the meeting."

939. **Frontline Communities Protection Coalition (compiled comments)-045-159**: The Side Corridor Residents, Owatonna East stated, **"**To ensure these meetings are meaningful, all residents and property owners within the identified impact area should receive written notice sufficiently in advance of each meeting. Agendas, draft CBA language, and supporting materials should be made

publicly available at least seven days before each meeting so residents have adequate time to review the information, understand the proposed agreement, and provide informed feedback."

MPCA RESPONSE

940. The MPCA appreciates the comment advising the Agency to put the community's health first and center the voices of folks from environmental justice communities. The MPCA also appreciates the support for the current requirements as stated in some of the comments.

941. One commenter requested greater clarity for the public participation plan and the petition process as they believe this will be a challenging part of the rule to implement. The MPCA agrees that achieving effective public participation and robust public and Tribal engagement is challenging. The current requirements in the rule provide the necessary framework in a reasonable manner to fulfill the statutory requirements without being overly prescriptive. The rule also accounts for how dynamic census tracts across Minnesota are. By adding more rigidity and requirements, the rule may not be able to be feasibly implemented across the state and can curtail its ability to fulfill the statutory requirements as populations and community characteristics change. Additionally, more guidance and structure will be added to ease the implementation of the rule in the future.

942. Four commenters addressed public health in addition to addressing transparency. Multiple commentators addressed the cumulative impacts of their living conditions on their health. The MPCA appreciates the public's willingness to share the health impacts they face and recognizes that the combination of stressors may increase adverse health effects compared to any individual stressor on its own. Measures in this rule seeks to assess and address these cumulative impacts on the public health and environment of impacted environmental justice areas.

943. The rule contains many requirements addressing public and environmental health. Part 7007.6060 subp. 5, item A, establishes that the commissioner must grant the petitioners request for a cumulative impacts analysis if the information considered demonstrates that the requested permit action may have the potential to substantially impact the environment or health of the residents of the environmental justice area. Part 7007.6050 (Initial Assessment) and part 7007.6090 (Cumulative Impacts Analysis) require a variety of data to assess the impact on the community's health (SONAR, p. 82-90 and 128-137). These data sets, the information collected by the facility, and the input provided by the public during the public comment period informs the commissioners determinations.

944. Part 7007.6070 addresses the concerns for consideration of community health in making a determination of whether to require a cumulative impacts analysis. A cumulative impacts analysis will be required if a facility meets or exceeds the benchmarks described in part 7007.6050 or if the requested permit action may substantially impact on the environment or health of the residents of the environmental justice area. Similarly, health impacts are considered in the determination of whether the requested permit action would have a substantial adverse impact on the environment or the health of the residents of the environmental justice as identified in part 7007.6100. The degree of the impact on a community's health is used to help make the determination of substantial adverse impacts and whether a community benefit agreement, and its contents, is required (SONAR p. 140-142 and 147-149).

945. Commenters also described difficulties in knowing when meetings are taking place and when and where information is available. There are multiple ways for interested parties to stay informed of public meetings, public comment periods, and decisions made by the regulated parties and the MPCA. Part 7007.6080, subpart 7 describes the noticing requirements in the rule and requires the

facilities to employ multiple outreach methods. At least 30 days before a public meeting, owners and operators of a stationary source must:

- Post in at least one newspaper of general circulation in the environmental justice area
- Post in at least one non-English newspaper of general circulation in the environmental justice area, if such a newspaper is available
- Post physical signs in the impacted environmental justice area

946. Part 7007.6080, subpart 5, item G, subitem (1) also requires the owners and operators of the facility to provide notice of public meetings to local governmental units 45 days before the meeting. These entities could disseminate information to the people they represent. Part 7007.6080, subpart 7, item D, subitem (1) also requires the facility to create and maintain an electronic mailing list and provide the public with opportunities to sign-up to receive notices for public meetings via this method. Opportunities to join the mailing list must be displayed in documents, shared at the public meetings, and included on signage posted in the impacted environmental justice area. The Agency believes these requirements provide interested parties with a sufficient number of pathways to stay informed of public meetings, leading to an effective implementation of the rule (SONAR, p. 112-113 and 117-118).

947. Commenters requested that the materials for public meetings should be made available before the public meetings so people can review the materials and prepare themselves to participate in the meetings. The Agency agrees that this will improve the public's ability to participate in the meetings and provide public comments. Part 7007.6080, subpart 9 requires the agency to post the materials the commenter requested on the Agency website 30 days before each public meeting. This will allow the public to meaningfully engage in the permitting process. Of these, the public will be able to see the cumulative impacts analysis before the MPCA's determination of substantial adverse impacts and the draft community benefit agreement before it is signed by both parties. The public will be able to provide public comments regarding the documents and provide the facility and Agency with their insights before each determination is made, addressing concerns over the public's ability to see draft documents.

948. The public also expressed concern over the Agency's consideration of public input while making determinations on substantial adverse impacts and entering into the community benefit agreement. Comments included a request for greater transparency. The rule has measures that are needed and reasonable to provide the necessary requirements for transparency in the rule's implementation. Part 7007.6100, subpart 1, item B, subitem (5) requires the commissioner to consider responses to comments as part of the determination on substantial adverse impacts while part 7007.6110, subpart 8, item C subitem (6) requires the Commissioner to consider these responses as part of the determination on whether to enter into community benefit agreement. The Commissioner's decision documents for the substantial adverse impact determinations and the community benefit agreement required in part 7007.6100, subpart 4 and part 7007.6110, subpart 10 will describe how the commissioner considered public input and their assessment permitted party's consideration of public input. These requirements provide needed transparency while providing structure to incorporate public input into the implementation of the rule.

Requiring the facility to contact/work with community organizations

949. The MPCA received 17 comments expressing the public's desire to have existing community organizations be involved in the creation of the public participation plan, outreach and engagement, and providing the commissioner with recommendations for determinations and decisions in the rule's implementation. Commenters describe the importance of including these groups to achieve

effective outreach and emphasized their role in informing what languages materials and information should be offered in and improving the accessibility of public meetings.

950. **Hamline Midway Coalition-003-07:** The Hamline Midway Coalition stated, "We support the creation of robust requirements for facility owners and operators that undergo CI-analysis. Public notice practices outlined in subp. 7 of this section are commonly utilized by HMC as effective ways to share information and notices. However, this is not a full list nor is it responsive to the ever-changing ways that people get information. We recommend that an additional requirement be made to include local community groups in the public engagement plan who have the skills, knowledge, and trust within a neighborhood to better inform and respond to the evolving landscape of information exchange."

951. **Hamline Midway Coalition-003-08:** The Hamline Midway Coalition stated, "In addition, we recommend that engagement with community groups be used to inform what languages are representative of a neighborhood, what times to hold meetings, and where the meetings should be held as required by 7007.6080 subp. 5, subp. 6, and subp. 7.

Neighborhood councils, school groups, faith communities, local volunteer groups, and the countless other ways in which people organize themselves on a small scale are often the most capable of identifying the needs of the community. Involving trusted community partners in the public engagement plan is essential to achieving real, meaningful community engagement."

952. **Sam-012-01:** Sam stated, **"**My name is Sam, and I live in the Upton neighborhood in North Minneapolis. I am invested in the MPCA's Cumulative Impacts rulemaking because of my community being directly impacted by our air and environments. Our community thrives in community spaces. Parks, green spaces, and community landmarks are needed for a happy, healthy community. The gap I have identified in the proposed rules – community outreach is led by the polluting facility. Many folks in the North Minneapolis neighborhoods do not have existing relationships or trust within EJ communities, this can lead to our community having doubts about engaging and risks low participation. To fix this, I recommend outreach through trusted organizations. Our community trusts those in our community – churches, local nonprofits, health systems, neighborhood associations."

953. **Hill-014-04:** Joanne Hill stated, "Finally, I encourage Hennepin County and local elected officials to work collaboratively with residents, healthcare systems, environmental justice organizations, and public health experts to develop measurable strategies that reduce pollution-related disease. Success should be measured not only by regulatory compliance, but by reductions in asthma emergency visits, cardiovascular disease, cancer burden, and premature mortality in Environmental Justice communities. The purpose of cumulative impacts legislation was not simply to acknowledge inequities—it was to reduce them. I respectfully ask that this rule ensure cumulative impacts become a meaningful factor in permitting decisions and lead to measurable improvements in health outcomes. Health equity is not achieved by treating preventable diseases. It is achieved by preventing it."

954. **Stephanie-020-02:** Stephanie stated, "The proposed rules currently have a major gap, which is that most facilities don't have existing relationships or trust within our EJ communities. We must work to make organizations accountable by requiring outreach of these facilities through trusted organizations. The facilities must use existing associations (e.g churches, health systems, local nonprofits) to gain the trust and work with communities. In addition, I wish to express my full support for the public comments and technical amendments submitted by FBPC."

955. **Coming Clean Network-024-03:** Coming Clean Network stated, "**Strong Regulatory Provisions**

Robust requirements for public participation. We believe that communities being informed and engaged during the cumulative impacts process is an essential part of this law. These rules outline a solid set of requirements for companies to reach out to impacted communities, and we call upon the MPCA to reinforce them by requiring collaboration with local partner organizations and exploring compensation for community member participation."

956. **Coming Clean Network-024-11:** Coming Clean Network stated, "**Necessary Improvements to the Draft Regulations Require outreach through trusted organizations.** Mandate that facilities partner with neighborhood associations, churches, and local nonprofits so information reaches community members through voices they trust."

957. **Dunlevy-026-03**: Leah Dunlevy stated, "***Second, the proposed rules stipulate that community outreach will be led by the polluting facility.*** I appreciate that the draft rules are intended to encourage robust public participation, but I am concerned that leaving community outreach to profit-motivated facilities compromises meaningful community engagement.

In practice, this looks like wealthy executives flying in for one day to "engage the community" at town halls that are poorly communicated and held at inconvenient times and places. Having rules that mandate the facility outreach is done through trusted organizations (such as neighborhood associations, churches, health systems, and local nonprofits) will ensure that residents receive the information in the first place and opportunities for genuine participation are supported."

958. **Frontlines Communities Protection Coalition-034-23:** The Frontline Communities Protection Coalition stated, **"**Subp. 7. **Public notices** - While many of the requirements for public notice in this section are strong, we believe that outreach to environmental justice areas is most effective when conducted by a known and trusted partner. Thus, we recommend that facilities be required to reach out to local community organizations such as nonprofits, faith groups, community health workers, and neighborhood associations as collaborators. A local partner can more easily disseminate information in the community as they are likely more experienced with community engagement in the neighborhood. They can also provide feedback to the facility owner or operator about how to best communicate the matters at hand to the community. If a facility owner or operator partners with a local organization, we recommend they provide a grant to the partner, as many local organizations have limited resources and capacity.

We also recommend providing compensation for community members who engage with facility owners or operators, and there is precedent for doing so. Specifically, in its April 15, 2022 Order in Xcel Energy's Integrated Resource Plan (Docket No. E002/RP-19-368), the Minnesota Public Utilities Commission directed Xcel Energy to 'engage in community outreach and establish a stakeholder group' to, among other things, 'adopt practices in furtherance of procedural justice - including deeper engagement with renters; affordable rental property owners; communities of Black, Indigenous, and People of Color; and under-resourced individuals - providing resources for engagement and participation, and providing financial support for impacted individuals to participate in dockets and decision-making processes,' and to 'form an environmental justice accountability board which shall develop environmental justice-focused initiatives to be incorporated throughout the utility.'

In response to the Commission's order, Xcel Energy established the Environmental Justice Accountability Board (EJAB) and compensates certain members for the time, expertise, and lived experience they contribute to the Board's work. This reflects an emerging best practice in community engagement. Organizations routinely compensate consultants, engineers, economists, attorneys, and other technical experts for their specialized knowledge. Community members similarly bring expertise - grounded in lived experience, local knowledge, and an understanding of

community needs - that is essential to informed decision-making. Providing compensation appropriately recognizes the value of that expertise while also fostering meaningful participation by creating sustained engagement and shared accountability throughout the process."

959. **Health Professionals for a Healthy Climate-038-12:** The Health Professionals for a Healthy Climate stated, **"7007.6080, subp. 5, Public meeting requirements.** HPHC agrees with the Frontline Communities Protection Coalition's (FCPC) suggestion to add an additional requirement that the owner/operator reach out to local community organizations when conducting their community outreach. Community organizations such as neighborhood associations, churches, and other trusted groups can help spread the word to community members and communicate about the process in a way that is more accessible to community members."

960. **Frontline Communities Protection Coalition (compiled comments)-045-09**: Brian PaStarr stated on July 15th, 2026, "hello, my name is Brian PaStarr. I have lived throughout Minneapolis, including the Phillips and Harrison neighborhoods, two of the poorest areas in the city. These are also areas that receive some of the worst polluters, such as HERC and The Foundry. I have seen firsthand how these communities have been affected by decades of pollution and neglect.

I recommend that the MPCA work directly with neighborhood groups and community leaders in areas like these to understand their experiences and gather their input. These communities are living with the impacts of past decisions, and their voices should be centered before approving new programs or projects."

961. **Frontline Communities Protection Coalition (compiled comments)-045-17:** Dr. Joanne Hill, stated, "Finally, I encourage Hennepin County and local elected officials to work collaboratively with residents, healthcare systems, environmental justice organizations, and public health experts to develop measurable strategies that reduce pollution-related disease. Success should be measured not only by regulatory compliance but also by reductions in asthma emergency visits, cardiovascular disease, cancer burden, and premature mortality in Environmental Justice communities.

The purpose of cumulative impacts legislation was not simply to acknowledge inequities—it was to reduce them. I respectfully ask that this rule ensure cumulative impacts become a meaningful factor in permitting decisions and lead to measurable improvements in health outcomes.

Health equity is not achieved by treating preventable diseases. It is achieved by preventing them."

962. **Frontline Communities Protection Coalition (compiled comments)-045-65:** Freddy Perdomo stated, "Además, la comunicación con la comunidad no debería quedar únicamente en manos de las empresas. Es mejor que trabajen junto con iglesias, organizaciones comunitarias y otros grupos de confianza para que los residentes reciban información clara y participen en las decisiones que afectan a su comunidad.

[In addition, communication with the community should not be left solely to the companies. It would be better for them to work with churches, community organizations, and other trusted groups so residents receive clear information and can participate in decisions that affect their community.]"

963. **Frontline Communities Protection Coalition (compiled comments)-045-181:** Kathleen Stuebner stated, "There should be requirements for the facility owner and MPCA to work together with community groups to create a council to represent that community."

964. **Health Professionals for a Healthy Climate (compiled comments)-046-03:** Hannah Resendiz Olson stated, "Dear MPCA and the Honorable Kimberly Middendorf, *As a public health specialist living in North Minneapolis, I am concerned that most polluting facilities lack existing relationships or*

trust with the communities most impacted. Neighborhoods like ours that have been historically and presently neglected do not have faith that facilities and politicians will act in our best interests. We feel this neglect every single day, for instance, as the HERC continues to burn trash and poison our communities. This lack of trust risks low participation in community outreach efforts. The MPCA should require that community outreach occurs through trusted organizations and mandate that facilities partner with neighborhood associations, churches, health systems, and local nonprofits so that information reaches community members through voices we trust"

965. **Saint Paul-Ramsey County Public Health-054-03:** Sant Paul-Ramsey County Public Health stated, "SPRCPH affirms engaging residents through local community-based organizations embedded in the social fabric of neighborhoods is often best practice. For Minnesota Rule 7007.6080 subpart 5 SPRCPH recommends adding a requirement that facility owners partner with trusted community organizations in determining the languages outreach should be conducted in, locations for public meetings, optimal meeting times, etc. for the development of public participation plans (as outlined in Minnesota Rule 7007.6080, subpart 2)."

966. **Ramsey County District 6-056-05:** Commissioner Xiong stated, "4. **Provide resources that allow residents to participate on equal footing.** The proposed rule requires outreach, mailed information, public notices, at least two public meetings concerning a community benefit agreement, language access, accessibility accommodations, and opportunities for residents to comment. It permits the owner or operator to hire a third party to assist with outreach, but it does not expressly require independent technical assistance, resident-selected facilitation, or funding for community participation expenses. The owner or operator should be required to fund an independent facilitator and reasonable participation expenses, including interpretation, translation, child care, food, transportation, accessible accommodations, and technical assistance selected by the community."

MPCA RESPONSE

967. The MPCA appreciates commenters suggestions and recognizes that public participation and community engagement is dynamic—requiring many methods to ensure robust engagement. The MPCA understands that the public's trust in the regulated parties and the MPCA benefits the implementation of the rule. The MPCA considered including requirements regarding local community groups in outreach and engagement requirements to address outreach and engagement needs and address issues with trust between regulated parties, government entities, and residents of environmental justice areas. However, it is not needed or reasonable for the MPCA to forward with the requirement for facilities to work directly with local or trusted organizations to conduct outreach and engagement for multiple reasons.

968. Although affected census tracts are linked by being designated as an environmental justice area, they differ in size, population, NGO availability, the presence of community-oriented organizations, governmental representation, and other factors. Due to the variability, the MPCA chose not to include specific requirements for regulated parties to work with or contact community groups in the rule language. It would be difficult to determine reasonable processes for selecting organizations and requirements for which entities, and how many entities a facility would be required to contact or consult in the various census tracts affected by the rule across the state. People engaged over the last year also expressed concern that organizations or representatives selected by the facility may not be favored by the residents of the impacted environmental justice area. The entities would need to have a thorough understanding of the potentially impacted residents while representing the best interests of the residents that may be substantially adversely impacted by the facility. The MPCA was unable to define solutions to these concerns and challenges presented by including the requirement of local community groups to be involved.

969. If there was a way to establish regulations for determining which organizations the facilities must and can work with, other challenges persist. There may be areas where there are no community groups or organizations that:

- fit the potential category of local or trusted community group;
- are equipped to fill the consultation roll;
- have the necessary capacity to participate in the consultation role with the facility; and/or
- want to work with the facility to conduct outreach and engage the community

970. Should there be enough entities that have the ability to work with the facility and remedy the aforementioned concerns, the MPCA does not have the authority to require those organizations to meet with or consult with the facility, as would be required. It would be an independent agreement that if violated would not be subject to an MPCA enforcement action. Instead, it would be the responsibility of the parties to that agreement to enforce.

971. To address the challenges associated with the outreach and engagement during the implementation of rule, the MPCA included other language meant to ensure the statutory requirement of robust public and Tribal engagement is met by the facility.

972. The rule language in part 7007.6080 and associated section of the SONAR (p. 101-128) addresses concerns associated with the public's trust in the facility and a facility's ability to complete the outreach and engagement detailed in the rule. The rule also provides enough opportunities for organizations to perform the role requested by the commenters.

973. A commenter stated that the organizations can ensure interpretation and translation services are made available for those who need it due to their unique insight into the needs of the impacted areas. The MPCA established requirements for the notices and public meetings meant to address concerns related to language accessibility and public meeting accessibility. Part 7007.6080, subpart 7, item A, subitem (3) requires the owners and operators to publish a notice for a required public meeting in a non-English publication in the impacted EJ area, if one exists. Part 7007.6080, subpart 7, item C, subitem (4), requires the facility to post physical signs in any one or more other languages representative of the residents of the impacted environmental justice area. Part 7007.6080, subpart 7 also requires public notices to include the procedures a person may use to request interpretation and/or translation services for the public meeting being noticed. The notices will be sent 30 days ahead of a public meeting so interested persons have the time to request the services and the owners and operators have time to plan to provide the requested services at a public meeting, as required by subpart 5, item C, subitem (3). Community organizations can use these notices and opportunities to request language translation and interpretation services for the public.

974. Although the rule does not require facilitates to consult or engage local community groups, there is language allowing them to do so. To address the possibility that the facilities may need assistance in fulfilling the requirements in part 7007.6080, subpart 2, item E and part 7007.6080, subpart 3, item E allows for the facilities to hire third parties "to assist in developing and implementing" a public participation plan. The provision addresses public and informal comments received during the rule development that facilities may not have the skills, knowledge, or expertise needed to complete the outreach and engagement required in the rule. Third parties may provide facilities with the necessary expertise and resources to conduct effective outreach and engagement (SONAR p. 104 and 106-107).

975. The MPCA avoids being overly prescriptive in a way that can prevent effective outreach and engagement in the variety of communities affected by the rule. The requirements in part 7007.6080 are broad enough to allow for facilities to conduct outreach and engagement that meets the specific

needs of the community they are in. This includes the option to fund or support reasonable participation expenses like food, childcare, incentives, and other resources to make the meetings more accessible. However, it is not too broad in a way that is detrimental to the public. All stakeholders have enough regulations and guidance to know what to expect. In extension, part 7007.6080, subpart 2, items C and D as well as part 7007.6080, subpart 3, items C and D requires the submission of a public participation plan so the MPCA can verify the facility's ability to comply with the rule language and to meet the requirements of Minn. Stat. § 116.065, subd. 4(d)(1) and Minn. Stat. § 116.065, subd. 4(a). If the Agency identifies deficiencies in the plan, the facility must remedy them before they can begin outreach and engagement (SONAR p. 103). As needed, the facility can also conduct additional outreach and engagement to meet the specific needs of the communities in impacted EJ areas (SONAR p. 127-128).

976. Multiple commenters also stated their apprehension for transparency and a need to access materials to prepare for meetings and disseminate information. Part 7007.6080, subpart 9 requires the Agency to maintain documents related to background information on the stationary source and their requested permit actions, required submissions from owners and operators, or determinations by the MPCA to be made publicly available on the Agency's website. Documents listed in part 7007.6080, subpart 9 will be posted at least 30 days before the relevant public meetings. As described in the SONAR (p. 124-126), this timeline will provide interested parties with enough time to review and discuss the documents ahead of the meetings. Community organizations can review the documents and act on the information as they see fit, which may include providing residents with support to meaningfully participate in the public meetings.

Public notice requirements

977. The MPCA received eight comments regarding the public notice requirements in the proposed rule. Commenters left multiple comments related to the public notice requirements and the efficacy of public notices

978. **Minnesota Chamber of Commerce-027-30:** The Minnesota Chamber of Commerce stated, "h. The proposed rule (7007.6080, subp. 7, A (1)) requires the permittee to "post and maintain, in a legible condition, physical signs in the impacted environmental justice area that comply with item C" and that the signs "be posted in at least four public spaces in each environmental justice area within the impacted environmental justice area" per 7007.6080, subp. 7, C (2). The Chamber considers this requirement to be excessive and unnecessary, given the other requirements for notifying the public. In urban areas, the impacted environmental justice area can be geographically large and include multiple environmental justice areas, each of which requires at least four signs. These signs must also be maintained for at least 30 days prior to each public meeting. This will require multiple visits by the permittee to ensure that the signs have not been defaced or removed."

979. **Minnesota Chamber of Commerce-027-34:** The Minnesota Chamber of Commerce stated, "l. Consistent with Minn. Stat. 216I.05, subd. 8(d), the following should be added to 7007.6080, subp. 7: 'E. The failure to provide mailed notice to a property owner or defects in the notice do not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.'"

980. **University of Minnesota-030-11:** The University of Minnesota stated, "Public Participation Plan. The University appreciates the Draft Rules' focus on the importance of public participation, including the importance of public notice. The University intends to comply with any public notice requirements, but notes that for a public facility like the University, maintaining newspaper notices and signage can be a burdensome task with the potential for minor errors. Accordingly, consistent with other requirements for public notice under state law, the University recommends that the rules

be revised to add that a bona fide attempt to comply with the notice requirements and public participation plan meets the notice requirements. See, e.g., Minn. Stat. § 216I.05, subd. 8(d)."

981. **University of Minnesota-030-21:** The University of Minnesota stated, "• Add a subpart to Minn. R. 7007.6080 stating that:

The failure to provide mailed notice to a property owner, failure to follow the public participation plan, or defects in notice do not invalidate the proceedings, provided a bona fide attempt to comply with this part has been made."

982. **Frontline Communities Protection Coalition (compiled comments)-045-138:** The Side Corridor Residents, Owatonna East stated, "Require written notice to all residents—not only property owners—within one mile of a proposed project before studies begin or permit applications are accepted. Early notification allows residents to understand potential cumulative impacts, participate meaningfully in the process, and provide input before key decisions are made."

983. **Frontline Communities Protection Coalition (compiled comments)-045-155:** The Side Corridor Residents, Owatonna East stated, "To maximize the effectiveness of these meetings, all residents and property owners within one mile of the identified impact area should receive written notice sufficiently in advance of each meeting. This notice should provide enough time for residents to understand the project, review available information, and participate meaningfully."

984. **Cordia Energy Center Minnepolis-049-27:** Cordia Energy Center Minneapolis stated, "k. The proposed rule (7007.6080, Subp. 7, A (1)) requires the permittee to "post and maintain, in a legible condition, physical signs in the impacted environmental justice area that comply with item C" and that the signs "be posted in at least four public spaces in each environmental justice area within the impacted environmental justice area" per 7007.6080, subp. 7, C (2)). Cordia considers this requirement to be excessive and unnecessary given the other requirements for notifying the public. In urban areas, the impacted environmental justice area can be geographically large and include multiple environmental justice areas, each of which require at least four signs. These signs must also be maintained for at least 30 days prior to each public meeting. This may require multiple visits by the permittee to ensure that the signs have not been defaced or removed."

985. **Healthy Professionals for a Healthy Climate-038-13:** Kathleen Schuler stated, "**7007.6080, subp. 7, A-C, Public notices.** We appreciate the requirements to post notices of public meetings. Given the amount of information on the signs (as required by item C), we suggest that the 8.5x11 minimum size would likely not be large enough to adhere to ADA guidelines for accessible design/signage, and we suggest amending the rules for signage according to those guidelines. We also suggest requiring that these signs be placed in prominent areas with significant pedestrian traffic."

MPCA RESPONSE

986. One commenter stated that the requirements for posting and maintaining physical signage is unreasonable. Posting physical signage in the environmental justice area before the required public meetings for the cumulative impacts analysis is required by Minn. Stat. § 116.065, subd. 4(b)(2). It is needed and reasonable to require this physical signage be posted and maintained for all required public meetings during the cumulative impacts process for consistency (SONAR, p. 117).

987. Minn. Stat. § 116.065, subd. 4(b)(2) requires the owners or operators to "post physical signage in the environmental justice area impacted, as directed by the commissioner" before public meetings are held. The statute language mandates the Agency to make the physical notification requirements and the requirements in the rule are reasonable and necessary to make contact with individuals who may not be in contact with community groups monitoring the permitting process or

signed up to receive GovDelivery (e-mail) notices by the Agency. Maintaining four signs across an environmental justice area is not overly burdensome. Many organizations, independent contractors, and other individuals do this on a regular basis for their outreach and engagement.

988. Similarly, another commenter made comments on newspaper notices and signage. The Agency believes that the owners and operators have the necessary resources, acumen, and institutional knowledge to avoid mistakes and identify the methods to complete the requirements in part 7007.6080, subpart 8. Posting the signage is reasonable and needed to ensure impacted residents can be involved in the permit action and stay abreast of developments during the process.

989. Multiple commenters recommended the following language to be included in the rule:

> *"l. Consistent with Minn. Stat. 216I.05, subd. 8(d), the following should be added to 7007.6080, subp. 7: 'E. The failure to provide mailed notice to a property owner or defects in the notice do not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.'"*

990. Including this language in the public notice requirements would not be reasonable because it would potentially allow for noncompliance with the requirements of part 7007.6080, subpart 7, item A, subitem (4) and part 7007.6080, subpart 7, item B. The intent of the public notices is to inform the public so they understand what is happening, when the public meetings will take place, and to learn more about the permit action should they wish. Part 7007.6080, subpart 10, item H requires an owner or operator to maintain copies and proof of mailing public notices. As explained in the SONAR (p. 127), these records allow the MPCA to verify that an owner or operator complied with the requirements of part 7007.6080, subpart 7, item A, subitem (4).

991. One commenter stated the importance of public noticing. Other commenters and the MPCA agrees with their statements regarding the importance of the public notices. For this reason, the MPCA included requirements for notices to be posted and shared 30 days ahead of the public meetings. Part 7007.6080 subpart 5, item G, subitem (1) also requires the owners and operators of a facility to provide notice of public meetings to local governmental units 45 days before the meeting. These entities have the potential to disseminate information to the people they represent. Part 7007.6080, subpart 9 also requires the public notices and the documents for each meeting to be posted 30 calendar days before the meetings take place. These timeframes provide the public with the appropriate time to prepare for the meetings.

992. Part 7007.6080, subpart 7, item D, subitem (1) also requires the facility to create and maintain an electronic mailing list and provide the public with opportunities to sign up to receive notices for public meetings via this method. Opportunities to join the mailing list must be displayed on notices and shared at the public meetings and on signage posted in the impacted environmental justice area. Methods to sign up for the mailing list can be shared amongst people's networks. The Agency believes these requirements provide interested parties with a sufficient number of pathways to stay informed of public meetings, leading to an effective implementation of the rule (SONAR, p. 120). While distributing physical mailers prior to the first meeting required for a cumulative impacts analysis is not required by the proposed rule, mailers are required prior to the first meeting required for a community benefit agreement. This requirement is identified in part 7007.6110, subpart 2, item C. The Agency believes that the combination of physical signage and electronic mailing is sufficient notification for meetings pertaining to the cumulative impacts analysis.

993. Commenters requested that the materials for public meetings should be made available before the public meetings so people can review the materials and prepare themselves for the meetings. The Agency agrees that this will improve the public's ability to participate in the meetings and public

comments. Part 7007.6080, subpart 9 requires the agency to post the materials the commenter requested on the Agency website 30 days before the public meetings. This will allow the public to meaningfully engage in the permitting process. Of these, the public will be able to see the cumulative impacts analysis before the MPCA's determination of substantial adverse impacts and the draft community benefit agreement. The public will be able to leave comments on the documents and provide the Facility and the MPCA with their insights before the determinations are made—addressing concerns over the public's ability to see draft documents.

994. A commenter requested greater requirements for the physical signage that is meant to notify residents in environmental justice areas. The MPCA agrees that it is imperative that the signs are legible and convey information to the public in a way that encourages their participation. The commenter described that an 8.5"x11" sized sign is not large enough to adhere to ADA guidelines and mentioned concerns of the owner or operators not posting the materials in heavily pedestrian-trafficked areas. The MPCA includes the 8.5"x11" as a minimum since it can be expected that signs may be posted in heavily trafficked indoor areas that are publicly accessible (i.e. coffee shops, libraries, park buildings, etc.). Increasing the minimum size may reduce the ability for owners and operators to post these signs in indoor places that are heavily visited by residents in the area. Of note, these minimum size requirements do not preclude larger signs to be posted where needed.

995. However, the Agency does acknowledge that posting an 8.5"x11" sign may present accessibility challenges—especially if these are posted outside where people may be moving quickly or the sign may be only visible from a distance. As required in part 7007.6080 subpart 5, item (G), subitem (2), the owner or operator must submit the notice to be posted to the commissioner 45 days in advance of the public meeting. The submission provides the commissioner with the ability to enforce the legibility requirement in part 7007.6080 subpart 7, item (A), subitem (1) and ensure the information is accurately communicated.

PART 7007.6090 CUMULATIVE IMPACTS ANALYSIS

Cumulative impacts analysis preparation and review

996. The MPCA received four comments regarding the preparation and review of the cumulative impacts analysis required under part 7007.6090.

997. **Minnesota House of Representatives-033-10:** Representative Fue Lee stated, " Subitem (4) of item G requires the owner/operator to "consider each environmental stressor identified in item F and how each stressor may increase adverse effects of the stationary source or increase the impact that stationary source has on the environment or the health of residents of the impacted environmental justice area . . . ."

This requirement is critical in implementing the concept that is at the heart of the statute: that past exposures magnify the impact of present and future exposures on EJA residents and should be duly considered when making permit decisions. However, having the owner/operator conduct this important analysis raises serious concerns. First, an owner/operator is unlikely to have the expertise regarding health impacts of pollution exposure and how they may be affected by the economic and sociological conditions prevalent in EJAs.

Second, even if such expertise is hired on contract, an owner/operator has a built-in incentive to downplay the effect of environmental stressors in order to avoid conducting a cumulative impacts analysis.

Subitem (4) should be removed and replaced with language (added to part 7007.6070, subpart 3, item A) directing that this analysis should be conducted by the agency, which is more likely to

prepare a thorough, accurate and objective analysis of this important issue. **"**

998. **Frontline Communities Protection Coalition-034-12:** The Frontline Communities Protection Coalition stated, "**7007.6050 Initial Assessment** Subp. 3. **Content** - We support the requirement of an executive summary of the initial assessment in item (B). Given how much information is required to be included in the initial assessment, we believe an executive summary will help make this information easier to understand for impacted community members. However, we also believe that subpart 3 includes significant requirements that are beyond what is necessary to determine whether a cumulative impacts analysis is required. While the Commissioner has some discretion in requiring a cumulative impacts analysis, we believe the benchmarks established in subpart 4 should be the primary path for determining whether a facility is required to complete an analysis. These benchmarks should be set at a level that will require analysis of most facilities of concern, and the initial assessment should focus on information necessary for determining whether a facility meets those benchmarks.

In particular, we recommend moving subpart 3, item G (1-4) to part 7007.6090, subpart 3. **We believe this section is much more fitting for the cumulative impacts analysis**, as it requires consideration of how a facility's impacts may be amplified by the existing environmental stressors. As we have written in a later part of this comment, we believe having an expanded version of this section in the cumulative impacts analysis will improve the whole process. We also believe that subpart 3, item (B), subitem 3 should include both "other stationary sources with air permits" as well as non-stationary sources of pollution in the surrounding area of the facility requesting a permit action. This addition would ensure that facilities' initial assessment includes information relevant to a cumulative impacts analysis.

We also understand the importance of the Commissioner having enough information to make their own determination of whether a cumulative impact analysis is necessary as stated in part 7007.6070, subpart 2. We recommend adding the ability of the Commissioner to require additional information to be included in the initial assessment if the information will help determine the facility's potential to impact the environment or health of the impacted environmental justice area."

999. **Shaw-036-09:** Beth Shaw stated, "8. The rule places too much responsibility in the hands of the facility seeking the permit. Under the proposed rule, the facility prepares the initial assessment and states whether it believes the permit action is likely to affect residents. The initial assessment must contain the facility's own determination and the data it used. If a full analysis is required, the facility conducts the cumulative impacts analysis. The facility also develops the public-participation plan, hosts the meetings, prepares materials, summarizes comments, answers the comments, and prepares the draft community benefit agreement. This structure creates an obvious conflict. The entity seeking permission to pollute should not control the initial framing, technical analysis, community outreach, and proposed remedy. MPCA should require: independent, MPCA-selected technical reviewers; public access to modeling files, assumptions, raw data, contracts, and consultant communications; funding for community-selected technical experts; independent meeting facilitation; translations and accessible materials; direct outreach conducted or supervised by MPCA; and a clear procedure for residents to dispute inaccurate facility statements."

1000. **Frontline Communities Protection Coalition (compiled comments)-045-134:** Side Corridor Residents, Owatonna East stated, "To ensure objectivity, accuracy, and public confidence in the process, the cumulative impacts analysis should be prepared by the MPCA or by an independent third party selected or approved by the MPCA, with the cost covered by the Project Proposer.

The Commissioner's role should extend beyond verifying that required information has been submitted. The Commissioner should independently evaluate the analysis, require revisions when

appropriate, and ensure that the final document accurately reflects the available scientific evidence and the cumulative impacts experienced by affected communities.

An independent cumulative impacts analysis would strengthen public trust in the permitting process and help ensure that decisions are based on objective, science-based information rather than conclusions developed by an entity seeking approval for a project."

MPCA RESPONSE

1001. The MPCA appreciates the commenter' suggestions regarding having MPCA or an MPCA delegated party perform the cumulative impacts analysis. However, Minn. Stat. § 116.065 states in multiple places the different obligations for the MPCA and the permit applicant. For example under Minn. Stat. § 116.065, subd. 3(d) "The commissioner must require an applicant…". The MPCA believes that the statute clearly states that the applicant is the one that performs this, and not MPCA or a delegated party of the MPCA. The proposed rules establish minimum requirements for facility submittals, the process for MPCA to review and make determinations regarding those submittals. Information provided by a facility must also be certified by the responsible official for truth, accuracy, and completeness (see part 7007.6040, subpart 1). Additionally, the Commissioner retains the ability to deem a facility submittal incomplete or inadequate if needed and request additional information (see part 7007.6040, subpart 2 and 5; part 7007.6070, subpart 5; and part 7007.6100 subpart 3).

1002. The MPCA must evaluate every submittal and information provided, including verifying every piece of information provided to verify that information is true and accurate. If information is not true or accurate, the facility is required to proactively supplement or correct the information under part 7007.6040, subpart 5.

Cumulative impacts analysis scope

1003. The MPCA received four comments regarding the scope of the cumulative impacts analysis required under part 7007.6090.

1004. **University of Minnesota-030-14:** The University of Minnesota stated, "● Revise the content requirements for a CIA under Minn. R. 7007.6090, subp. 3, to limit the required information to just information relevant to the stationary source, emissions facility, or emissions unit that is the subject of the proposed permit action."

1005. **University of Minnesota-030-24:** The University of Minnesota stated, **"● The Draft Rules require submission of extraneous information.**

For example, if the University initiates a discrete facility expansion on the St. Paul campus that requires a moderate permit amendment under Minn. R. 7007.1450, the Draft Rules would require a completely new data collection process spanning the entire stationary source. This entails gathering and submitting information for the Cedar Riverside neighborhood, which is adjacent to Minneapolis' West Bank campus and over three miles away from the proposed project in St. Paul, including, but not limited to:

- Mapping of topographic conditions, zoning, existing water classifications and designated uses, public scenic attributes and public spaces
- Site contamination and remediation records
- A comprehensive traffic study
- Inventories of physical neighborhood stressors, such as existing area light pollution, urban noise levels, and odor
- Community vulnerability metrics, including linguistic isolation, income, poverty, and

educational attainment
- Baseline public health metrics for the area, including emergency department visits for asthma, hospitalizations for cardiovascular disease, cancer incidence, and low birth weight.

The MPCA can analyze the aggregated levels of past and current air, water and land pollution at the permit action (emission facility or unit) scale without requiring a review of the entire stationary source (1,200-acre campus). When scaled to the size of the University, the Draft Rules represent an unnecessary expansion of impact considerations intended by the underlying statute. These expansive requirements to implicate the entire stationary source also represent an unreasonable administrative burden that is not justified in the SONAR."

1006. **Minnesota Hospital Association-051-06:** The Minnesota Hospital Association stated, "**5. Limit cumulative impacts analyses to factors reasonably related to the proposed air permit action**. The proposed rule requires extensive analysis of climate impacts, socioeconomic conditions, traffic, land use, noise, odor, environmental stressors, and other factors. While MHA supports meaningful environmental review, the scope of analysis should be reasonably connected to impacts caused by the permitted activity. Hospitals should not be required to analyze or mitigate conditions that are unrelated to their operations or beyond their ability to control."

1007. **Minnesota Hospital Association-051-17:** The Minnesota Hospital Association stated, "**5. Limit Scope of Required Analyses**

Part 7007.6090, Subpart 3 - Add new introductory paragraph before Item A

Proposed Language:

> The analyses required under this subpart shall be limited to impacts reasonably related to and attributable to the requested permit action and supported by available scientific evidence. Applicants shall not be required to evaluate conditions, impacts, or stressors that are unrelated to the requested permit action or beyond the applicant's operational control.

Reason: Hospitals should not be required to analyze or mitigate broad societal or environmental conditions unrelated to the emissions associated with a specific permit action."

MPCA RESPONSE

1008. The MPCA respectfully disagrees with commenters' suggestions that the required information should be limited to just information relevant to the stationary source, emissions facility, or emissions unit that is the subject of the requested permit action. As stated in Minn. Stat. § 116.065, subd. 1(c), cumulative impacts means the impacts of aggregated levels of past and current air, water, and land pollution in a defined geographic area to which current residents are exposed. Alongside the consideration of environmental stressors at various stages throughout the overall cumulative impacts process, for example in Minn. Stat. § 116.065, subd. 5(b), the MPCA believes it has reasonably established the content of a cumulative impacts analysis to be able to analyze and evaluate the impacts associated with a requested permit action. As stated in the SONAR (p. 130), "Broadly, the information and analyses described in items A through I are needed to enable the MPCA to evaluate and understand the impacts associated with the requested permit action." These items are required to make a determination under Minn. Stat. § 116.065, subd. 5. If the MPCA were to isolate analysis to just the permit action or air emissions, then the MPCA would not meet the requirements of Minn. Stat. § 116.065.

1009. The amount of information required is similar to that required by other statutory and rule requirements. For example, if a facility is subject to environmental review, they have to fulfill their environmental review requirements before a permit can be issued. Under the proposed rule, this

amount of information is required to fulfill the statutory requirements under Minn. Stat. § 116.065, including Minn. Stat. § 116.065, subd. 1(c) (incorporation of land, air, and water pollution), Minn. Stat. § 116.065, subd. 1(f) (Environmental and Public Health Stressors), and information required under Minn. Stat. § 116.065, subd. 5 (to make an informed decision on if a substantial adverse impact is occurring). The justification for each item for the cumulative impact analysis is located within the SONAR (p. 130-137).

Cumulative impacts analysis contents in general

1010. The MPCA received nine comments regarding the contents in general included within the cumulative impacts analysis required under part 7007.6090.

1011. **Hill-014-03:** Dr. Joanne Hill stated, "I also ask that the final rule require agencies to evaluate existing cumulative pollution from highways, diesel traffic, industrial facilities, and waste incineration together, not in isolation. HERC does not exist alone. It adds pollution to communities already burdened by multiple environmental stressors. HERC .pdf Community members, healthcare professionals, faith leaders, and organizations such as the Zero Burn Coalition have participated in hearings, public education, and advocacy—including a hunger strike—to bring attention to these health inequities. Their participation reflects the urgency residents feel regarding cumulative environmental harms. 26 Public Health Forum.pdf"

1012. **Caucutt-016-04:** Amy Caucutt stated, "4) Things remain a little fuzzy on how applicant conducts cumulative impact if they are current permit holders—tighten this up."

1013. **Frontline Communities Protection Coalition-034-27:** The Frontline Communities Protection Coalition stated**,** "Item (G) - As with the previous sections, we support any efforts to mitigate and minimize the impacts of polluting facilities. In particular, we believe that mitigation measures provide an important opportunity for permit applications to avoid resulting in a substantial adverse impact. This is another reason we strongly recommend having objective definitions of substantial adverse impact, as it gives a clear measure of impact for facilities to try to avoid. We also believe that the mitigation and management plans in items (C), (F), and (G) should be included directly in the permit to ensure that these programs get fully implemented."

1014. **Frontline Communities Protection Coalition (compiled comments)-045-143**: The Side Corridor Residents, Owatonna East stated, "Cumulative impacts analyses should identify and prevent disproportionate environmental burdens before communities become overburdened. Expanding the triggering criteria, eliminating unnecessary delays, strengthening community petition processes, ensuring early notification, and improving transparency would better fulfill the purpose of these rules and help prevent future environmental injustices.

Minnesota has an opportunity to create a cumulative impacts framework that meaningfully protects communities. These improvements would help ensure that the voices and experiences of affected residents are considered before environmental harms become irreversible."

1015. **Frontline Communities Protection Coalition (compiled comments)-045-167:** The Side Corridor Residents, Owatonna East stated, "The proposed rules identify several important components of a cumulative impacts analysis; however, cumulative impacts extend beyond air emissions alone and should not be evaluated solely based on current conditions.

A comprehensive cumulative impacts analysis should evaluate the full range of environmental and community stressors that may affect public health and quality of life. This should include, but not be limited to, noise, vibration, odor, light pollution, truck traffic, water resources, habitat impacts, and other existing environmental burdens. These impacts should be evaluated collectively because

communities experience them together, not as separate and isolated issues."

1016. **Frontline Communities Protection Coalition (compiled comments)-045-168:** The Side Corridor Residents, Owatonna East stated, "The analysis should also evaluate both existing conditions and reasonably foreseeable future development. Assessing a proposed facility in isolation does not provide an accurate picture of cumulative environmental burdens or the long-term impacts a project may create."

1017. **Frontline Communities Protection Coalition (compiled comments)-045-169**: The Side Corridor Residents, Owatonna East stated, "A thorough analysis should consider existing permitted facilities, transportation infrastructure, anticipated traffic growth, planned industrial development, and other reasonably foreseeable projects or activities that may contribute to cumulative impacts over time."

1018. **Frontline Communities Protection Coalition (compiled comments)-045-171**: The Side Corridor Residents, Owatonna East stated, "12. Keeping the Cumulative Impacts Analysis Current

A cumulative impacts analysis should reflect the conditions that exist when permitting decisions are made—not only the conditions that existed when the analysis was originally prepared.

Large projects often take several years to move from initial planning through final permitting. During that time, traffic patterns may change, surrounding development may occur, environmental conditions may shift, new pollution sources may be introduced, and new scientific or health information may become available. Information that accurately represented conditions at the beginning of a project may no longer reflect the realities of the community when final permitting decisions are made.

If significant changes occur during project development—including changes to facility design, emissions, operations, mitigation measures, surrounding land use, or other relevant environmental conditions—the cumulative impacts analysis should be updated before a final permitting decision is issued.

Permitting decisions should be based on current, accurate, and relevant information. Requiring cumulative impacts analyses to be updated when significant time has passed or when material changes occur will help ensure that decisions reflect the conditions communities actually experience, rather than relying on outdated information collected years earlier.

An updated and accurate cumulative impacts analysis is essential to ensuring that permitting decisions adequately protect public health, the environment, and affected communities."

1019. **American Petroleum Institute-042-16:** The American Petroleum Institute stated, "**Existing Regulatory Programs**: The CIA should recognize reductions already achieved through:

- MACT
- NESHAP
- NSR
- PSD
- SIP requirements
- state air toxics regulations

Existing federally enforceable controls should receive appropriate weight when evaluating incremental impacts. Otherwise, the analysis risks double-counting risks already addressed through existing regulatory programs."

MPCA RESPONSE

1020. The MPCA would like to thank the commenters regarding the cumulative impacts analysis in

general. Under Minn. Stat. § 116.065, the MPCA is charged with evaluating both air, land, water, environmental stressors, and other information in order to make an informed decision on an air permit.

1021. A few commenters requested that the MPCA include information that could reasonably be foreseeable within the future. As discussed within the SONAR (p. 130) for subpart 3, the MPCA has established the information and analyses needed to evaluate the impacts associated with the requested permit action. The proposed rule also provides for requiring additional information or analyses if the commissioner determines that additional information or analyses are needed to determine the potential for, or significance of, one or more environmental or health impacts (see part 7007.6090, subpart 2, item C).

Cumulative impacts analysis contents: contamination

1022. The MPCA received two comments regarding contamination evaluations within the contents of a cumulative impacts analysis required under part 7007.6090.

1023. **University of Minnesota-030-09:** The University of Minnesota stated, "● A CIA must also include, "Information pertaining to the existence or absence of contamination on site, which may include the existence of known or suspected contaminants, historical uses of the site, and any remediation activities that have occurred on the site." (Minn. R. 7007.6090, subp. 3.B)

Large portions of the Twin Cities campus, in particular the Minneapolis East Bank and West Bank areas, were formerly occupied by industrial rail, milling, and manufacturing facilities. Over the course of decades, the University has acquired these brownfield properties and acted as a responsible development partner, performing necessary remediation under MPCA oversight. Consequently, there are over one hundred listed historical release sites within the broad campus boundaries that are administratively closed and carry no ongoing cleanup or monitoring obligations. Because the Draft Rules language is open-ended, it creates an immense and unnecessary burden by requiring the University to review and analyze "information," which could include thousands of historical records for sites that are administratively closed."

1024. **University of Minnesota-030-17:** The University of Minnesota stated, **"**Further revise Minn. R. 7007.6090, subp. 3 to tailor the administrative burden of preparing a CIA as follows:

B Information pertaining to the existence ~~or absence~~ of contamination on ~~site~~ the parcel or parcels of real property that include the stationary source, emissions facility, or emissions unit that is the subject of the proposed permit action, and with a potential for migratory pollution to water systems or land outside the stationary source boundary. This information ~~which~~ may include the existence of known or suspected contaminants, historical uses of the site, and any remediation activities that have occurred on the site;

MPCA RESPONSE

1025. Minn. Stat. § 116.065, subd. 1(c) "Cumulative impacts" means the impacts of aggregated levels of past and current air, water, and land pollution in a defined geographic area to which current residents are exposed." Since the Minn. Stat. § 116.065 requires such information, the MPCA believes that this information is vital to prevent additional contamination to a site that may or may not be remediated or evaluated. As stated in the SONAR (p. 131), "Item B requires information pertaining to the existence or absence of contamination on the site to which the facility that is being evaluated resides. This is needed to evaluate if there is a potential for migratory pollution to water systems or land contamination, as past and current water and land pollution is defined within the definition of cumulative impacts under Minn. Stat. § 116.065, subd. 1(c). It is reasonable to require

this information because contamination can cause direct health and environmental impacts or leach or migrate into adjacent areas."

1026. The MPCA disagrees with the suggestion of tailoring the language regarding contamination for a few reasons. First, the proposed language strikes absence, which the MPCA believes would be appropriate to request, as a facility is certifying their application and is declaring that there is no known contamination or existence of contamination on site.

1027. Second, the MPCA disagrees with the inclusion of the changed language to "the parcel or parcels of real property that include the stationary source, emissions facility, or emissions unit that is the subject of the proposed permit action, and with a potential for migratory pollution to water systems or land outside the stationary source boundary." as contamination to a site does not mean that the facility was the source of the contamination. The MPCA notes that under the proposed language change, equipment or material that is brought to the site is not subject to contamination information if a spill or other item were to occur, nor would the proposed language change fully comply with Minn. Stat. § 115B.03, subd. 1, in so stating that if the contamination is within the facilities boundaries proper, even if they created it or not, are liable for that contamination. By binding the contamination to the permitted item, the MPCA believes that it would not fully evaluate the contamination that is occurring to fully comply with Minn. Stat. § 116.065, subd. 1(c).

Cumulative impacts analysis contents: impacts of climate change

1028. The MPCA received six comments regarding climate change inclusion within the contents of a cumulative impacts analysis required under part 7007.6090.

1029. **Frontline Communities Protection Coalition-034-25:** Frontline Communities Protection Coalition stated, "Item (C) - We strongly support the inclusion of an assessment of localized impacts of climate change. We believe this is an essential layer to consider moving forward, as the impacts of climate change will continue to amplify many other environmental stressors. We also support subitem (5), the requirement of including proposed mitigation, adaptation, or resilience measures to address climate vulnerabilities. This requirement supports Minnesota's Climate Action Framework 2026 climate equity goal that states: "All communities thrive through the fair distribution of the benefits of climate action, and no community bears disproportionate harm from climate change impacts.""

1030. **Minnesota Public Health Association-035-07:** The Minnesota Public Health Association stated, "**Climate change impacts**. Minnesota's Climate Action Framework (CAF) 2026 centers on a three-pillared vision for climate action to guide Minnesota towards a carbon neutral, resilient and equitable future. The CAF acknowledges that overburdened communities, often BIPOC and/or low income, face greater risk from climate change hazards despite contributing the least to climate change. We agree with the SONAR's description of ways that the CI rules support CAF goals and help to address climate vulnerabilities for EJ communities. **We support the draft rules which require CI assessments to include analyses of localized conditions in both urban and rural communities related to climate risks, as well as mitigation and adaptation measures.** Reducing air pollution and community stressors will also build community resilience to address future impacts of our changing climate."

1031. **Health Professionals for a Healthy Climate-038-05:** The Health Professionals for a Healthy Climate stated, "a. [sic] Subp. 3: We appreciate that the CI analysis is required to include a broad array of conditions as outlined in this section, including potential climate change impacts. We wonder how the agency assures accuracy and uniformity in reporting these conditions – are there particular information sources available for permit applicants for items A through C to forecast

community risks? In particular, the forecasting of climate change impacts should be based on sound science and credible state sources, such as the Minnesota Department of Health, the University of Minnesota Climate Adaptation Partnership, the MPCA, and other state agencies."

1032. **Health Professionals for a Healthy Climate-038-16:** The Health Professionals for a Healthy Climate stated, "**Climate change impacts**. Minnesota's Climate Action Framework (CAF) 2026 centers on a three-pillared vision for climate action to guide Minnesota towards a carbon neutral, resilient and equitable future. Under the Equitable pillar, the CAF states: "All communities thrive through the fair distribution of the benefits of climate action, and no community bears disproportionate harm from climate change impacts." The CAF acknowledges that overburdened communities, often BIPOC and/or low income, face greater risk from climate change hazards despite contributing the least to climate change. Factors include unequal exposure to pollution, higher heat risks, barriers to energy-efficient housing and improvements, uncertain access to resources, and energy cost burdens. The CAF outlines specific equity goals related to empowering climate action, resource distribution, decision-making, access to energy and cost savings programs, reduced energy burden, worker safety and support for emerging farmers, local agriculture, and affordable clean energy for businesses.

While all of Minnesota's seven CAF goal areas center equity, Goal 5: Healthy lives and communities, sets specific equity goals for: cooler, safer communities; protection from poor air quality; safe water; community care; climate-smart public health; and advancing equity, resilience, and justice. We agree with the SONAR p.187-188's description of ways that the CI rules support CAF goals and help to address climate vulnerabilities for EJ communities. We support the draft rules which require that CI assessments include analyses of localized conditions in both urban and rural communities related to climate risks and proposed mitigation, adaptation, or resilience measures to address vulnerabilities. This information will also be helpful for community members and state agencies. Reducing air pollution and community stressors will build community resilience to address future impacts of our changing climate."

1033. **American Petroleum Institute-042-06**: The American Petroleum Institute stated, "**1.5 THE RULE SHOULD REMAIN FOCUSED ON IMPACTS ATTRIBUTABLE TO THE PERMITTED ACTIVITY**

The proposed CIA requires consideration of numerous environmental and social factors. Many of these provide valuable context. However, not all are causally related to the emissions authorized by the air permit. Similarly, many are beyond the applicant's ability to influence.

Examples include:

- regional traffic,
- housing quality,
- food insecurity,
- socioeconomic conditions,
- healthcare availability.

The purpose of an air permit is to evaluate impacts associated with emissions authorized by that permit. Accordingly, the scope of required analysis should remain focused on stressors that:

- are reasonably connected to the permitted emissions,
- contribute to exposure pathways,
- are capable of modification through the permitting decision or associated mitigation measures.

In addition, the proposed rule includes requirements to understand and evaluate the localized

climate impacts of a stationary source, consider the vulnerabilities present, and potentially implement various measures that could result in benefits for, and/or reduced related impacts to, residents of EJ areas. Localized climate impacts are associated with numerous different factors and are complex and uncertain. Climate impacts on community health are also complex and uncertain.

Recommendation: The cumulative impact assessment should not include analysis of climate impacts on the vulnerable community from the permitted source"

1034. **Saint Paul-Ramsey County Public Health-054-04:** Saint Paul-Ramsey County Public Health stated, **"**SPRCPH also supports the cumulative analysis contents and inclusion of an assessment of localized impacts of climate change in the cumulative impacts analysis at proposed Minnesota Rule 7007.6090, subpart 3. Climate hazards interact with localized pollution impacts and climate conditions will evolve over the life of the facility. Climate change has the potential to interact with and exacerbate many of the proposed factors included in the cumulative impacts assessment. For example, extreme heat makes it harder for the body to cope with poor air quality. SPRCPH recommends including a standard procedure in the rules for assessing localized impacts of climate change, including sound practices for climate modeling. Assessments should rely on best available science and include updates as new climate projections become available. Additionally, while the proposed rules state cumulative impacts analysis must include "a description of the socioeconomic impact of construction and operation on the residents," extending this to include a potential facility closure/decommissioning would provide a more comprehensive analysis on health and socioeconomic impacts."

MPCA RESPONSE

1035. The MPCA would like to thank the commenters on the comments related to climate change information. As noted in the SONAR (p. 131) for part 7007.6090, subpart 3, item C, facilities can emit greenhouse gases that can contribute to dysregulation of climate and local changes to the environment. These localized impacts, and actions taken by the stationary source, can potentially impact the environment and health of the impacted environmental justice area. Additionally, item C also refers to both risks and benefits which provides the owner or operator of the stationary source opportunities to talk about actions they are taking that may provide benefits to the residents of the environmental justice areas.

1036. The MPCA would also like to note that climate change resources and how to approach climate change information will be provided with external guidance. This would be similar to the climate change related information required under Environmental Review and other programs.

Cumulative impacts analysis contents: traffic metrics

1037. The MPCA received two comments regarding evaluation of traffic metrics within the contents of a cumulative impacts analysis required under part 7007.6090.

1038. **University of Minnesota-030-08**: The University of Minnesota stated, "*Cumulative Impacts Analysis (CIA):*

● The Draft Rules require that a CIA include, "A traffic study that describes the transportation routes that will service the stationary source; site access capability; and existing traffic flow patterns expressed in terms of daily peak hour volumes, off-peak hour volumes, levels of service, and average daily round trips; and the stationary source's current and proposed contributions thereto for all vehicles associated with the stationary source's operations." (Minn. R. 7007.6090, subp. 3.D.)

The rules requiring traffic metrics, such as levels of service and peak hour volumes, would require an enormous scope of work for an open, urban campus. The University's Twin Cities campus is split into

three distinct sub-campuses where public city, county, and state roads run directly through the property.

Campus transit is a mix of regional rail and bus services, campus shuttles, and personal and official University vehicles that use local roads and a dedicated transitway. Traffic patterns and mobile emissions are highly seasonal, fluctuating during the academic year, summer session, and for major sporting events. Tens of thousands of people travel to and through the campus on any given day, many of who are not associated with the University and are therefore neither "servicing" nor being serviced by the Twin Cities campus.

Because general public transit and daily campus operations are intertwined, it is impossible to isolate the University's distinct contributions to local peak hour volumes, round trips, or associated mobile emissions. Neither the SONAR nor the Draft Rules provide any guidance on how a public institution with the University's unique physical outline could reasonably comply with this requirement."

1039. **University of Minnesota-030-17:** The University of Minnesota stated, **"**Further revise Minn. R. 7007.6090, subp. 3 to tailor the administrative burden of preparing a CIA as follows:

D ~~A traffic study that describes the transportation routes that will service the stationary source; site access capability; and existing traffic flow patterns expressed in terms of daily peak hour volumes, off-peak hour volumes, levels of service, and average daily round trips; and the stationary source's current and proposed contributions thereto for all vehicles associated with the stationary source's operations.~~ A description of the greenhouse gas emissions and vehicle emissions from increases in traffic caused by the proposed permit action."

MPCA RESPONSE

1040. Traffic metrics have been used in many established programs, including Environmental Review, question #20 of Environmental Quality Board's Environmental Review worksheet "Describe traffic-related aspects of project construction and operation. Include: 1) existing and proposed additional parking spaces, 2) estimated total average daily traffic generated, 3) estimated maximum peak hour traffic generated and time of occurrence, 4) indicate source of trip generation rates used in the estimates, and 5) availability of transit and/or other alternative transportation modes."

1041. The MPCA can scale the applicable traffic information that is required to satisfy the rule and statute, but this is dependent on the permit that the facility it is seeking at the time, as part 7007.6090, subpart 3, item D states "A traffic study that describes the transportation routes that will service the stationary source...". If the requested permit is for the entire complex, then information pertaining to the entire complex would be required. If the permit is for a building within a complex, information could be tailored to the particular situation. MPCA would like to note that the dynamics of each facility and complex are different. MPCA will work with the facility and complex to tailor what would be appropriate for a submittal in these types of situations.

1042. The MPCA appreciates the recommendation on traffic information requirements under part 7007.6090, subpart 3 to use the terminology "A description of the greenhouse gas emissions and vehicle emissions from increases in traffic caused by the proposed permit action." The MPCA disagrees with this alteration, as this alteration addresses increases to greenhouse gases and vehicle emissions, but does not address what "current" is, as the Minn. Stat. § 116.065, subd. 1(c) requires past and current information. Also, the MPCA believes that this alteration would not fully address Minn. Stat. § 116.065, subd. 1(f), as increases do not address the issue of what the community is experiencing now, nor does it fully address the health impacts of the vehicle and greenhouse emissions that are generated or created by operations for the facility.

Cumulative impacts analysis contents: odor, dust, and noise impacts

1043. The MPCA received one comment regarding odor, dust, and noise impacts and evaluations within the contents of a cumulative impacts analysis required under part 7007.6090.

1044. **Frontline Communities Protection Coalition-034-26:** Frontline Communities Protection Coalition stated, “Item (F) - Similarly, we strongly support the inclusion of odor, dust, and noise impacts of a stationary source. These are the three concerns we hear about most often from community members. Requiring mitigation or management plans will help address one of the biggest issues communities face when hosting a facility.”

MPCA RESPONSE

1045. The MPCA would like to thank the commenter on the information regarding Odor, Dust, and Noise within the Cumulative Impacts Analysis. The MPCA believes that this is a critical item, as stated within the SONAR (p. 132), “Item F requires information on and a potential mitigation plan for odor, dust, and noise impacts on the residents of the impacted EJ area. This information and potential mitigation plan are needed because many EJ areas are also highly industrialized areas, which can adversely impact residents living in the community due to operational related noise, odors, or dust. It is reasonable to request this information because odor, dust, and noise impacts are very common and known community nuisance that can also create health and environmental impacts.” The MPCA would also like to note that the MPCA has a duty for odor under Minn. Stat. § 116.064. Noise and dust are just as harmful as it subjects individuals to an increased susceptibility to environmental effects on health (Minn. Stat. § 116.065, subd. 1 (f)(1)).

Cumulative impacts analysis contents: public participation and lived experiences

1046. The MPCA received two comments regarding public participation and lived experience inclusion within the contents of a cumulative impacts analysis required under part 7007.6090.

1047. **Minnesota Chamber of Commerce-027-27:** The Minnesota Chamber of Commerce stated, “e. A defined process for collecting and considering the experiences of community members that may be relevant for a project or facility may be a useful part of a CIA. However, a facility should have the discretion to collect but not respond to input that is outside the scope of the project and analysis. Lived experiences and stories may be considered, but such information is often anecdotal, unverifiable, unquantifiable, and difficult to connect to a cause and effect.”

1048. **Frontline Communities Protection Coalition (compiled comments)-045-123:** Chelsey Blanke stated, “Cumulative impacts analyses must be thorough and structured in a way that prioritizes the experiences and needs of affected communities, especially those that have been historically overburdened by pollution.”

MPCA RESPONSE

1049. Minn. Stat. § 166.065, subd. 5(a) states, "In determining whether to issue or deny a permit under this section, the commissioner must consider the cumulative impacts analysis conducted, the testimony presented, and comments submitted in public meetings held under subdivision 4." Also, Minn. Stat. § 116.065, subd. 4(d)(1) requires the facility to "provide an opportunity for robust public and Tribal engagement" at public meetings held. Under MPCA's understanding of the statute, robust engagement means a back-and-forth discourse, which means responding to input from any interested party.

1050. Under the proposed rules, facilities must consider the comments received, the issues raised by the commenters, and provide a written response to the comments. The MPCA established

requirements for the facility to respond to comments in part 7007.6080, subpart 8, item D, but does not prescribe the exact way a facility must respond to those comments. The proposed rules provide flexibility for the facility to respond to comments in a manner of their choosing. This opportunity is for the facility to address public concerns and identify their responses to the comments received that the MPCA will ultimately review before making a determination on the cumulative impacts submittal.

1051. As MPCA implements the rule, MPCA will develop guidance for owners and operators, community members, and MPCA staff for several aspects of the rule. Implementation of the proposed rule will also involve developing standard forms; templates; and other materials to support portions of the rule such as the documentation and evaluation of comments received during public comment periods. The MPCA anticipates that these forms, templates, and/or other guidance materials will identify examples of comments and methods/practices for documenting and/or responding to comments.

Cumulative impacts analysis contents: environmental stressors

1052. The MPCA received 18 comments regarding environmental stressor inclusion within the contents of a cumulative impacts analysis required under part 7007.6090.

1053. **Coming Clean Network-024-04**: The Coming Clean Network stated, "**Strong Regulatory Provisions Thorough analysis of existing conditions in EJ communities.** While we are still advocating for a more direct inclusion of environmental stressors in the cumulative impacts analysis, the initial assessment and cumulative impacts analyses currently require significant consideration of the existing environmental and community conditions in and around facilities. These requirements should be retained, as they are necessary to understand the full context surrounding a permit application."

1054. **Geldner-028-01**: Ryann Geldner stated, "I am commenting on the proposed cumulative impacts rules in Minn. R. 7007.6000–7007.6120. I support the intent of the rule but believe it must be strengthened to address airborne agricultural chemicals, sediment binding lake treatments such as alum, macroinvertebrate decline, and the role of regenerative farming in reducing cumulative environmental stressors. 1. Airborne agricultural spraying should be included as an environmental stressor Under Minn. R. 7007.6010, "environmental stressors" include any condition that harms human health. Airborne agricultural chemicals: ammonia, nitrates, pesticides, herbicides, and VOCs drift into EJ neighborhoods, schools, parks, and lakes. These chemicals contribute to asthma, endocrine disruption, neurological impacts, and increased respiratory illness. They also deposit nitrogen and phosphorus into lakes and rivers, accelerating eutrophication. Requested change: Add airborne agricultural chemicals to the list of environmental stressors evaluated under 7007.6050 and 7007.6090."

1055. **Geldner-028-02**: Ryann Geldner stated, "2. Alum lake treatments should be included as cumulative chemical stressors Although alum is applied in water, it creates long-lasting chemical layers in lake sediments. These layers interact with airborne nutrient deposition from agriculture and stormwater runoff, creating a combined chemical burden not captured in the draft rule. Repeated alum treatments create long-term chemical dependency without reducing watershed nutrient sources. Requested change: Clarify in 7007.6010 and 7007.6090 that cumulative impacts include chemical stressors originating from watershed management practices, including alum."

1056. **Geldner-028-03**: Ryann Geldner stated, "3. Macroinvertebrate decline should be included as a biological stressor Most lake macroinvertebrates live in or on sediments where alum settles. Alum alters sediment chemistry and can reduce benthic macroinvertebrate abundance, undermining fish

populations and long-term lake recovery. Macroinvertebrate decline fits the rule's definitions of "health endpoint," "environmental stressor," and "combined stressor total." Requested change: Add biological indicators — including macroinvertebrate health — to cumulative-impact evaluations under 7007.6090.

1057. **Geldner-028-05**: Ryann Geldner stated, "5. EJ communities experience multi-pathway cumulative burdens When airborne agricultural chemicals, alum treatments, and biological impacts are combined, EJ communities face: inhalation of agricultural spray drift inhalation of airborne particulates and dust degraded water quality from nutrient deposition ecological decline (loss of macroinvertebrates and fish forage) repeated chemical treatments in downstream lakes These combined stressors fit the rule's definitions of adverse environmental stressors, adverse cumulative stressors, and combined stressor total, yet they are not included in the draft rule. Conclusion I respectfully request that the MPCA strengthen Minn. R. 7007.6000–7007.6120 by explicitly including: airborne agricultural chemicals nutrient deposition from agriculture alum treatments macroinvertebrate decline regenerative farming practices limits on large agribusiness expansion in high-burden EJ areas nature-based watershed solutions (wetlands, buffers, ARTS systems) These additions will ensure cumulative-impact analysis reflects real ecological conditions and protects EJ communities who experience multiple pollution pathways simultaneously."

1058. **Frontline Communities Protection Coalition-034-24:** The Frontline Communities Protection Coalition stated, **"7007.6090 Cumulative Impacts Analysis**

Subp. 3. **Cumulative impacts analysis content** - As previously stated, we believe this section is missing a critical piece in order to truly analyze the cumulative impacts of a community. We believe this is where section 7007.6050, subpart 3, item (G) should be relocated and expanded upon. In particular, we view item (G), subitem (4) and the consideration of each environmental stressor in the impacted environmental justice area as the critical piece of a cumulative impacts analysis. Not only does this section outline a more understandable and succinct approach to analyzing cumulative impacts, it also creates a pathway to a significantly more objective definition of substantial adverse impact, which we shall recommend in the next section.

We propose adopting a cumulative impacts analysis approach based on New Jersey's cumulative impacts rules. This method would require a permit applicant to use the list of environmental stressors, determine how many stressors qualify as adverse environmental stressors, and analyze how their facility contributes to each stressor as part of the cumulative impacts analysis. This approach focuses on the existing cumulative impacts burden and how a stationary source is or would be contributing to that burden. We believe this is a more comprehensive and understandable approach to a cumulative impacts analysis. The cumulative impacts analysis is meant to clearly outline how vulnerable and overburdened a community is and how a stationary source is contributing to that impact.

We believe this method will be more effective at communicating those impacts to environmental justice communities. Additionally, New Jersey's rules have already been upheld in court and are currently being implemented. [https://stateimpactcenter.org/insights/court-upholds-environmental-justice-permitting-rule-key-insights]

In the consensus report by the NASEM titled, State of the Science and Future of Cumulative Impacts, the authors recommendation is, "There is a need to implement cumulative impact assessments (CIAs) that consider multiple chemical and social stressors and resources simultaneously through spatial and temporal dimensions without paralyzing decisions because of uncertainties due to analytical complexity or missing data." In our view, by laying out exactly how the decision will be made MPCA makes the decision more transparent and less likely to be challenged. Our proposal for

this decision making process can be found in part 7007.6100 below."

1059. **Health Professionals for a Healthy Climate-038-04:** The Health Professionals for a Healthy Climate stated, **"7007.6090 Cumulative impacts analysis contents.** a. Subp. 2, B: While the cumulative impacts (CI) analysis requires the resubmission of the initial assessment, which would include an analysis of impacts on stressors, we recommend that the rules explicitly require a section on environmental and public health stressors and how a facility will contribute to those stressors, as that information is essential in determining substantial adverse impact."

1060. **Norrgard-040-04:** Lois Norrgard stated**,** "Model the cumulative impacts analysis after the New Jersey law. I recommend that the cumulative impacts analysis looks at environmental and public health stressors and how a facility will contribute to those stressors. If a facility is contributing to a certain number of adverse environmental stressors adding further burden, that should be considered a substantial adverse impact. This is similar to New Jersey's approach and will provide a more objective determination of substantial adverse impact, creating better clarity for all parties involved."

1061. **American Petroleum Institute-042-05**: The American Petroleum Institute stated, "**1.4 THE REQUIRED EVALUATION OF INTERACTIONS AMONG ENVIRONMENTAL STRESSORS EXCEEDS CURRENT SCIENTIFIC CAPABILITY**

The proposed rule requires applicants to evaluate each environmental stressor and how each stressor may increase adverse effects of the stationary source. While cumulative impacts are an important policy consideration, current cumulative risk assessment methodologies generally do not support quantitative evaluation of interactions among:

- poverty
- housing quality
- food insecurity
- access to healthcare
- psychosocial stress
- transportation
- neighborhood conditions, and
- specific incremental emissions associated with an individual permitting action.

Scientific literature generally supports identifying vulnerable populations and describing environmental context. The current state of science cannot determine how vulnerabilities in an environmental justice area may increase cumulative impacts; only general associations are possible. Accepted methodologies do not currently exist to reliably quantify how these nonchemical stressors modify health risks associated with a specific facility's emissions. Requiring applicants to perform analyses that lack validated methodologies introduces substantial uncertainty and inconsistent implementation.

Recommendation: The rule should distinguish between:

- qualitative contextual information describing community vulnerability; and
- quantitative analyses supported by accepted exposure assessment and risk assessment methodologies.

Applicants should not be required to quantify interactions for which accepted scientific methods do not exist."

1062. **American Petroleum Institute-042-13:** The American Petroleum Institute stated, **"1.12 PART 7007.6090 – CUMULATIVE IMPACTS ANALYSIS**

API supports cumulative impact evaluations that are scientifically supportable and proportionate to the permitting decision. However, several required CIA elements extend beyond currently accepted cumulative risk assessment methodologies.

Evaluation of Environmental Stressors: The rule requires applicants to consider each environmental stressor and evaluate how each stressor may increase adverse effects from the stationary source. This requirement exceeds current scientific capability.

While many social determinants of health influence overall health status, accepted scientific methods generally do not exist to quantify how individual nonchemical stressors modify health risks associated with incremental emissions from a specific facility. For example:

- poverty;
- educational attainment;
- food insecurity;
- housing quality;
- healthcare access;
- psychosocial stress.

These variables may influence community vulnerability but cannot presently be translated into quantitative adjustment factors for facility-specific risk assessments. The rule should distinguish community context from exposure assessment from health risk characterization."

1063. **American Petroleum Institute-042-14**: The American Petroleum Institute stated, "**Exposure Pathways**: The CIA should focus on complete exposure pathways. Stressors should be evaluated only where there is a scientifically plausible pathway connecting the permitted emissions with the identified environmental or health outcome. Otherwise, the CIA risks becoming a generalized community assessment rather than an evaluation of impacts associated with the requested permit."

1064. **American Petroleum Institute-042-15:** The American Petroleum Institute stated, "**Modifiable Stressors**: Applicants should only be required to evaluate stressors that:

- are reasonably attributable to the permitted activity;
- are capable of mitigation;
- fall within the applicant's influence.

Applicants cannot reasonably mitigate community poverty, housing conditions, or regional transportation systems through an air permit."

1065. **Frontline Communities Protection Coalition (compiled comments)-045-14**: Jons Blumenthal stated, "Please consider using the cumulative impacts analysis to evaluate environmental and public health stressors and how a facility will contribute to those stressors. If a facility is contributing to a certain number of adverse environmental stressors, please consider that a substantial adverse impact. This approach is similar to New Jersey's and will provide a more objective determination of substantial adverse impact, creating greater clarity for all parties. Residents want their health protected. Please take meaningful action to provide that**.**

1066. **Frontline Communities Protection Coalition (compiled comments)-045-19:** Lynn Anderson stated, "I recommend that the cumulative impacts analysis evaluate environmental and public health concerns and consider how a facility will contribute to existing stressors. If a facility contributes to a certain number of adverse environmental stressors, that should be considered a substantial adverse impact, and the industry should be held accountable."

1067. **Frontline Communities Protection Coalition (compiled comments)-045-43:** Kate Wolford

stated, “The cumulative impacts analysis should evaluate environmental and public health stressors and how a facility will contribute to those stressors.”

1068. **Frontline Communities Protection Coalition (compiled comments)-045-48:** Catherine Zimmer stated**,** “With respect to the reissuance of air permits (and other permits), the cumulative impacts on living beings in nearby communities must be considered. We now know that repeated exposure to chemicals and pollutants can affect living organisms in additional and compounding ways. To better measure impacts on communities, I suggest a detailed review of all environmental stressors when considering permit renewals.”

1069. **Frontline Communities Protection Coalition (compiled comments)-045-89:** Eric W Larson stated, “I recommend that facilities with the potential to create pollution be required to submit a cumulative impacts analysis that evaluates environmental and public health stressors and how the facility will contribute to those stressors. This is especially important for facilities with the potential to create multiple types of impacts. Sincerely, Eric Larson”

1070. **Frontline Communities Protection Coalition (compiled comments)-045-170:** Side Corridor Residents, Owatonna East stated, “Evaluating the full range of environmental stressors, along with existing conditions and reasonably foreseeable future impacts, will provide a more accurate and realistic assessment of how a proposed project may affect surrounding communities throughout the life of the project. This approach is essential to ensuring that cumulative impacts analyses fulfill their purpose of protecting public health, the environment, and the communities that depend on them.”

MPCA RESPONSE

1071. The MPCA would like to recognize the many comments regarding environmental stressors within the cumulative impacts analysis. The MPCA would like to mention that stressor inclusion will come in from the Initial assessment, as proposed under part 7007.6090, subpart 2, item B, subitem (1) and could be further expanded as requested under part 7007.6090, subpart 2, item C.

1072. The MPCA would like to note the concerns some commenters had on the environmental and public health stressors that were included and that they should only be relevant to the permitted activity. Minn. Stat. § 116.065, subd. 1(f) does not state the information be from the facility itself, but instead the information is regarding “factors that may make residents of an environmental justice area susceptible to harm from exposure to pollutants.” In addition, as noted in the SONAR (p. 139), the environmental stressors are a required items for the commissioner to make a decision.

1073. The MPCA would like to also address the comments regarding the stressors themselves, including housing, food insecurity, elevated rates of disease, and health insurance. Minn. Stat. § 116.065, subd. 1(f) specifically identifies some of these stressors for inclusion, as quoted:

> *“(f) "Environmental stressors" means factors that may make residents of an environmental justice area susceptible to harm from exposure to pollutants. Environmental stressors include:*
>
> > *(1) environmental effects on health from exposure to past and current pollutants in the environmental justice area, including any biomonitoring data from residents reported through the Centers for Disease Control, the Department of Health, or peer-reviewed scientific or medical articles; and*
> >
> > *(2) social and environmental factors, including but not limited to poverty, substandard housing, food insecurity, elevated rates of disease, and poor access to health insurance and medical care.“*

1074. The MPCA would also like to highlight that Minn. Stat. § 116.065, subd. 1(f) does state “including

but not limited to". The stressors that were chosen went through extensive review by both the public, industry, and others prior to being proposed within the proposed rule.

1075. The proposed rules require regulated parties to include the environmental stressor information provided by the MPCA as part of an initial assessment required under part 7007.6050 (see part 7007.6050, subpart 3, item F). The proposed rules require that the owner or operator preparing an initial assessment consider those environmental stressors as part of the assessment of impacts of the requested permit action (see part 7007.6050, subpart 3, item G). This assessment focuses on the impacts to the environment and the health of the residents of environmental justice areas, consistent with the statutory directives in Minn. Stat. § 116.065, subd. 3(a), not contributions to environmental stressors. Through this assessment, the owner or operator provides relevant information to the commissioner for evaluation so the MPCA can determine whether a cumulative impacts analysis is required for the requested permit action. This determination is not based solely on environmental stressors. Environmental stressors are one part of the information, within the initial assessment, alongside other sources of information that the MPCA must consider as part of determining the need for a cumulative impacts analysis (see part 7007.6070, subpart 3) and as part of determining whether issuing the permit would have a substantial adverse impact (see part 7007.6100, subpart 1).

Air emissions risk analysis and insignificant activities

1076. The MPCA received six comments regarding an air emissions risk analysis (AERA) and the inclusion of insignificant activities as part of a cumulative impacts analysis required under part 7007.6090.

1077. **Minnesota Chamber of Commerce-027-40:** The Minnesota Chamber of Commerce stated, "The proposed rule should clarify that an AERA conducted as part of a CIA does not need to include insignificant activities."

1078. **University of Minnesota-030-10:** The University of Minnesota stated, "And a CIA must include, "air quality modeling analysis" (Minn. R. 7007.6090, subp. 4) and "air emissions risk analysis" (Minn. R. 7007.6090, subp. 5)

To determine the scope of these analyses, the Draft Rules rely on existing Agency guidance documents: Air Dispersion Modeling Practices Manual (aq2-58) and the Air Emissions Risk Analysis (AERA) guide (aq9-18), respectively. This reliance introduces significant regulatory uncertainty for the University because both technical manuals grant the Agency case-by-case discretion to require the quantification and modeling of

Insignificant Activities (IAs). Under Minn. R. 7007.1300, IAs are categorized as such because their emissions are below the de minimis permitting thresholds as determined by the Agency. Unpromulgated guidance documents should not be allowed to override determinations set forth in properly adopted rules. The final rules should make that clear.

The University operates thousands of IAs, primarily laboratory fume hoods and benchtop research equipment, that have very low emissions. Cataloging and modeling thousands of chemical usage rates, fume hood configurations, and stack parameters for activities the MPCA considers insignificant is technically and administratively impossible at a public teaching and research institution. Without an explicit exemption for laboratory scale research activities in the rules, this discretion creates an unpredictable and potentially unnecessarily burdensome regulatory requirement for a major research campus."

1079. **University of Minnesota-030-18:** The University of Minnesota stated, "Revise Minn. R.

7007.6090, subp. 4.B to state: An owner or operator must conduct an air quality modeling analysis in accordance with a protocol approved in advance by the commissioner according to item C. The owner or operator's modeling protocol need not include modeling for insignificant activities as defined in Minn. R. 7007.1300, if the insignificant activities serve a compelling public benefit. The air quality modeling analysis must address each pollutant that the stationary source has the potential to emit in an amount greater than or equal to the rates identified in Code of Federal Regulations, title 40, section 52.21(b)(23)(i)."

1080. **University of Minnesota-030-19:** The University of Minnesota stated, "Revise Minn. R. 7007.6090, subp. 5.B to state: An owner or operator must conduct an air emissions risk analysis in accordance with a protocol approved in advance by the commissioner according to item C. The owner or operator's modeling protocol need not include modeling for insignificant activities, as defined in Minn. R. 7007.1300, if the insignificant activities serve a compelling public benefit."

1081. **University of Minnesota-030-20**: The University of Minnesota stated, "Add a definition of "compelling public benefit" to Minn. R. 7007.6010 as follows: "Compelling public benefit" means activities conducted by a government entity as defined under Minn. Stat. § 13.02, subd. 7a, that serve an environmental, medical, educational, research, or safety purpose as certified by the government entity."

1082. **Health Professionals for a Healthy Climate-038-08:** The Health Professionals for a Healthy Climate stated, **"**d. Subp. 5, Air emissions risk analysis: We appreciate the inclusion of an air emissions risk analysis. The MPCA's current air emissions risk analysis process excludes consideration of emergency generator emissions. Given the growing adoption of emergency generators (both to sustain data center projects and respond to grid instability caused by these projects), and potential for health impacts from these generator-related emissions, we suggest that emissions from emergency generators should be included in air emissions risk analyses conducted as part of a CI analysis."

MPCA RESPONSE

1083. The MPCA thanks the commenters on the inclusion of the AERA process and questions on insignificant activities. MPCA's AERA process is consistent with how a typical risk assessment is conducted.

1084. The MPCA would like to note the concern around insignificant activities. Insignificant activities have been previously, and are currently, included in AERAs. The AERA is an iterative process that does allow for refinement of sources included in the AERA by the facility. However, the facility must first include these sources in an AERA to demonstrate the source's risk before excluding the source from an AERA. The MPCA disagrees that insignificant activities should be excluded from an AERA. More information on AERA modeling can be found in the SONAR (p. 133-134).

1085. One commenter mentioned that current AERA guidance states that emergency generators can be excluded. As stated before, the AERA is an iterative process in which facilities can exclude sources that are posing little to no risk. However, all sources must be included in the AERA protocol to demonstrate that these sources have little to no risk.

Air emissions risk analysis and acceptable risk levels

1086. The MPCA received two comments regarding the general AERA process and assessment of risks as part of a cumulative impacts analysis required under part 7007.6090.

1087. **Frontline Communities Protection Coalition (compiled comments)-045-172:** Side Corridor Residents, Owatonna East stated, **"**13. Support for Including Air Emissions Risk Analysis: We support

the proposed requirement to evaluate cancer risks and other health-based hazard quotients and hazard indexes as part of the air emissions risk analysis. This represents an important step toward understanding how emissions may affect the health of nearby communities, rather than focusing solely on whether a project meets ambient air quality standards.

Too often, environmental reviews focus primarily on regulatory compliance without fully considering the potential health impacts experienced by people living near permitted facilities. Including health-based risk analyses recognizes that protecting human health must be a central goal of environmental permitting.

Cancer remains a significant public health concern in Minnesota and across the United States. Evaluating cancer risks and other potential health hazards before permits are issued provides an opportunity to identify concerns, reduce exposures where possible, and make more informed decisions that protect both current and future generations.

We appreciate the MPCA's inclusion of this requirement and encourage continued refinement of health-based analyses as scientific knowledge, risk assessment methods, and our understanding of environmental health impacts continue to evolve."

1088. **Frontline Communities Protection Coalition-034-30:** Frontline Communities Protection Coalition stated, "Subp. 5. **Air emissions risk analysis** - We support the requirement for owners and operators to conduct an air emissions risk analysis. However, we believe that the proposed thresholds in Subitem D deemed "acceptable" are both arbitrary and ignore the cumulative nature of the analysis this legislation demands. Relying on a 1.0 per 100,000 cancer risk threshold in isolation perpetuates the existing permitting regime where a facility is analyzed in isolation, as opposed to the larger environmental context in which it operates. **Furthermore, relying on this 1.0 per 100,000 cancer risk threshold would automatically exclude all but two facilities of the 89 listed in MPCA's "Facilities that may be affected by Minnesota's new Cumulative Impacts Law" document** (according to 2017 MNRISK data released by MPCA). We question the fundamental utility of a benchmark that won't be met by almost any facility.

We believe that a different risk threshold determination would better follow the cumulative nature of this legislation and prioritize those who are already facing disproportionate risks. Instead of relying on an arbitrary threshold, MPCA and MDH should consider the overall contribution of each applicable facility to the overall cancer risk score in that census tract, in combination with the total cancer risk score for that area. This would create a dynamic threshold based on a sliding scale of baseline risk, where MPCA is considering both the scale of risk in a community and the degree to which a permit applicant is contributing to that risk. We have developed a proposal for how this could be implemented and would be happy to work with MPCA, MDH, and any other agencies to ensure those most impacted are protected from any excess pollution sources."

MPCA RESPONSE

1089. The MPCA appreciates the comments regarding the AERA process. More information on the AERA can be found in the SONAR (p. 134-137).

1090. One comment stated that the cancer risk threshold may not be protective enough of human health. The MPCA disagrees with the statement that 1 in 100,000 (rounded to one significant figure) is not health protective enough. This value was chosen because it is widely used as a cancer risk level in risk assessment. The SONAR (p. 135) details the use of the value and other rules that use a similar cancer risk level. Within the same comment, the commenter suggested that we "should consider the overall contribution of each applicable facility to the overall cancer risk score in that census tract, in combination with the total cancer risk score for that area." The MPCA would like to

note that it can request information on nearby sources of the facility that is requesting the permit within the proposed rule under part 7007.6090, subpart 2, item C, subitem (4). The MPCA disagrees in part and agrees in part with creating a sliding scale as requested. The MPCA, when evaluating a cumulative impacts analysis, will be evaluating information on sources on cancer causing compounds and where they are coming from, and how much the stationary source is contributing to that amount. The MPCA disagrees with creating a sliding scale though based on baseline levels, because the MPCA utilizes a baseline level of 0 people in 100,000 people, with a risk action level of 1 person in 100,000 people. If the MPCA were to implement a sliding scale, the scale could actually be higher than the established methodologies with the EPA and MPCA on risk aversion.

Air emissions risk analysis and the risk assessment screening spreadsheet

1091. The MPCA received one comment regarding the risk assessment screening spreadsheet (RASS).

1092. **Minnesota Environmental Justice Table-031-07:** The Minnesota Environmental Justice Table stated, **"Cumulative impacts analysis**

We appreciate the comprehensiveness of the information required in a CI analysis. However, we have similar comments here as in the Initial assessment section. The content requirements are extensive to the point that a facility might not complete the analysis as completely or accurately as they could. For the information in 7007.6090 Subpart 3, we suggest offering a standardized tool or requiring that data sources from a trusted list are used.

We have technical concerns about the air emissions risk analysis. It seems likely that the MPCA's AERA will be recommended, as implemented through spreadsheet aq9-22.

- The "Tox Values" sheet does not have protected cells, so the toxicity values could easily be manipulated to alter risk calculations. **We recommend creating protected cells that cannot be modified if offering this option to facilities.**
- Particulate matter is not included in the "Tox Values" sheet. We understand that the variation in the composition of PM makes it difficult to determine health benchmarks, but given its inclusion in 7007.6050 Subpart 4 item B, **it is important that PM is included in this risk assessment in some manner**. For example, this could involve providing a range of plausible health benchmarks."

MPCA RESPONSE

1093. One commenter mentioned that the air emissions risk assessment screening spreadsheet (RASS), also known as form aq9-22 has some tabs that are not locked. This could lead to anyone making changes to the spreadsheet. The MPCA will take this into consideration for future RASS updates. This commenter also stated that PM is not included in the RASS. There is no inhalation health benchmark for PM that can be used, so that is why it is excluded from an AERA analysis. There is an inhalation health benchmark for diesel particulate matter, hence why that pollutant is included in the RASS.

Air quality modeling analysis

1094. The MPCA received nine comments regarding the air quality modeling analysis included as part of a cumulative impacts analysis required under part 7007.6090.

1095. **Minnesota Chamber of Commerce-027-35:** The Minnesota Chamber of Commerce stated, " **6. Air Quality Modeling and Air Emissions Risk Assessment**

Air quality modeling and air emissions risk analysis will be important aspects of CIAs, when one is required. However, some clarification is necessary for the proposed rule to fit with standards for

such analysis.

a. The proposed rule (7007.6090, subps. 4 and 5) separately outlines the air quality modeling analysis and air emission risk analysis for the CIA but omits language from Subp. 3. G. that states "an analysis and proposal of emission limits…necessary to avoid the negative impacts of the stationary source to the environment or the health of residents of the impacted environmental justice area and minimize or reduce the negative impacts of the stationary source to the environment or health of residents of the impacted environmental justice area" (emphasis added). NAAQS and AERA guidance require the maximum modeled values at the ambient air boundary to be compared to the standards for determining compliance, however, this location is not necessarily located within an environmental justice area. Subpart 4. E. should be revised to "An air quality modeling analysis report must document the results of the air quality modeling analysis and demonstrate whether issuing the requested permit action will cause or contribute to an exceedance of any ambient air quality standard within the impacted environmental justice areas identified in the initial assessment" (emphasis added). Subp. 5. A. 3. should be revised to "evaluates the potential impacts from the stationary source and whether issuing the requested permit action is likely to cause or contribute to an exceedance of acceptable risk levels identified in item D within the impacted environmental justice areas identified in the initial assessment" (emphasis added)."

1096. **Minnesota Chamber of Commerce-027-36:** The Minnesota Chamber of Commerce stated, "b. The proposed rule (7007.6100, subp. A. (1) and (2)) should include clarifying language that the results of the air quality analysis are to be assessed at the maximum receptor within the impacted environmental justice area. A facility's maximum modeled impacts are typically located along its fence line, and if that fence line is not within the environmental justice area, using that value as the determination of the substantial adverse impact would be incorrect. The air impacts analysis determination of a substantial adverse impact should only be considered for the receptors located inside the area where the residents are impacted. It is important again to note that the Cumulative Impacts rule is being promulgated against the backdrop of a well-established and generally protective state and federal permitting regime, and is intended to satisfy a specific statutory directive focused on environmental justice communities. Compliance boundaries outside of environmental justice communities exceed the agency's statutory authority."

1097. **Minnesota Chamber of Commerce-027-37:** The Minnesota Chamber of Commerce stated, "c. The proposed rule (7007.6090, subp. 4) requires an air quality modeling analysis to address each pollutant that the stationary source (i.e., not the requested permit action) has the potential to emit in an amount greater than or equal to the rates identified in 40 CFR 52.21(b)(23)(i) (the "significant emission rates" associated with a PSD "major modification"). This imposes PSD-like modeling on expansion projects that would not by themselves qualify as a PSD "major modification". The Chamber believes this to be unreasonable and requests that modeling for expansion projects be limited to PSD major modifications, recognizing that such modeling would be required anyway by the PSD rules."

1098. **Minnesota Chamber of Commerce-027-38:** The Minnesota Chamber of Commerce stated, "d. The proposed rule (7007.6100, subp. 1, A (1)) requires MPCA to determine "substantial adverse impact" if "the results of the air quality modeling analysis required under 7007.6090, subpart 4, indicate that emissions from the stationary source would result in a contribution to modeled air pollution concentrations of pollutants that are greater than or equal to 50 percent of any ambient air quality standard." Given the conservative assumptions already built into air modeling and the requirement to model worst-case emissions scenarios, this threshold appears arbitrary and could result in impacts being identified where actual risks are unlikely to occur.

1099. **Frontline Communities Protection Coalition-034-29:** Frontline Communities Protection Coalition stated, "Subp. 4. **Air quality modeling analysis** - We support the requirement that the MPCA Commissioner must approve the permit applicant's air quality modeling protocol. For new facilities, we suggest that the MPCA publish and inform the impacted environmental justice area of actual emissions, compared with modeled emissions, and any actions taken by the agency to ensure that the new permit is in compliance with air quality standards."

1100. **Health Professionals for a Healthy Climate-038-06:** The Health Professionals for a Healthy Climate stated, **"**b. Subp. 4, B: We support the requirement that "the air quality modeling analysis must address each pollutant that the stationary source has the potential to emit in an amount greater than or equal to the rates identified in Code of 63.17 Federal Regulations, title 40, section 52.21(b)(23)(i)," and suggest that this should be expanded, because this set of thresholds for "significant" emissions levels does not include a comprehensive list of pollutants that warrant consideration, nor are the thresholds particularly rigorous (the significance threshold under this section for NOx, for instance, is 4x that set by other authorities such as the South Coast Air Quality Management District and Placer County Air Pollution Control District). Because 52.21(b)(23)(i) applies to all facilities across the U.S. and the CI Law applies only to facilities in regions that are already experiencing the most severe impacts of pollution, we suggest that the significant emissions thresholds for this purpose should align with those set by more cautious agencies."

1101. **Health Professionals for a Healthy Climate-038-07:** The Health Professionals for a Healthy Climate stated, "c. Subp. 4, C: We support the requirement that air quality monitoring protocols must first be evaluated and approved by the MPCA Commissioner. HPHC suggests MPCA publish and inform the EJ community of actual emissions, compared with modeled emissions, and any actions taken by the agency to assure that the new permit is in compliance with air quality standards."

1102. **Cordia Energy Center Minneapolis-049-23:** Cordia Energy Center Minneapolis stated, "g. The proposed rule (7007.6090, subp. 4 and 5) separately outline the air quality modeling analysis and air emission risk analysis for the CIA but omits language from Subp. 3, G that states "an analysis and proposal of emission limits…necessary to avoid the negative impacts of the stationary source to the environment or the health of residents of the impacted environmental justice area and minimize or reduce the negative impacts of the stationary source to the environment or health of residents of the impacted environmental justice area." (emphasis added) NAAQS and AERA guidance requires the maximum modeled values at the fence line to be compared to the standards for determining compliance, however, this location is not necessarily located within an environmental justice area. Subpart 4, E should be revised to "An air quality modeling analysis report must document the results of the air quality modeling analysis and demonstrate whether issuing the requested permit action will cause or contribute to an exceedance of any ambient air quality standard within the impacted environmental justice areas identified in the initial assessment." Subp. 5, A (3) should be revised to "evaluates the potential impacts from the stationary source and whether issuing the requested permit action is likely to cause or contribute to an exceedance of acceptable risk levels within the impacted environmental justice areas identified in the initial assessment identified in item D.""

1103. **Cordia Energy Center Minneapolis-049-28:** Cordia Energy Center Minneapolis stated, "l. The proposed rule (7007.6100, Subp. A (1) and (2)) should include clarifying language that the results of the air quality analysis are to be assessed at the maximum receptor within the impacted environmental justice area. A facility's maximum modeled impacts are typically located along its fenceline, and if that fenceline is not within the environmental justice area, using that value as the determination of the substantial adverse impact would be incorrect. The air impacts analysis determination of a substantial adverse impact should only be considered for the receptors located inside the area where the residents are impacted."

MPCA RESPONSE

1104. The MPCA recognizes the comments about the air quality modeling surrounding the cumulative impacts analysis. The permit action under Minn. Stat. § 116.065 is for an air permit, thus air modeling can already be a requirement under established air permitting programs under chapter 7007.

1105. In the SONAR (p. 133-134), the MPCA explains why an air modeling analysis is required. Some commenters suggest that modeling results should be limited to environmental justice areas. However, the MPCA disagrees that only the results in EJ areas should be evaluated. While the rule is applicable to facilities located in environmental justice areas as established in part 7007.6020, subp. 1, item A, air emissions do not limit themselves to environmental justice areas. In the SONAR (p. 133), the MPCA details why the level of involvement and degree of modeling is required, which is included to fulfill Minn. Stat. § 116.065, subd. 1(c) and Minn. Stat. § 116.065, subd. 5.

1106. To fully understand the impacts of air emissions from a facility the proposed rules, the maximum modeled concentration beyond the ambient air boundary should be identified, regardless of whether that concentration is associated with a receptor placed within or outside of an environmental justice area. The MPCA would consider changes to clarify how the modeled results are used in the substantial adverse impact determination but is still determining what specific changes would be needed.

1107. As MPCA implements the rule, MPCA will develop guidance for owners and operators, community members, and MPCA staff for several aspects of the rule. Implementation of the proposed rule will also involve developing standard forms; templates; and other materials to support portions of the rule such as the documentation and evaluation of air quality modeling and air emission risk analysis results. The MPCA anticipates that these forms, templates, and/or other guidance materials will identify examples of these impacts and methods/practices for documenting and/or evaluating these impacts.

Intersection of cumulative impacts, cumulative levels and effects, and environmental review

1108. The MPCA received seven comments regarding the intersection of the proposed rule, the cumulative levels and effects statute (Minn. Stat. § 116.07, subd. 4a(c)), and the environmental review program.

1109. **Minnesota Chamber of Commerce-027-50:** The Minnesota Chamber of Commerce stated, “f. The contents of a CIA in the proposed rule (7007.6090, subp. 3) are duplicative of those required for an Environmental Assessment Worksheet (EAW) or an Environmental Impact Statement (EIS), which are required only if triggered by the Minnesota Environmental Quality Board’s Environmental Review program (Minn. R., chapter 4410). The Chamber believes that a detailed review should continue to be triggered by that program rather than by the Cumulative Impacts Rule. In addition, facility expansions, projects subject to federal New Source Review permitting, or new construction that are otherwise subject to environmental review should not require a CIA under 7007.6050, subp. 4, because this would be redundant with a separate CIA process to evaluate whether there is an adverse impact. The Chamber recommends that MPCA revise the proposed rule to exempt permit actions undergoing environmental review or New Source Review permitting from requiring a CIA. If MPCA disagrees, the Chamber requests that components of the CIA be waived if they have been covered by an environmental review conducted and approved within the preceding five years, or that the rule allow use of relevant analyses and information from permit actions undergoing environmental review or New Source Review permitting in the CIA.”

1110. **University of Minnesota-030-40:** The University of Minnesota stated, “**Comment 7: The Draft**

Rules fails to clarify regulatory interaction with the existing Minneapolis Cumulative Levels and Effects Statute. The University requests that the MPCA address the regulatory overlap between the Draft Rules and the existing South/Southeast Minneapolis Cumulative Levels and Effects (CL&E) process required under Minn. Stat. § 116.07, subd. 4a. As currently drafted, the Draft Rules and the SONAR leave procedural uncertainty regarding whether facilities in this geographic overlap will be subjected to duplicative or conflicting cumulative impact analyses."

1111. **University of Minnesota-030-41:** The University of Minnesota stated, **"Recommendation:**

The Final Rules should clarify the relationship between the requirements of Minn. Stat. § 116.07, subd. 4a and the Statute for a facility that is subject to both. The University believes that the Statute fully satisfies the requirement of Minn. Stat. § 116.07, subd. 4a(C), that, "[t]he agency may not issue a permit to a facility without analyzing and considering the cumulative levels and effects of past and current environmental pollution from all sources on the environment and residents of the geographic area within which the facility's emissions are likely to be deposited." Accordingly, the Cumulative Impact Rules should clarify that compliance with the Rules constitutes compliance with Minn. Stat. § 116.07, subd. 4a."

1112. **Health Professionals for a Healthy Climate-038-17:** The Health Professionals for a Healthy Climate stated, "**ADDITIONAL QUESTIONS**: 1. SONAR, p. 25 discusses the current CI requirements for south Minneapolis, Phillips neighborhood in 116.07, subd. 4a(c). Will the proposed rules now apply to all CI analyses in EJ communities, including Phillips, therefore superseding the cumulative levels and effects (CL&E) process required under this section of the statutes?"

1113. **Health Professionals for a Healthy Climate-038-18 :** The Health Professionals for a Healthy Climate stated**, "** 2. SONAR, p. 17 discusses environmental review and "responsible government unit" (RGU). How does the CI process interact with Environmental Impacts Statement and Environmental Assessment Worksheet processes required under the Minnesota Environmental Policy Act and the roles of local RGUs? If not included in rule language, will information and case examples be available to inform owner/operators and the affected community of how the various required environmental assessments interact and interrelate?"

1114. **Frontline Communities Protection Coalition (compiled comments)-045-135:** Side Corridor Residents, Owatonna East stated, **"**1. Human Health Should Be the Primary Focus:

Current environmental review processes often evaluate the impacts a project may have on the environment, such as air emissions, noise, traffic, or other individual factors. While these analyses are important, they often do not fully evaluate how the combined impacts of a project interact with existing environmental burdens or how those combined impacts affect the health, safety, and well-being of the people who live, work, attend school, and recreate in the surrounding community.

A cumulative impacts analysis should help bridge this gap. It should evaluate how the combined environmental impacts of a proposed project, along with existing environmental conditions, may affect human health and community safety—not simply whether a project meets individual regulatory standards.

The cumulative impacts analysis should consider both physical and mental health impacts. This should include evaluating how environmental stressors may contribute to increased stress, anxiety, sleep disruption, behavioral challenges, cardiovascular disease, respiratory illness, and other adverse health outcomes. The analysis should also examine potential risks to vulnerable populations, including children, older adults, individuals with disabilities or chronic health conditions, and communities already experiencing disproportionate environmental burdens.

Compliance with existing environmental standards should be the starting point for the analysis, not the final determination of whether a project adequately protects the people who already call an area home. A project can meet individual regulatory requirements while still contributing to cumulative impacts that affect a community's overall health and quality of life.

The purpose of a cumulative impacts analysis should be to understand and address the full range of impacts a community may experience—not only in designated Environmental Justice areas, but in all communities across Minnesota. Every community deserves consideration of how proposed projects may affect the people who live there.

By placing human health and community safety at the center of cumulative impacts analyses, the proposed rules can better fulfill their purpose of protecting Minnesota's environment and the people who depend on it."

1115. **Cordia Energy Center Minneapolis-049-13:** Cordia Energy Center Minneapolis stated, **"**h. The contents of a CIA in the proposed rule (7007.6090, subp. 3) are duplicative of those required for an Environmental Assessment Worksheet (EAW) or an Environmental Impact Statement (EIS) which are required only if triggered by the Minnesota Environmental Quality Board's Environmental Review program (Minn. R., chapter 4410). Cordia believes that a detailed review should continue to be triggered by that program rather than by the Cumulative Impacts Rule. In addition, facility expansions, projects subject to federal New Source Review permitting, or new construction that are otherwise subject to environmental review should not require a CIA under 7007.6050 subp. 4 because this would be redundant with a separate CIA process to evaluate whether there is an adverse impact. Cordia recommends that MPCA revise the proposed rule to exempt permit actions undergoing environmental review or New Source Review permitting from requiring a CIA. If MPCA disagrees, Cordia requests that components of the CIA be waived if they have been covered by an environmental review conducted and approved within the preceding five years."

MPCA RESPONSE

1116. The MPCA appreciates the commenters questions and comments regarding the intersection of the proposed rule and other statutes and rules. The proposed rule and Minn. Stat. § 116.065 are independent statutes and rules from the environmental review program, Minn. Stat. § 116.07, subd. 4a, and other rules and regulations. The MPCA does recognize that some permits would have shared information across programs, rules, and statutes. The MPCA does agree that there is a possibility of information sharing and overlap, but the MPCA cannot guarantee what information is being shared or not, as each program, rule, and regulation has their own requirements and what they need may not be exactly what cumulative impacts analysis evaluates. For example, the cumulative impacts analysis evaluates environmental stressors as part of the evaluation, but an Environmental Review Worksheet does not look at public health factors (for example under part 4410.4300), but an Environmental Impact Statement does under part 4410.4400. Where applicable, the MPCA can use information that can be shared across programs, but the Commissioner does reserve the right to request newer information at any time, per Minn. Stat. § 116.07, subd. 9, Minn. Stat. § 116.091, subd. 1, Minn. R. 7017.2020, and other rules and regulations.

Intersection of cumulative impacts and air toxics regulations

1117. The MPCA received three comments regarding the intersections of the proposed rule and the air toxics regulations rule.

1118. **Minnesota Chamber of Commerce-027-13:** The Minnesota Chamber of Commerce stated, "b. Air toxics emissions should be presumptively excluded from cumulative impact analyses. MPCA is developing new air toxics regulations concurrently with the Cumulative Impacts Rule. See "Proposed

New Rules Governing Air Toxics Regulations, Minnesota Rules, Chapter 7012; with Amendments to Chapter 7007. Revisor's ID Number 04807; CAH Docket Number 5-9003-39347" ("Air Toxics Regulation rule"). The Air Toxics Regulation rule covers 581 substances and is expressly intended to be more protective than and to fill in perceived gaps in the federal air toxics regulations with regard to Environmental Justice Areas. The Air Toxics Regulation rule also has a cumulative impacts component, through the preparation of an Air Emissions Risk Analysis (AERA). See proposed Minn. R. 7012.0560, subp. 2 D.. Since the Air Toxics Regulation rule will represent the current state-of-science and is designed to be broadly protective, it should be quite rare for there to be a need for additional air toxics controls beyond those required by the Air Toxics Regulation rule. Moreover, because the Air Toxics Regulation rule will have more traditional standard specifications, presumptively excluding air toxics from cumulative impact analyses will reduce the imprecision and uncertainty of the Cumulative Impacts Rule, while still permitting adjustments where there is an exceptional need for additional cumulative impact-based controls."

1119. **Minnesota Chamber of Commerce-027-39:** The Minnesota Chamber of Commerce stated, "e. The Chamber is aware that an AERA can be triggered for stationary sources located in the seven-county metropolitan area by the Air Toxics Regulation rule that is being proposed in parallel to the Cumulative Impacts rule. The two rules need to avoid duplication of effort. An AERA conducted within the preceding five years for the purposes of the Air Toxics Regulation rule should satisfy the requirements of the Cumulative Impacts rule. In addition, if an AERA is determined not to be necessary under the Air Toxics Regulation rule, an AERA should not be required under the Cumulative Impacts rule."

1120. **Cordia Energy Center Minneapolis-049-16:** The Minnesota Chamber of Commerce stated, "k. Cordia is aware that an AERA can be triggered by the Air Toxics Regulation rule that is being proposed in parallel to the Cumulative Impacts rule. The two rules need to avoid duplication of effort. An AERA conducted within the preceding five years for the purposes of the Air Toxics Regulation rule should satisfy the requirements of the Cumulative Impacts rule."

MPCA RESPONSE

1121. The MPCA thanks the commenters for addressing the intersections across the proposed rule and the air toxics regulations rule. MPCA would like to note that these are two separate rules with differing underlying authorities and directives in statute and session law. Though they do share similarities, they each have their own information requirements and outcomes. With that MPCA would like to note that there will be opportunities to use existing information between the two rules to avoid duplication. These opportunities will be dependent on many factors. For example, if the air toxics regulations evaluation was for the facility in its current state and the permit sought under the proposed rule was an expansion, then the evaluation that was used in the air toxics regulations would not be fully applicable. Another example is relative time between the air toxics regulations evaluation and the submittal of an air permit application that triggers the applicability of the proposed rule. The MPCA will work with facilities that experience these types of overlaps during the implementation of the proposed rule. However, due to the variety and potential differences in data, information, and analyses for the proposed rule and air toxics regulations rule, the MPCA disagrees with the commenters suggestion to establish rules that state that one analysis prepared for a different purpose always satisfies the requirement to prepare an analysis for the proposed rule.

1122. The MPCA would also like to note that the air toxics regulations air emissions risk analysis (AERA) and the proposed rule AERA were designed and created concurrently. This was completed to minimize differential information required for the AERA processes and utilize similar thresholds. The MPCA believes this unity within the AERA process within both rules will help with the ease of

knowledge that is required to fill out information within the AERA process and allow information to be easily transferable when or if required.

PART 7007.6100 SUBSTANTIAL ADVERSE IMPACTS

Incorporating environmental stressors into substantial adverse impact determination

1123. The MPCA received 23 comments regarding the use of environmental stressors in the substantial adverse impact determination.

1124. **Amanda-004-03:** Amanda stated, “We know that the Cumulative Impact analysis has three (3) methods to determine substantial adverse impacts, but I suggest adding a fourth (4) [method] where an analysis is had to determine just how many total adverse environmental stressors it’s going to add to the area, to the community.”

1125. **West-011-01:** Margaret West stated, “I’m Margaret West. I live in the Observation hill neighborhood in Duluth 55806. I have concerns with the gaps in the Cumulative Impacts Law. There is no method to determine substantial adverse impacts from industry environmental stressors. MPCA must base decisions on actual pollution burden in the neighborhood (Hibbard plant).”

1126. **Burns-018-02:** Charity Burns stated, “I would highlight a gap in the cumulative impacts law/rule: There is no method to determine substantial adverse impacts (SAI) from environmental stressors. The cumulative impacts analysis has three methods to determine substantial adverse impacts, but none specifically examines how many total adverse environmental stressors an existing facility is contributing to in the community. I recommend adding a fourth determination method: include a section in the cumulative impact analysis on environmental and public health stressors, with a corresponding numerical threshold for SAI to better reflect the full burden communities face.”

1127. **Coming Clean Network-024-08:** Coming Clean Network stated, “There is no method for determining substantial adverse impacts from cumulative environmental stressors. The CI analysis has three methods to determine substantial adverse impacts, but none specifically examines how many total adverse environmental stressors an existing facility is contributing to in the community. A fourth determination method based on cumulative stressors would better capture the full burden communities face. Without this fourth determination method, this regulation does not truly address cumulative impacts.”

1128. **Coming Clean Network-024-12**: The Coming Clean Network stated, “Necessary Improvements to the Draft Regulations: Add a fourth determination method. Include a section in the CI analysis on cumulative environmental and public health stressors, with a corresponding threshold for substantial adverse impact.”

1129. **Frontline Communities Protection Coalition (compiled comments)-045-44:** Kate Wolford stated, “If a facility contributes to a certain number of adverse environmental stressors, that should be considered a substantial adverse impact.”

1130. **Frontline Communities Protection Coalition (compiled comments)-045-55:** Judy Gregg stated, “My other concern is the vagueness of the definition of "substantial adverse impact." I recommend that the cumulative impacts analysis evaluate environmental and public health stressors and how a facility will contribute to those stressors. If a facility contributes to a certain number of adverse environmental stressors, that should be considered a substantial adverse impact. This approach is similar to New Jersey's and would provide a more objective determination of substantial adverse impact, creating greater clarity for all parties involved. Thank you”

1131. **Frontline Communities Protection Coalition (compiled comments)-045-66:** Paul Moss stated,

"Please consider the following comments:

The definition of "substantial adverse impact" is too vague and undefined, leaving both facility owners and communities uncertain about how this determination will be made until the Commissioner publishes their reasoning. This creates uncertainty and leaves decisions regarding substantial adverse impacts vulnerable to legal challenges.

I recommend that the cumulative impacts analysis evaluate environmental and public health stressors and how a facility will contribute to those stressors. If a facility contributes to a certain number of adverse environmental stressors, that should be considered a substantial adverse impact. This approach is similar to New Jersey's and would provide a more objective determination, creating greater clarity for all parties involved."

1132. **Frontline Communities Protection Coalition (compiled comments)-045-76:** Chel Anderson stated, "Strengthen the definition of "substantial adverse impact." The current definition is too broad and needs to be strengthened so that there is a clear, objective process for determining impacts and avoiding unnecessary legal challenges. The cumulative impacts analysis should evaluate a community's environmental and public health stressors and how a facility will contribute to those stressors. If a facility contributes to a specific number of adverse environmental stressors, that should be considered a substantial adverse impact."

1133. **Frontline Communities Protection Coalition (compiled comments)-045-81:** Bridget Guiza stated, "The definition of "substantial adverse impact" is too vague and undefined. This leaves both facility owners and communities uncertain about how substantial adverse impacts will be determined until the Commissioner publishes their reasoning. This creates uncertainty and leaves decisions vulnerable to legal challenges. I recommend that the cumulative impacts analysis evaluate environmental and public health stressors and how a facility will contribute to those stressors. If a facility contributes to a certain number of adverse environmental stressors, that should be considered a substantial adverse impact. This approach is similar to New Jersey's model and would provide a more objective determination, creating greater clarity for all parties involved."

1134. **Frontline Communities Protection Coalition (compiled comments)-045-92:** B. Pearlman stated, "In addition, please continue to gather and use cumulative impacts analyses to study environmental and public health stressors and how a facility will contribute to those stressors. If a facility contributes to a certain number of adverse environmental impacts, that should be considered a substantial adverse impact. This approach is similar to New Jersey's model and would provide a more objective determination of substantial adverse impact, creating greater clarity for all parties involved."

1135. **Frontline Communities Protection Coalition (compiled comments)-045-96:** Beth Daniels stated, "To strengthen CI and SAI determinations, an additional method is needed to analyze environmental and public health stressors. This method should include a numerical threshold for determining substantial adverse impact in order to reflect the full and actual impact experienced by each community."

1136. **Frontline Communities Protection Coalition (compiled comments)-045-100** Janiece Watts stated, "The proposed rules establish benchmarks for public health and environmental stressors when determining substantial adverse impact (SAI), but the current definition is too vague and undefined. This leaves communities without clarity until the Commissioner makes and publishes a determination, making SAI decisions vulnerable to legal challenges. I echo the recommendation of the Frontline Communities Protection Coalition (FCPC) that the cumulative impacts analysis include a section evaluating public health and environmental stressors and how a facility applying for a

permit or permit reissuance will contribute to those stressors. This should be paired with a fourth method for determining SAI when a stressor is present, with lower thresholds for benchmarks to ensure that existing burdens are fully considered.

This is critical information that communities need to understand because we live with these stressors every day. We know from our lived experiences that permitting a new facility or renewing a permit for an existing facility can worsen existing harms. Including this analysis is essential to creating strong cumulative impacts rules that truly protect people and the environment we all depend on."

1137. **Frontline Communities Protection Coalition (compiled comments)-045-107:** Jo Holub stated, "Regarding the MPCA's proposed Cumulative Impacts draft rules, I believe the definition of "substantial adverse impact" is too vague and undefined. This leaves both facility owners and communities without clear guidance on how to determine the total adverse environmental stressors associated with an existing facility. This uncertainty creates challenges for both communities and facility owners and makes any determination of substantial adverse impact vulnerable to legal challenges.

I recommend that the cumulative impacts analysis include an additional method for determining substantial adverse impact based on the number of adverse environmental stressors a facility contributes to. Establishing a numerical threshold would better reflect the full burden communities face. My understanding is that this approach is similar to New Jersey's model and would provide a more objective determination of substantial adverse impact, creating greater clarity for all parties involved."

1138. **Frontline Communities Protection Coalition (compiled comments)-045-115:** Antonia Adan stated, "A concern is that there is no method to determine substantial adverse impacts (SAI) from environmental stressors. The Cumulative Impacts (CI) analysis includes three methods for determining substantial adverse impacts, but none specifically evaluates the total number of adverse environmental stressors that an existing facility contributes to within a community."

I recommend to add a fourth method for determining SAI. The CI analysis should include a section evaluating environmental and public health stressors, along with a corresponding numerical threshold for SAI that better reflects the full burden communities face."

1139. **Frontline Communities Protection Coalition (compiled comments)-045-38:** April Graves stated, "The definition of "substantial adverse impact" should also be based on measurable environmental and public health indicators, including air quality, asthma prevalence, cardiovascular disease, and other community health measures. Clear, objective standards will improve transparency, consistency, and public confidence while ensuring decisions are grounded in evidence rather than subjective interpretation."

1140. **Minnesota Public Health Association-035-04:** Minnesota Public Health Association stated, "**7007.6100. Substantial adverse impact**. While numerous criteria for determining substantial adverse impact are laid out, we recommend a more objective determination of substantial adverse impact by examining the analysis of environmental and public health stressors and how a facility will contribute to those stressors. If a facility is contributing to a certain number of adverse environmental stressors, that should be considered a substantial adverse impact. This is similar to New Jersey's approach (https://dep.nj.gov/ej/law/) and will create better clarity for all parties involved."

1141. **Health Professionals for a Healthy Climate-038-10:** The Health Professionals for a Healthy Climate stated, "Subp. 1, A (3). HPHC agrees with the Frontline Communities Protection Coalition

(FCPC) comment that the items (1) and (2) are objective measures of impacts, while (3) lays out numerous environmental and health impacts under section B which could be considered to determine substantial adverse impact. We propose adopting an additional definition of substantial adverse impacts based on New Jersey's cumulative impacts rules. This would build on our recommendation in section 7007.6090 of utilizing the list of environmental stressors, determining how many stressors qualify as adverse environmental stressors, and analyzing how a facility is contributing to each stressor as part of the cumulative impacts analysis. Substantial adverse impact should be determined by how many adverse environmental stressors a facility is directly or indirectly contributing to or is expected to contribute to. We suggest that MPCA also create a lower threshold for communities with substantial adverse impact if a community has already been determined to have adverse cumulative stressor as defined in 7007.6010, subpart 5."

1142. **Frontline Communities Protection Coalition (compiled comments)-045-185:** Max McMeeken stated, "The definition of substantial adverse impact is too vague and undefined, leaving both facility owners and communities in the dark about determination of substantial adverse impact until the commissioner publishes their reasoning. This creates uncertainty and leaves any determination of substantial adverse impact vulnerable to legal challenge. I recommend that the cumulative impacts analysis looks at environmental and public health stressors and how a facility will contribute to those stressors. If a facility is contributing to a certain number of adverse environmental stressors, that should be considered a substantial adverse impact. This is similar to New Jersey's approach and will provide a more objective determination of substantial adverse impact, creating better clarity for all parties involved."

1143. **Frontline Communities Protection Coalition (compiled comments)-045-190:** Gretchen Larson stated, "Consider New Jersey's approach which provides a template for a more objective determination of substantial adverse impact, creating better clarity for all parties involved. Do the hard thing, don't leave this mess behind for those that come after you. Do not provide loopholes that will further delay change by endless court cases. Our children our counting on you to do the right thing, not the expedient thing."

1144. **Health Professionals for a Healthy Climate (compiled comments)-046-07:** Rachel Wormer stated, "Definition of substantial adverse impact: While numerous criteria for determining substantial adverse impact are laid out, we recommend a more objective determination of substantial adverse impact by examining the analysis of environmental and public health stressors and how a facility will contribute to those stressors. If a facility is contributing to a certain number of adverse environmental stressors, that should be considered a substantial adverse impact. This is similar to New Jersey's approach and will create better clarity for all parties involved."

1145. **Ohse-050-01:** Madonna Ohse stated, "Hello, my name is Madonna. I am an engaged citizen of Duluth, MN living in the Lincoln Park neighborhood, as does my daughter and her family and other loved ones. I work at a business in the Central Hillside neighborhood of Duluth. Both of these locations are environmental justice areas which is a concern to me. The air quality is paramount when you include the compounding interaction of and with other pollutants and stressors resulting in cumulative impacts and how it affects the overall health of all of us living in the environmental justice areas, which includes (but not limited to) Highway 35 and 53, Industrial rail line CN/DMIR, Resource Renew/WLSSD, ambient noise and light pollution majority of residents lacking monetary resources.

This is why I strongly urge the MPCA Cumulative Impact Rules to add a fourth determination method to more directly include in the CI analysis a section on environmental and public health stressors, with a corresponding numerical threshold for substantial adverse impacts to demonstrate the true

effects communities face."

1146. **Reuvers-057-02:** Lynn Reuvers stated, "The current rules do not allow a method to determine substantial adverse impacts (SAI) from any environmental stressors that may be introduced, especially in Environmental Justice areas; that specifically examines how many TOTAL adverse environmental stressors an existing facility is contributing to in the community.

Please add a 4th determination method in the CI analysis on environmental and public health stressors, with a corresponding numerical threshold for SAW to better reflect the full burden that an impacted community may face."

MPCA RESPONSE

1147. Minn. Stat. § 116.065 differs from New Jersey's Environmental Justice Law (N.J.S.A. 13:1D-157) in its scope, requirements and regulatory philosophy. New Jersey's law covers permits of multiple environmental media (air, water, land etc.) statewide to determine "disproportionate impacts", whereas Minnesota's law strictly targets air permits within Environmental Justice Areas to determine "substantial adverse impacts". Specifically, regarding determining substantial adverse impacts, Minn. Stat. § 116.065, subd. 6(c)(3) requires the MPCA to "define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact". New Jersey's "disproportionate impact" is determined with a rigid, mathematical evaluation based strictly on comparison of localized physical pollution and baseline health data from 26 tracked criteria in permit areas to geographic points of comparison. Minnesota's "substantial adverse impact" is determined by a flexible, comprehensive assessment that heavily weighs human-health vulnerabilities and social context alongside direct emissions. Since the MPCA is tasked to "define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact", it would be inappropriate to use New Jersey's approach as environmental stressors do not necessarily result in an adverse impact merely because their values are above the median percentile of non-overburdened areas. Additionally, many of the non-air stressors do not have clear, numerical benchmarks available for determining a threshold of when the stressor would have an adverse impact. For these reasons, a count of total adverse stressors to represent the reality of cumulative impacts on the community may not be adequate. The proposed rule broadens the scope of "stressors" that New Jersey uses to explicitly include socioeconomic vulnerabilities like food insecurity, lack of health care coverage, and cost-burdened households alongside pollution and other environmental stressor data. A "substantial adverse impact" is determined comprehensively, based on how these human-health vulnerabilities compound with the health and environmental impacts associated with the facility. This framework treats cumulative impacts as a dynamic, living equation rather than a fixed math problem to assess real-world compounding risks. Ultimately, by rejecting a rigid mathematical threshold in favor of a flexible assessment of compounding vulnerabilities, the MPCA exercises its explicit statutory mandate to define a substantial adverse impact through the lens of lived community reality rather than isolated physical metrics.

1148. To ensure that regulatory scrutiny is directed where it is needed most, the proposed rule establishes a structured, data-driven screening process to baseline local health and environmental burdens. The health and environmental conditions of the community will be understood from information provided during the initial assessment per part 7007.6020, subpart 6 which utilizes the environmental stressors database outlined in part 7007.6020, subpart 5, as well as the cumulative impacts analysis contents that are required to be provided in part 7007.6090, subpart 3. The initial assessment will ensure that permits for facilities located in communities facing high burdens from existing stressors and conditions undergo the cumulative impact analysis process. The MPCA

contends that the contents required for the cumulative impact analysis outlined in part 7007.6090, subparts 3 to 5 provide an adequate understanding of the current health and environmental conditions of the community necessary to determine whether there is the potential for a substantial adverse impact. Consequently, this multi-step diagnostic process guarantees that the MPCA's final decision is informed by a robust, localized profile of the community's lived environmental realities.

1149. Once screened into the process, the proposed framework merges traditional engineering metrics with environmental justice criteria to evaluate a facility's total potential impact. The MPCA maintains that the proposed rule sufficiently addresses cumulative impacts that the facility may contribute to. Because the rule is written for air emission permits, the MPCA needs to consider how the proposed air emissions will impact the health and environmental conditions of the community, in addition to any other health or environmental impacts that the facility may contribute to. The strongest and clearest methods for understanding the potential risk of air emissions on the health and environment of the community are achieved from criteria air pollutant modeling as well as air emissions risk analysis (AERA). Air quality modeling and AERA results will be considered in conjunction with all the information outlined in part 7007.6100, subpart 1, item B, subitems (1) to (6). The results of the cumulative impact analysis are considered alongside the environmental stressors present in the community per part 7007.6100, subpart 1, item B, subitems (2) and (3) respectively. This information is then evaluated using the criteria outlined in part 7007.6100, subpart 2 which includes evaluation of cumulative impacts per part 7007.6100, subpart 2, item B. As a result, the final determination of impact relies not on isolated numbers, but on an integrated analysis where empirical air emission data and pre-existing environmental stressors are weighed together.

1150. Crucially, the proposed framework intentionally moves away from rigid, multi-stressor scoring methods to a flexible methodology capable of accommodating the real-world complexity of cumulative impacts. The proposed framework requires the MPCA to fully evaluate how approval of a permit may impact and interact with local health and environmental stressors, and socioeconomic vulnerabilities. The complexity, interactions and severity of cumulative impacts vary greatly for each permit and are dependent on a wide range of factors. Therefore, relying on a static checklist or tally of stressors would obscure the highly localized, compounding risks that the MPCA is statutorily mandated to evaluate. Ultimately, the proposed flexible methodology provides the MPCA with the administrative agility required to ensure a strong and legally defensible standard for cumulative impact review to fulfill its statutory obligations per Minn. Stat. § 116.065.

Incorporating health-based benchmarks into substantial adverse impact determination

1151. The MPCA received two comments regarding the use of health-based benchmarks in the substantial adverse impact determination.

1152. **Coming Clean Network-024-06:** Coming Clean Network stated, “Existing facilities lack health-based benchmarks. The rules need clearer, health-based standards for what "substantial adverse impact" means. These benchmarks must be rooted in the actual health and environmental conditions of the community, not just air quality modeling thresholds.”

1153. **Coming Clean Network-024-13:** Coming Clean Network stated, “Set health-based benchmarks. Base substantial adverse impact standards on the real health and environmental conditions in the community and the actual pollution burden of the facility.”

MPCA RESPONSE

1154. To execute its mandate effectively, the proposed rule establishes an integrated operational framework that pairs comprehensive environmental screening with established scientific analysis.

Per part 7007.6100, subpart 1, item B, subitem (3), the environmental stressors present in the community will be taken into consideration by the MPCA when determining if there is a substantial adverse impact. The actual health and environmental conditions of the community will also be deduced from information provided during the initial assessment outlined in part 7007.6020, subpart 6, which utilizes the environmental stressors database outlined in part 7007.6020, subpart 5, as well as the cumulative impacts analysis contents that are required to be provided in part 7007.6090, subpart 3. The initial assessment will ensure that permits in communities facing high burdens from existing stressors and conditions undergo the cumulative impact analysis process. The MPCA contends that the contents required for the cumulative impact analysis outlined in part 7007.6090, subparts 3 to 5 provide an adequate understanding of the current health and environmental conditions of the community necessary to determine whether there is the potential for a substantial adverse impact. Additionally, many of the non-air impacts do not have clear, numerical benchmarks available for comparison, and when they do exist, they may change over time with the emergence of new scientific literature. Because the rule is written for air emission permits, the MPCA needs to consider how the proposed air emissions will impact the health and environmental conditions of the community, in addition to any other health or environmental impacts that the facility may contribute to. The strongest and clearest method for understanding the potential risk of air emissions on the health and environment of the community is achieved from criteria air pollutant modeling as well as air toxic risk assessment. The modeling and risk assessment thresholds established in part 7007.6100, subpart 1, item A, subitems (1) to (2) are derived from scientifically robust, health-protective values. Ultimately, this synthesis of local stressor data and rigorous ambient air modeling with peer-reviewed, health-protective metrics provides the MPCA with a balanced, comprehensive foundation for identifying substantial adverse impacts.

Incorporating public benefit into substantial adverse impact determination

1155. The MPCA received two comments regarding the evaluation of public benefits in the substantial adverse impact determination.

1156. **Minnesota Hospital Association-051-11:** The Minnesota Hospital Association stated, "**10. Recognize the unique public-health mission of hospitals in all permitting decisions.** Hospitals are not discretionary commercial enterprises; they are community institutions charged with serving patients under all circumstances, including natural disasters, pandemics, severe weather events, and power outages. The final rule should expressly acknowledge the essential public-health function of hospitals and direct the commissioner to consider impacts on patient care, healthcare access, emergency preparedness, and community health when implementing cumulative impacts requirements."

1157. **Minnesota Hospital Association-051-16:** The Minnesota Hospital Association stated, "**Consideration of Public Health Benefits**

Part 7007.6100, Subpart 2 - Add new Item F after line 69.9

Proposed Language:

F. For hospitals, health systems, and other essential healthcare facilities, the commissioner shall consider the public health benefits associated with the requested permit action, including impacts on patient care, healthcare access, emergency preparedness, public health resilience, continuity of essential medical services, and community health outcomes.

Reason: The proposed rule evaluates socioeconomic impacts but does not require consideration of the significant public health benefits provided by hospitals and health systems."

MPCA RESPONSE

1158. In response to comments requesting the explicit carving out of a unique public health benefit metric for healthcare facilities, the MPCA clarifies that the rule architecture already mandates the comprehensive evaluation of community-wide health benefits and socioeconomic context. A permit applicant will have the direct opportunity to detail any critical community benefits or public services that the facility provides during the initial assessment phase per part 7007.6050, subpart 3, item G, and part 7007.6050, subpart 3, item I, subitem (2), which formally becomes part of the permanent administrative record. Furthermore, an applicant can embed these public health assets directly within the socioeconomic impacts section of the comprehensive cumulative impact analysis pursuant to part 7007.6090, subpart 3, item I. The MPCA is legally required to evaluate all data and background materials provided during the cumulative impact analysis per part 7007.6100, subpart 1, item B, subitem (2), when determining the total environmental or health impacts of a proposed permit action. Therefore, the significant public health contributions, emergency preparedness capacities, and care access benefits provided by hospitals and health systems will be fully weighed as the proposed rule is currently written. Consequently, because these non-discretionary public benefits are already legally integrated into the rule's required parameters, adding a separate, facility-specific sub-item is procedurally unnecessary.

Use of qualitative criteria in substantial adverse impact determination

1159. The MPCA received six comments regarding the use of qualitative criteria in the substantial adverse impact determination.

1160. **American Petroleum Institute-042-19:** The American Petroleum Institute stated, "**Commissioner Determinations**: The rule allows substantial adverse impacts to be identified through qualitative determinations. The rule should establish objective decision criteria to improve consistency."

1161. **Frontline Communities Protection Coalition-034-33:** The Frontline Communities Protection Coalition stated, "Item (A), subitem (3) - **We have significant issues with the third method for determining substantial adverse impact**. While subitems (1) and (2) are both objective and provide an objective determination of substantial adverse impact, despite the limitations highlighted above, subitem (3) is based on the Commissioner's subjective determination using loosely defined criteria. We believe this creates a significant degree of uncertainty, both for permit applicants and community members. The determination of substantial adverse impact is a critical piece of this law and should not be left up to interpretation for every permit application, nor should it be determined case by case by the Commissioner. Having a subjective definition and non-transparent determination will also leave the process vulnerable to litigation every time a facility conducts a cumulative impacts analysis.

To address these concerns, we propose adopting an additional definition of substantial adverse impacts based on New Jersey's cumulative impacts rules. This would build on our recommendation in section 7007.6090 of utilizing the list of environmental stressors, determining how many stressors qualify as adverse environmental stressors, and analyzing how a facility is contributing to each stressor as part of the cumulative impacts analysis. We recommend creating a definition of substantial adverse impacts based on how many adverse environmental stressors a facility is directly or indirectly contributing to, and how many adverse stressors are not adverse but a facility's contribution would likely result in the stressor becoming adverse. MPCA should then also create a lower threshold for substantial adverse impact if a community already has an adverse cumulative stressor as defined in 7007.6010, subpart 5. Importantly, the MPCA must review this information to verify that a facility's analysis properly determined any contributions (current or potential) to

environmental stressors.

We believe that this not only more directly represents cumulative impacts as a concept, it also significantly reduces uncertainty for all parties involved in the cumulative impacts process and reduces the risk of constant legal challenge to any determination of substantial adverse impact."

1162. **Frontline Communities Protection Coalition (compiled comments)-045-200:** Christie Manning stated, "In addition, the current rules leave the vast majority of the decision-making process up to the discretion of the MPCA Commissioner, with only vague guidelines. This needs to change. We need clear, objective, and binding quantitative benchmarks for what defines a 'substantial adverse impact' to make sure that decisions and enforcement are consistent and fair, and not in danger of shifting because of political or financial pressure."

1163. **Cordia Energy Center Minneapolis-049-22:** Cordia Energy Center Minneapolis stated, "In the proposed rule, there is uncertainty and lack of clarity around how the determination of "substantially impact the environment or health" in the context of the need for a CIA, and the determination of a "substantial adverse impact" in the context of a permit denial/CBA decision will be made. In particular, it is unclear how the analysis of a facility's contribution to either the potential for a substantial adverse impact or an actual substantial adverse impact will be factored into each of those decisions. The Clean Air Act has been very effective in reducing the human health risk (impact) resulting from permitted facilities' air emissions. Risk analyses based on United States Environmental Protection Agency (USEPA), MPCA, and Minnesota Department of Health (MDH) procedures have demonstrated very low contributions to cancer and noncancer risks at receptors by point sources. The need to add substantial time and complexity to the permitting process by requiring a CIA, and the need to enter into CBAs that require extensive offsetting measures either on- or off-site, should be commensurate with the degree to which a facility's air emissions are causing human health risks.

Similarly, the determination of whether a CIA demonstrates a "substantial adverse impact" relies on a broad, multi-factor evaluation without defined weighting, prioritization, or outcome thresholds. Although the rule incorporates quantitative risk metrics, environmental stressor data, and qualitative considerations, it does not establish how these factors translate into a definitive finding of substantial adverse impact. The SONAR acknowledges that "countless possible scenarios" exist and that impacts cannot be exhaustively defined, reinforcing that final determinations will depend on case-by-case agency judgment. As a result, the framework lacks the clarity needed to ensure predictability, consistency, and transparent decision-making in permitting outcomes."

1164. **Minnesota Hospital Association-051-04:** The Minnesota Hospital Association stated, "**3. Clarify and narrow the definition of "substantial adverse impact."** Determinations should be based on objective, scientifically supported environmental and public health impacts directly attributable to the proposed project. Applicants should be able to reasonably predict permitting outcomes before making significant capital investments."

1165. **Minnesota Hospital Association-051-15:** The Minnesota Hospital Association stated, "**Clarify and Narrow the Definition of "Substantial Adverse Impact"**

Part 7007.6100, Subpart 1 - Add new language after line 67.18:

> <u>In making a final determination of substantial adverse impact, the commissioner shall rely on objective, scientifically supported evidence demonstrating a direct causal connection between emissions associated with the requested permit action and the identified impact. Conditions or impacts not reasonably attributable to the requested permit action shall not be considered substantial adverse impacts.</u>

Reason: Permit applicants should have predictable standards that are based on measurable environmental and health impacts directly attributable to the permitted activity."

MPCA RESPONSE

1166. Developing a standardized review mechanism is inherently challenging given that cumulative impacts do not conform to a singular, quantifiable formula. Understanding and evaluating cumulative impacts requires considering both quantitative and qualitative criteria to determine substantial adverse impacts. Each permit application will be unique in its impact on existing environmental stressors due to its specific air emissions, location, and environmental stressors present in the surrounding area. Providing a detailed framework for evaluating cumulative impacts of factors that lack numerical thresholds is very difficult due to the wide range and complex mixtures of potential cumulative impacts caused by each unique project proposal. Many of the non-air environmental stressors and factors do not have clear numerical benchmarks available for comparison, and an objective methodology weighing comments received from the public does not exist. However, these are still crucial criteria to consider when coming to a determination of whether approving a permit would result in a substantial adverse impact. Rather than attempting to specify thresholds for all potential substantial adverse impact outcomes, the MPCA has proposed a general framework that is applicable to the entire range of possible impact scenarios incorporating qualitative and quantitative criteria. Minn. Stat. § 116.065, subd. 6(c)(3), requires the MPCA to "define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact." The MPCA contends that the proposed rule fully satisfies this requirement per part 7007.6100, subpart 1, item A, subitems (1) to (3) and part 7007.6100, subpart 1, item B, subitems (1) to (6). The environmental stressors present in the impacted environmental justice area and the comments received per part 7007.6100, subpart 1, item B, subitems (3) to (4), are required criteria to establish vital context when making a determination of a substantial adverse impact. Therefore, this hybrid approach integrating these qualitative, contextual data points into the final review guarantees that the MPCA can fully weigh localized environmental burdens and community feedback, which fulfills the agency's legislative mandate to define substantial adverse impacts through a realistic lens.

1167. While the framework relies on qualitative flexibility, it balances this discretion with rigorous requirements for administrative accountability. The MPCA recognizes the importance of clarity in reaching a determination and preparing the decision document for consistency and transparency. Part 7007.6100, subpart 4, requires the MPCA to prepare a written decision document containing the reasons for the determination, including descriptions of the information used and how the information was weighed in consideration. The MPCA will make every effort to deliver clear, detailed reasoning and to ensure consistency, transparency, and fairness in reaching these decisions within each decision document. As a result, this mandatory explanatory record creates a clear, predictable standard that protects the integrity and fairness of every final permitting action.

Addressing environmental stressors and input from the public

1168. The MPCA received six comments regarding environmental stressors and input from the public in how the determination of whether issuing a permit would result in a substantial adverse impact.

1169. **Skye-013-02:** Skye stated, "There is currently no method to determine substantial adverse impacts from environmental stressors. In addition, communities are being silenced when addressing their struggles. What needs to be done is there needs to be a method incorporated that analyzes environmental and public health stressors, reflecting on the perspectives our communities grapple with. PLEASE include voices of the community and let them decide what their future should look like. Outreach with community members is a must. Facilities and agencies should be mandated to

partner with neighborhood associations, religious centers health systems, and local nonprofits and coalitions. I work at a nonprofit in Cedar Riverside, and I can connect you with them."

1170. **Sierra Club North Star Chapter (compiled comments, set 1)-037-22:** Jerome Comeau stated, "Dear Judge Middendorf, Many of our communities have suffered worse impacts of pollution from industrial facilities, highways, and their surroundings. The 2023 cumulative impacts law was passed with the goal of reducing the harm of polluting facilities in primarily BIPOC and low-income communities. It is imperative that the MPCA creates strong, clear rules without loopholes for industry to exploit. Specifically the MPCA needs to: - Include a clear definition of what constitutes the substantial adverse impacts - Model the cumulative impacts analysis after the New Jersey law - Insure public participation be robust and facilities must be required to reach out to local community organizations"

1171. **Sierra Club North Star Chapter (compiled comments, set 1)-037-31:** Janette Dean stated, "Dear Judge Middendorf, I have studied and worked in the fields of public and business administration, political science, and social change and movements. Due to the lack of more effective social and environmental protections from some companies? prioritization of just their own goals and profit, government agencies must fill that community responsibility gap by creating and enforcing crucial regulations that better protect people and nature from the pollution and other detrimental effects of industries whose operations cause harm to the health, needs, and well-being of all people and nature, too, across urban, rural, and suburban communities. To better address and prevent compounding detrimental impacts, the MPCA should adopt MORE EFFECTIVE RULES, COMMUNITY EDUCATION, AND PUBLIC INPUT METHODS that better safeguard residents, neighborhoods, the environment, and wildlife. I therefore implore the MPCA to create SUBSTANTIAL ADVERSE IMPACT DEFINITIONS AND CUMULATIVE IMPACTS ANALYSIS LAW modeled after New Jersey."

1172. **Frontline Communities Protection Coalition (compiled comments)-045-118:** Hannah Resendiz Olson stated, "I am concerned about the current lack of methods for determining substantial adverse impacts (SAI) from environmental stressors. There are many factors that affect health in North Minneapolis, including a lack of investment, limited job opportunities, insufficient public recreation spaces, and other social and environmental stressors that impact quality of life.

The MPCA should add additional determination methods to the cumulative impacts analysis that address social, environmental, and public health stressors. These methods should include measurable data and thresholds for SAI that better reflect the full burden communities face.

When a community like ours is forced to navigate multiple challenges every day, it is essential that all cumulative impacts are considered when determining substantial adverse impact."

1173. **Sierra Club North Star Chapter (complied comments, set 2)-047-03:** Kris Acuña stated, "We should have a say in what these polluting facilities are and are not able to do in our communities, our environment, and our health. The rules as currently written do not allow us to say "No" to a permit if we are not satisfied with the CBA. The permit denial criteria should be clearly defined. I'm asking you to model the cumulative impacts analysis after the New Jersey law. Thank you for creating a healthier MN."

1174. **Sierra Club North Star Chapter (complied comments, set 2)-047-06:** Susan Dragsten stated, "In addition, please model the cumulative impacts analysis after the New Jersey law. We need strong laws agains [sic] pollution and the public must be given adequate time and space to comment on these rules. In this regard, the community benefit agreement process needs clear criteria for community members to express if they do not want a CBA."

MPCA RESPONSE

1175. Minn. Stat. § 116.065 differs from New Jersey's Environmental Justice Law (N.J.S.A. 13:1D-157) in its scope, regulatory requirements, and philosophy. New Jersey's law covers permits of multiple environmental media (air, water, land etc.) statewide to determine "disproportionate impacts", whereas Minnesota's law strictly targets air permits within Environmental Justice Areas to determine "substantial adverse impacts". Specifically, regarding determining substantial adverse impacts, Minn. Stat. § 116.065, subd. 6(c)(3) requires the MPCA to "define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact". New Jersey's "disproportionate impact" is determined with a rigid, mathematical evaluation based strictly on comparison of localized physical pollution and baseline health data from 26 tracked criteria in permit areas to geographic points of comparison. The proposed rule broadens the scope of "stressors" that New Jersey uses to explicitly include socioeconomic vulnerabilities like food insecurity, lack of health care coverage, and cost-burdened households alongside pollution and other environmental stressor data. A "substantial adverse impact" is determined comprehensively, based on how these human-health vulnerabilities compound with the health and environmental impacts associated with the facility. Since the MPCA is tasked to "define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact", it would be inappropriate to use New Jersey's approach as environmental stressors do not necessarily result in an adverse impact merely because their values are above the median percentile of non-overburdened areas. Determining a "substantial adverse impact" requires the MPCA to look at how a new facility's air emissions will interact with pre-existing, community-wide biological and social vulnerabilities. It treats cumulative impacts as a dynamic, living equation rather than a fixed math problem to assess real-world compounding risks. Ultimately, by rejecting a rigid mathematical threshold in favor of a flexible assessment of compounding vulnerabilities, the MPCA exercises its explicit statutory mandate to define a substantial adverse impact through the lens of lived community reality rather than isolated physical metrics.

1176. To implement this flexible approach, the proposed rule blends data-driven baseline assessments with community engagement requirements to capture the full scope of local environmental conditions. Per part 7007.6100, subpart 1, item B, subitem (3), the environmental stressors present in the community will be taken into consideration by the MPCA when determining if there is a substantial adverse impact. The actual health and environmental conditions of the community will be deduced from information provided during the initial assessment outlined in part 7007.6020, subpart 6, which utilizes the environmental stressors database outlined in part 7007.6020, subpart 5, as well as the cumulative impacts analysis contents that are required to be provided in part 7007.6090, subpart 3. The initial assessment will ensure that permits in communities facing high burdens from existing stressors and conditions undergo the cumulative impact analysis process. The MPCA contends that the contents required for the cumulative impact analysis outlined in part 7007.6090, subparts 3 to 5 provide an adequate understanding of the current health and environmental conditions of the community necessary to determine whether there is the potential for a substantial adverse impact. Accordingly, this baseline screening phase equips the agency with the foundational evidence necessary to justify an in-depth review.

1177. Each permit application will be unique in its impact on existing environmental stressors due to its specific air emissions and location. Thus, codifying a rigid methodology to determine substantial adverse impacts from all possible environmental stressors and compounding factors is inherently difficult and may result in constricting the ability of the MPCA to determine substantial adverse impacts. Additionally, many of the non-air environmental and social stressors do not have clear, numerical benchmarks available for comparison. Because the rule is written for air emission permits, the MPCA needs to consider how the proposed air emissions will impact the health and

environmental conditions of the community, in addition to any other health or environmental impacts that the facility may contribute to. The strongest and clearest method for understanding the potential risk of air emissions on the community is achieved from criteria air pollutant modeling as well as air toxic risk assessment.

1178. All comments received from the public during the public notice, participation, and comment periods are required criteria to be evaluated for environmental or health impact as stated in part 7007.6100, subpart 1, item B, subitem (4). Neighborhood associations, religious centers, health systems, local nonprofits, and coalitions are all encouraged to participate and provide comments during the public meeting and comment periods so that their voices will be evaluated as a requirement of the rule. In short, by elevating public comments to a mandatory legal baseline, the framework ensures that final impact determinations are directly shaped by the lived experiences of local residents.

Air quality modeling and AERAs

1179. The MPCA received one comment regarding the use of air quality modeling and risk analyses as part of the determination of whether issuing a permit would result in a substantial adverse impact.

1180. **Minnesota Environmental Justice Table-031-09:** The Minnesota Environmental Justice Table stated, "**Substantial adverse impacts determination** The quantitative evaluations that the MPCA will use to make the substantial adverse impact determination (7007.6100, Subpart 1, Item A) are based on solitary (source-level) impacts rather than on cumulative impacts. For example, a facility may pass both the air quality modeling and AERA threshold criteria but be in an area already facing cumulative adverse stressors such that the facility, on top of these existing stressors, would be causing a substantial adverse impact. It is unclear if or how existing adverse stressors are weighed in conjunction with the cumulative adverse stressors from the CI-MAP analysis because the components in 7007.6100, Subpart 1, Item A are listed in an OR clause. We would like to see a guarantee that the MPCA will look at the air quality modeling, AERA results, and an area's adverse stressors jointly, rather than separately, when making the substantial adverse impacts determination. One option is to quantitatively combine AERA results with key information from the CI-MAP (such as the cancer and non-cancer risks). Another option is to create additional quantitative rules that incorporate the number and types of existing adverse stressors in conjunction with the air quality modeling and AERA results.

If the MPCA determines that the facility's requested permit action will have a substantial adverse impact, the facility can propose controls, limits or other measures to prevent the substantial adverse impact. The draft rules state what will happen if the MPCA determines that these measures will prevent the substantial adverse impact. They do not state what will happen if the proposed measures will not prevent the substantial adverse impact. If the proposed measures fall substantially short in preventing the substantial adverse impact, we would like to see the permit denied."

MPCA RESPONSE

1181. In response to public comments regarding the joint evaluation of quantitative thresholds and subsequent permit actions, the MPCA clarifies that part 7007.6100, subpart 1, item A, subitems (1) and (2) establish thresholds for determining when air quality modeling and AERA results indicate a substantial adverse impact as singular impacts. However, the air quality modeling and AERA results will also be considered in conjunction with other environmental or health impacts to be considered as a substantial adverse impact outlined in part 7007.6100, subpart 1, item B. Air quality modeling and AERAs are integral parts of the cumulative impact analysis that are required to be considered

under part 7007.6100, subpart 1, item B, subitem (2).

1182. In the provided example, a substantial adverse impact would be found under the proposed rule language as the cumulative impact analysis results are considered alongside environmental stressors present per part 7007.6100, subpart 1, item B, subitems (2) and (3) respectively. This information is then evaluated using the criteria outlined in part 7007.6100, subpart 2, which includes evaluation of cumulative impacts per part 7007.6100, subpart 2, item B.

1183. Information in the CI-MAP regarding risk from ambient air concentrations is also utilized in the AERA and air quality modeling processes. Additionally, air emissions from off-site sources and monitoring data will be required to be incorporated into the modeling and analyses when available.

1184. If proposed control measures fail to prevent a substantial adverse impact, the commissioner must deny the requested permit action, per part 7007.6120, subpart 1, item C, unless the commissioner enters into a community benefit agreement (CBA) pursuant to part 7007.6110 with the owner or operator of the stationary source. Therefore, if mitigation parameters fall short and no binding agreement is finalized, the rule mandates the commissioner must deny the requested permit action.

Air quality modeling thresholds for determining substantial adverse impact

1185. The MPCA received three comments regarding the air quality modeling thresholds used in the determination of whether issuing a permit would result in a substantial adverse impact.

1186. **Frontline Communities Protection Coalition-034-31**: Frontline Communities Protection Coalition stated, “Subp. 1. **Substantial adverse impact determination**, item (A), subitem (1) - We strongly suggest that this section be changed so that a substantial adverse impact is determined when background air concentrations plus the contribution from nearby sources and from the full facility to air pollution concentrations are greater than 50% of the national ambient air quality standard. Without considering the existing background air concentration and nearby source emissions, the proposed rule fails to meet the cumulative impact definition in the statute.”

1187. **American Petroleum Institute-042-04:** The American Petroleum Institute stated, “**1.3 THE PROPOSED DEFINITION OF "SUBSTANTIAL ADVERSE IMPACT" REQUIRES STRONGER SCIENTIFIC JUSTIFICATION**

MPCA proposes that modeled concentrations reaching 50 percent of a NAAQS or MAAQS constitute a substantial adverse impact. The SONAR explains that 50 percent was selected so that no single facility contributes a majority of the allowable concentration. While this approach is simple, simplicity alone is not a sufficient scientific justification. National Ambient Air Quality Standards and Minnesota Ambient Air Quality Standards already incorporate substantial health-protective safety margins established through extensive federal and state scientific reviews. Accordingly, applicable standards are developed to ensure that a substantial adverse impact does not occur, and modeled concentrations below these standards demonstrate a finding of no meaningful public health risk.

The proposed threshold therefore functions primarily as a policy trigger rather than a scientifically demonstrated indicator of substantial adverse impact. If MPCA intends to establish a new health-based threshold distinct from existing ambient standards, the Agency should provide a stronger scientific basis demonstrating why 50 percent represents a meaningful transition between acceptable and substantial impact.

Recommendation: Clarify that compliance with applicable ambient standards should weigh heavily against a finding of substantial adverse impact unless additional site-specific evidence demonstrates otherwise.”

1188. **American Petroleum Institute-042-17:** The American Petroleum Institute stated, "**50% NAAQS Threshold**: API appreciates MPCA's effort to establish objective criteria. However, the proposed threshold of 50 percent of a NAAQS or MAAQS requires additional scientific justification. Ambient standards already incorporate health-protective margins. The SONAR explains that 50 percent was selected because no single source should contribute more than half the allowable concentration. While administratively simple, this rationale does not demonstrate that 50 percent corresponds to a meaningful increase in public health risk. The threshold therefore functions primarily as a policy trigger rather than a scientifically validated indicator of substantial adverse impact."

MPCA RESPONSE

1189. In response to comments regarding the basis of the 50 percent ambient air threshold, the MPCA maintains that traditional regional standards are inadequate for evaluating localized cumulative risk in overburdened areas. Part 7007.6100, subpart 1, item A, subitem (1) requires that the individual permit action solely contributes to less than 50 percent of the NAAQS and MAAQS in addition to meeting the standard NAAQS and MAAQS requirements for air quality modeling results that include off-site source contributions and background air concentrations to avoid a substantial adverse impact. This approach ensures that individual facility contributions are considered independently, as well as collectively with off-site sources and ambient background air concentrations. In environmental justice areas, the burden of cumulative impacts from a multitude of factors may be compounded by poor air quality. Therefore, the MPCA contends that it is reasonable and appropriate to require that a facility's modeled emissions meet additional criteria pollutant standards rather than solely requiring the emissions to meet the NAAQS and MAAQS that are applicable to all facilities across Minnesota. The MPCA chose to set the threshold at 50 percent because it provides a simple, effective methodology to determine whether a source is a majority contributor to the allowable air pollution concentrations established in the NAAQS and MAAQS. The specific air pollutant concentrations at 50 percent of the NAAQS and MAAQS may not correspond to a robust toxicity endpoint in human or ecological health. However, it does represent a value that the MPCA determines is fair and reasonable for individual facilities to meet. This value is human-health-protective, as it is lower than the NAAQS and MAAQS and it ensures that no single source may emit air pollution at concentrations near levels that cause significant risk to human health and the environment in areas that are already burdened by cumulative impacts. Refer to the SONAR (p. 138-140) for additional information and justification regarding part 7007.6100, subpart 1.

1190. A substantial adverse impact determination does not immediately result in permit denial. If a substantial adverse impact is found per part 7007.6100 subpart 1, item A, subitem (1), the facility will have the opportunity to explore measures that eliminate, minimize, or mitigate the contributions to the 50 percent threshold prior to entering the community benefit agreement (CBA) phase per part 7007.6100, subpart 2, item B, subitems (3) to (4); part 7007.6100, subpart 2, item C; and part 7007.6100, subpart 5, items A to C to reconcile the substantial adverse impact. If no mitigation measures are adopted, the permit may still be approved if a CBA is reached. Consequently, this structured framework does not function as an automatic bar to development, but rather establishes a clear, predictable pathway for facilities to align their operations with community health and equity goals.

1191. In response to comments advocating that the 50 percent threshold apply to the total cumulative concentration rather than the individual source contribution, the MPCA clarifies that the rule architecture already mandates the simultaneous evaluation of background data. The background air concentrations and contributions from off-site sources are inherently included in air quality modeling conducted for every air permit to ensure that National Ambient Air Quality Standards (NAAQS) are not exceeded by the requested permit action. NAAQS thresholds are scientifically

robust, health-protective values. For this reason, the MPCA contends that the NAAQS thresholds should remain the threshold for air permits when including contributions from off-site sources and ambient air concentrations. Part 7007.6100, subpart 1, item A, subitem (1), ensures that the individual permit action contributes to less than 50 percent of the NAAQS in addition to meeting the NAAQS requirement for air quality modeling results including off-site source contributions and background air concentrations. It is true that part 7007.6100, subpart 1, item A, subitems (1) to (2) establish thresholds for determining when air quality modeling and AERA results indicate a substantial adverse impact as singular impacts. However, the air quality modeling and AERA results will also be considered in conjunction with all the information outlined in part 7007.6100, subpart 1, item B, since air quality modeling and AERAs are integral parts of the cumulative impact analysis that is required to be considered according to part 7007.6100, subpart 1, item B, subitem (2). The addition of the requirement for permit actions to contribute less than 50 percent of the NAAQS safeguards against individual facilities significantly contributing to cumulative impacts. Therefore, the individual 50 percent contribution trigger functions as an additional facility-specific safeguard to prevent a single source from monopolizing local air capacity, rather than a replacement for total ambient modeling.

Air toxics risk assessment thresholds for determining substantial adverse impact

1192. The MPCA received one comment regarding the air emissions risk analysis thresholds used in the determination of whether issuing a permit would result in a substantial adverse impact.

1193. **American Petroleum Institute-042-18:** The American Petroleum Institute stated, "**Hazardous Air Pollutants**: The basis for the proposed HAP thresholds should be explained more completely. Applicants should understand:

- why specific values were selected;
- whether thresholds represent screening values or health thresholds;
- how they relate to existing air permitting requirements.

MPCA RESPONSE

1194. The MPCA believes that when the commenter references to "HAP thresholds", the commenter is really asking for clarification of acceptable risk levels under part 7007.6100, subpart 1, item A, subitem (2). The MPCA maintains that these acceptable risk levels are EPA established risk levels that are widely used across risk assessments. The strongest and clearest methods for understanding the potential risk of air toxics is achieved through an air toxic risk assessment utilizing the air emissions risk analysis (AERA) process required by the MPCA. Consequently, these parameters function as conservative, health-protective screening values that mirror existing air permitting benchmarks rather than acting as isolated toxicological thresholds. More information on acceptable risk levels is available in the SONAR (p. 135-137).

1195. If a facility has determined that the permit action would have a substantial adverse impact on the environment or the health of residents then the facility must identify and analyze additional measures that the facility would make so that the permit action is no longer considered a substantial adverse impact under part 7007.6100, subpart 5, item A. The facility must incorporate these measures into a requested permit action under part 7007.6100, subpart 5, item B. If the revision to the permit action incorporates these measures and the permit action will no longer have a substantial adverse impact, the facility is not required to prepare a community benefit agreement under part 7007.6100, subpart 5, item C. More information on incorporating these measures into a permit can be found in the SONAR (p. 143).

Defining substantial adverse impact conditions, criteria, or circumstances

1196. The MPCA received 11 comments regarding how the MPCA has established the conditions, criteria, or circumstances defining when issuing a permit would result in a substantial adverse impact.

1197. **University of Minnesota-030-42:** The University of Minnesota stated, "**Comment 8: The CBA requirements are too broad.**

Under Minn. Stat. § 116.065, subd. 5(b), the commissioner must enter into a CBA if the project would "have a substantial adverse impact on the environment and health of the environmental justice area and its residents." Minn. Stat. § 116.065, subd. 6(c)(3), further requires the commissioner to adopt rules that "define conditions, criteria or circumstances that establish an environmental or health impact as a substantial adverse impact."

The Draft Rules do not fully define "substantial adverse impact," as required by the Statute. Instead, under the Draft Rules, the commissioner can find a substantial adverse impact based on "the environmental stressors present in the impacted environmental justice area;" and "the comments received during the public notice and comment periods required under part 7007.6080 and during the public participation conducted according to part 7007.6080." Minn. R. 7007.6100, subp. 1.B(3) and (4)."

1198. **Frontline Communities Protection Coalition (compiled comments)-045-13:** Jons Blumenthal "Our name is Jons (we/us, they/them), and we live in Hennepin County. We care about our health, the quality of our air, and the health of our neighbors living near HERC and the quality of the air they breathe. The definition of "substantial adverse impact" is too vague and undefined for both facility operators and the community. Based on cumulative impacts, communities are experiencing stress and harm in ways that are not being measured and that county commissioners can delay addressing."

1199. **Frontline Communities Protection Coalition (compiled comments)-045-31:** Ianni Houmas stated, "The current definition is vague and left entirely to the Commissioner's discretion, creating uncertainty and inviting legal challenges. Adopt an objective framework similar to New Jersey's model. If a community already bears a specified threshold of adverse environmental stressors, any additional pollution from a facility should automatically be considered a substantial adverse impact."

1200. **Frontline Communities Protection Coalition (compiled comments)-045-49:** Catherine Zimmer stated, "The definition of "substantial adverse impact" is not well defined. To strengthen this definition, a review of environmental and public health stressors—and how a facility will contribute to or add to those stressors—must be considered. If a facility will add to existing stressors, then the facility should be considered to have a substantial adverse impact. This would provide a more objective measurement and is similar to New Jersey's approach."

1201. **Frontline Communities Protection Coalition (compiled comments)-045-57:** Judy Gregg stated, "My other concern is the vagueness of the definition of "substantial adverse impact." I recommend that the cumulative impacts analysis evaluate environmental and public health stressors and how a facility will contribute to those stressors. If a facility contributes to a certain number of adverse environmental stressors, that should be considered a substantial adverse impact. This approach is similar to New Jersey's and would provide a more objective determination of substantial adverse impact, creating greater clarity for all parties involved.

Thank you"

1202. **Frontline Communities Protection Coalition (compiled comments)-045-66:** Paul Moss stated, “Please consider the following comments:

The definition of "substantial adverse impact" is too vague and undefined, leaving both facility owners and communities uncertain about how this determination will be made until the Commissioner publishes their reasoning. This creates uncertainty and leaves decisions regarding substantial adverse impacts vulnerable to legal challenges.

I recommend that the cumulative impacts analysis evaluate environmental and public health stressors and how a facility will contribute to those stressors. If a facility contributes to a certain number of adverse environmental stressors, that should be considered a substantial adverse impact. This approach is similar to New Jersey's and would provide a more objective determination, creating greater clarity for all parties involved.”

1203. **Frontline Communities Protection Coalition (compiled comments)-045-76:** Chel Anderson stated, “Strengthen the definition of "substantial adverse impact." The current definition is too broad and needs to be strengthened so that there is a clear, objective process for determining impacts and avoiding unnecessary legal challenges. The cumulative impacts analysis should evaluate a community’s environmental and public health stressors and how a facility will contribute to those stressors. If a facility contributes to a specific number of adverse environmental stressors, that should be considered a substantial adverse impact.”

1204. **Frontline Communities Protection Coalition (compiled comments)-045-122:** Chelsey Blanke “The rules must provide a clear definition of “substantial adverse impact.”

1205. **Frontline Communities Protection Coalition (compiled comments)-045-85:** Adam Daire stated, “Currently, the definition of "substantial adverse impact" is too vague, creating legal uncertainty and leaving both residents and facility owners unclear about how decisions will be made until a final determination is issued. A more objective approach, similar to New Jersey’s model, would connect this definition directly to the number of environmental stressors a facility contributes to.”

1206. **Frontline Communities Protection Coalition (compiled comments)-045-81:** Quoted statement of the commenter “The definition of "substantial adverse impact" is too vague and undefined. This leaves both facility owners and communities uncertain about how substantial adverse impacts will be determined until the Commissioner publishes their reasoning. This creates uncertainty and leaves decisions vulnerable to legal challenges. I recommend that the cumulative impacts analysis evaluate environmental and public health stressors and how a facility will contribute to those stressors. If a facility contributes to a certain number of adverse environmental stressors, that should be considered a substantial adverse impact. This approach is similar to New Jersey’s model and would provide a more objective determination, creating greater clarity for all parties involved.”

1207. **Frontline Communities Protection Coalition (compiled comments)-045-185:** Bridget Guiza stated, “The definition of substantial adverse impact is too vague and undefined, leaving both facility owners and communities in the dark about determination of substantial adverse impact until the commissioner publishes their reasoning. This creates uncertainty and leaves any determination of substantial adverse impact vulnerable to legal challenge. I recommend that the cumulative impacts analysis looks at environmental and public health stressors and how a facility will contribute to those stressors. If a facility is contributing to a certain number of adverse environmental stressors, that should be considered a substantial adverse impact. This is similar to New Jersey's approach and will provide a more objective determination of substantial adverse impact, creating better clarity for all parties involved.”

MPCA RESPONSE

1208. In response to comments stating that the proposed definition of a substantial adverse impact is too vague and advocating for a rigid, mathematical evaluation modeled after New Jersey's framework, the MPCA clarifies that its statutory directive dictates a different regulatory philosophy. The statute does not require the MPCA to explicitly define "substantial adverse impacts," but rather to "define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact" per Minn. Stat. § 116.065, subd. 6(c)(3). The MPCA contends that the proposed rule fully satisfies this requirement per part 7007.6100, subpart 1, item A, subitems (1) to (3), and part 7007.6100, subpart 1, item B, subitems (1) to (6). The environmental stressors present in the impacted environmental justice area and the comments received per part 7007.6100, subpart 1, item B, subitems (3) to (4), are required criteria because they provide vital context when making a determination of a substantial adverse impact and are not the sole criteria used to determine substantial adverse impacts from cumulative impacts. Accordingly, the rule provides an objective process through these structured, multi-subpart steps, preventing individual elements from being used as arbitrary, standalone metrics.

1209. Furthermore, the MPCA intentionally declined to copy New Jersey's fixed, percentile-based mathematical approach because a simple tally of environmental stressors fails to capture the dynamic reality of compounding local risks. Many of the non-air environmental and social stressors do not have clear numerical benchmarks available for comparison, and their values do not necessarily result in an adverse impact merely because they sit above a fixed geographical median. Rather than attempting to specify rigid thresholds for all possible scenarios, the proposed framework treats cumulative impacts as a living equation. It evaluates how a facility's direct air emissions will interact with pre-existing, community-wide biological and social vulnerabilities. Please refer to the SONAR (p. 139-143) for additional information regarding the determination of substantial adverse impacts. Ultimately, a rigid mathematical threshold would restrict the agency's ability to evaluate unique, non-air impacts that lack clear numerical benchmarks, whereas the proposed flexible framework ensures final impact determinations are directly shaped by a community's lived environmental and social realities.

Consideration of impact likelihood

1210. The MPCA received one comment regarding the likelihood of potential impacts and how the likelihood is considered as part of the substantial adverse impact determination.

1211. **Minnesota Chamber of Commerce-027-09:** The Minnesota Chamber of Commerce stated, "The proposed rule does not explicitly require MPCA to consider the likelihood that the potential impacts will occur when evaluating a CIA and determining whether there will be a substantial adverse impact if a permit is granted. However, it would be unreasonable and contrary to the plain language of the statute for MPCA to make a finding of substantial adverse impact unless it believes that impact is likely. See Minn. Stat. § 116.065, subd. 5. B. (basing Commissioner's determination on whether issuing the permit in combination with other factors "would" have a substantial adverse impact). The Chamber recommends amendment of Minn. R. 7007.6100, subp. 2, B to add a new (2) (with the following numbered items renumbered consecutively), providing as follows: "(2) the likelihood of the impact and its probable significance." Similarly, the Chamber recommends that proposed Minn. R. 7007.6100, subp 1. A 3. be amended as follows: "the Commissioner determines that an environmental or health impact identified in the cumulative impacts analysis is a substantial adverse impact under item B that is measurable and reasonably likely to occur."

MPCA RESPONSE

1212. In response to comments advocating for the explicit addition of a "likelihood" evaluation metric, the MPCA maintains that the proposed rule language already requires the commissioner to account

for the probability and predictability of potential impacts. Assigning a precise mathematical likelihood to cumulative impacts is exceptionally difficult due to the complexity, interactions, and severity of overlapping stressors, which are unique to each permit's specifications and location. However, per part 7007.6100, subpart 2, item A and item B, subitems (1) to (2), the MPCA is mandated to evaluate the type, extent, reversibility, and significance of impacts when considering if an impact constitutes a substantial adverse impact. Additionally, per part 7007.6100, subpart 2, item D, the MPCA is required to consider "the extent to which impacts can be anticipated and controlled." Evaluating the extent to which an environmental or health outcome can be "anticipated" directly encompasses an assessment of its probability and predictability. Consequently, because the rule inherently mandates an evaluation of whether an impact can be anticipated, adding separate "likelihood" language is procedurally redundant and unnecessary.

1213. Furthermore, the framework's data-gathering mechanisms ensure that speculative or highly improbable risks are excluded from the permitting review. The data and emissions factors required to populate a cumulative impact analysis are anchored to empirical air modeling parameters and verified baseline metrics. Any impact that a facility is reasonably expected to contribute to will be captured within the scope of the mandatory cumulative impact analysis, whereas remote or highly improbable impact scenarios are naturally excluded by the scope of the rule's data parameters. Therefore, the existing rule structure fully satisfies the statutory requirement under Minn. Stat. § 116.065 to evaluate what "would" occur, ensuring a realistic, data-driven assessment without the need for redundant procedural amendments.

Defining substantial adverse impacts with consideration to wildfire smoke events

1214. The MPCA received one comment regarding the consideration of wildfire smoke events as part of the substantial adverse impact determination.

1215. **Sierra Club North Star Chapter (compiled comments, set 1)-037-02:** Ellen Rozek stated, “Dear Judge Middendorf, I'm a St. Paul resident, and every summer, it seems like our state sees dramatically reduced air quality due to smoke from wildfires burning on other parts of the continent. While we can't control the direction of that fire smoke, we can and should take the strongest possible action to mitigate air pollution caused by industries based in Minnesota, and that's where MPCA comes in. Those of us living in the Twin Cities already see worsened air quality than most other parts of the state, and the problem is worse in impoverished and under-served communities. Living in an urban environment should not mean putting up with substantially worse air quality. Please include a clear definition of substantial adverse impacts in your newly drafted rules so those rules cannot be as easily exploited by industries and model the cumulative impacts analysis you'd be requiring after New Jersey's law - one of the strongest in the country - to help all Minnesotans breathe cleaner, less polluted air.”

MPCA RESPONSE

1216. In response to comments regarding the impact of transboundary wildfire smoke and requests to adopt New Jersey's fixed cumulative framework, the MPCA maintains that its dual-track rule structure maximizes protections for overburdened urban environments. It is true that wildfire smoke events have been increasing in severity and frequency in Minnesota, and wildfire smoke plays a role in cumulative impacts. While transboundary wildfire smoke cannot be controlled or regulated at the state level, restricting an individual facility's criteria air pollutant emissions to less than 50 percent of the National or Minnesota Ambient Air Quality Standards per part 7007.6100, subpart 1, item A, ensures crucial protective margins. When integrated with a comprehensive cumulative impacts review under part 7007.6100, subpart 2, items A to E, this framework minimizes the local industrial baseline, thereby reducing the compounding health burdens born by

environmental justice areas during background smoke events. Consequently, by capping a facility's permitted emissions well below the standard ceiling, the rule actively prevents single industrial sources from compounding regional background events like wildfire smoke.

1217. Furthermore, providing a singular, static definition for a "substantial adverse impact" introduces severe regulatory vulnerabilities that could be exploited to the detriment of local communities. Because each project proposal features a unique mixture of localized environmental stressors and specific emissions profiles, a rigid or singular definition would restrict the MPCA's administrative ability to identify unique, non-linear adverse impacts. Under Minn. Stat. § 116.065, subd. 6(c)(3), the legislature explicitly directed the MPCA to "define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact" rather than prescribing a broad, static dictionary definition. The agency maintains that the multi-layered evaluation criteria set forth under part 7007.6100, subpart 2, items A to E, fully satisfy this statutory requirement by taking into account the full complexity of localized public health variables and community comments. Therefore, the proposed rule successfully satisfies this statutory mandate by establishing comprehensive multi-criteria reviews, ensuring that final determinations adapt dynamically to the unique mixtures of cumulative pollution within each community.

Substantial adverse impact avoidance and mitigation

1218. The MPCA received two comments regarding the consideration of avoidance and mitigation efforts in the substantial adverse impact determination.

1219. **Minnesota House of Representatives-033-13:** Representative Fue Lee stated, "**7007.6100, subp. 2. Criteria for evaluating environmental and health impacts, items C and D**

Items C and D list information the commissioner must consider in determining whether the requested permit action would result in a substantial adverse impact and a potential permit denial. Item C mentions "the extent to which the impacts are subject to mitigation by ongoing public regulatory authority." Item D says "the extent to which impacts can be anticipated and controlled . . by existing and available public health studies undertaken by public agencies or the owner or operator of the stationary source . . . ."

Neither of these conditions provides any assurance that impacts will actually be mitigated; the fact that agencies exist which might require such action makes mitigation speculative at best. This language should be removed. The commissioner should consider only those mitigation efforts the owner or operator commits, in writing, to implement."

1220. **Frontline Communities Protection Coalition (compiled comments)-045-174:** Side Corridor Residents, Owatonna East stated, "The proposed rules allow a Project Proposer to avoid the requirement for a Community Benefit Agreement (CBA) if proposed mitigation measures reduce impacts enough to avoid a substantial adverse impact.

We support encouraging effective mitigation; however, mitigation should not replace thoughtful project planning or the consideration of less harmful alternatives. Environmental impacts should first be avoided where feasible, then minimized when they cannot be avoided, and only then mitigated for remaining unavoidable impacts.

Avoid. Minimize. Mitigate. In that order.

When mitigation measures are proposed, the Project Proposer should be required to provide credible evidence demonstrating that those measures will achieve the claimed reductions in environmental and health impacts. The Commissioner should independently evaluate that evidence before determining that a substantial adverse impact has been avoided or eliminated.

Where appropriate, mitigation measures should also include monitoring and reporting requirements to verify that anticipated reductions in impacts are actually achieved once the project is operational. If monitoring demonstrates that avoidance, minimization, or mitigation measures are not performing as expected, the Commissioner should have the authority to require additional corrective actions.

Requiring Project Proposers to follow the mitigation hierarchy—first avoiding impacts where possible, then minimizing unavoidable impacts, and finally mitigating remaining impacts—will help ensure that Community Benefit Agreements are not avoided based solely on unproven or unsupported mitigation claims.

This approach will strengthen accountability, better protect public health and the environment, and ensure that communities affected by proposed projects receive meaningful protections.

MPCA RESPONSE

1221. In response to comments stating that the evaluation of existing regulatory authority and available public health studies makes mitigation speculative, the MPCA clarifies that these criteria function as rigorous evidentiary baselines rather than loopholes for approval. This multi-layered review directly supports the legislative intent of Minn. Stat. § 116.065, subd. 5, which requires the commissioner to evaluate whether a permit action, 'in combination with' existing localized factors, 'would' result in an adverse outcome. Contrary to the commenter's premise, part 7007.6100, subpart 2, item C, does not allow the agency to rely on uncommitted, external regulatory actions. Instead, it ensures that any proposed mitigation measures evaluated during the permitting process are backed by an ongoing public regulatory authority that makes them legally enforceable, allowing the MPCA to formally incorporate those restrictions directly into the final air permit as binding conditions. Consequently, these parameters ensure that the agency only credits mitigation plans with a proven track record of technological success, preventing the acceptance of speculative or unvetted control concepts.

1222. Furthermore, the explicit purpose of part 7007.6100, subpart 2, item D, is to establish a scientific standard of review to verify that proposed emission limits, conditions, control measures, or other mitigation methods are technologically feasible and effective, as demonstrated by peer-reviewed public health studies and agency literature. If the MPCA’s technical review confirms that a proposed control measure is effective, the facility must formally revise its application to lock that measure into the requested permit action under part 7007.6100, subpart 5, item B. If a facility refuses to incorporate these verified controls into its written permit application, the substantial adverse impact determination remains in place, and the permit cannot be issued unless the operator enters the formal community benefit agreement (CBA) process outlined in part 7007.6110. Pursuant to part 7007.6100, subpart 5, item C, an owner or operator must fully commit to these measures in writing by amending the permit action before a substantial adverse impact determination can be avoided. In short, part 7007.6100, subpart 2, items C and D do not make mitigation speculative. In fact, they are the exact guardrails that prevent speculation by creating an empirical standard of review grounded in peer-reviewed science and verifiable regulatory metrics. Because the rule already bars the agency from crediting any mitigation efforts that are not written into the permit as binding conditions, the proposed amendments are unnecessary.

1223. In response to comments advocating for the formal incorporation of a strict mitigation hierarchy—prioritizing avoidance and minimization over mitigation—and requesting robust verification of control claims, the MPCA clarifies that the rule architecture already mandates an evidence-based standard to prevent unproven claims from bypassing regulatory oversight. Under part 7007.6100, subpart 2, item C, the MPCA is explicitly required to evaluate the extent to which

any proposed mitigation measures are legally enforceable and backed by ongoing regulatory authority before they can be formally incorporated directly into the final air permit as binding conditions. Rather than allowing project proposers to rely on speculative or unsupported reduction claims, the rule requires an objective analysis of whether a facility's engineering modifications will successfully reduce emissions below substantial adverse impact triggers. Consequently, because any accredited measures must pass an independent, evidence-backed review before a substantial adverse impact can be avoided, the rule inherently guards against the subversion of the Community Benefit Agreement (CBA) phase.

1224. Furthermore, part 7007.6100, subpart 2, item D, establishes a rigorous scientific standard of review by requiring that any emission limits, conditions, control measures, or other mitigation methods be demonstrated as technologically feasible and effective, as supported by health and environmental literature. If the MPCA's independent technical evaluation confirms that a proposed control measure successfully eliminates or avoids a substantial adverse impact, the owner or operator may formally amend its permit application to incorporate those specific operational limits into the requested permit per part 7007.6100, subpart 5, item B. If a facility refuses to incorporate these verified controls into its written application, or if the proposed measures fail to perform as expected under the agency's review, the substantial adverse impact determination remains in place, and the permit cannot be issued unless the operator enters the formal CBA process outlined in part 7007.6110. Additionally, the MPCA maintains the authority to incorporate specialized monitoring, recordkeeping, and reporting requirements as enforceable permit stipulations to verify ongoing, operational compliance. Therefore, the existing rule structure fully satisfies the intent of a mitigation hierarchy by ensuring that public health protections are anchored to empirical, verifiable data rather than unproven mitigation claims.

Defining substantial adverse impact criteria to avoid loopholes

1225. The MPCA received two comments regarding the importance of clarity in the conditions, criteria, or circumstances used in the substantial adverse impact determination.

1226. **Sierra Club North Star Chapter (compiled comments, set 1)-037-30:** Eric Matteson stated, "Dear Judge Middendorf, I think it is important that the rules are clear about what constututes bad or "substantial" adverse effects when drafting rules about pollution so that loopholes don't exist."

1227. **Norrgard-040-03:** Lois Norrgard stated, "I am asking that true impacts to our environment be taken seriously. Air pollutants, water pollution, dumping chemicals into our soil - all have been historically overlooked by MN regulatory agencies. This can no longer be acceptable. We need clear, strong rules without loopholes for industry to exploit. Please include a clear definition of substantial adverse impacts. This will better accomplish the goal of the law to address the existing cumulative impacts burden."

MPCA RESPONSE

1228. In response to comments stating that the rule requires a fixed, single-sentence definition of a substantial adverse impact to prevent regulatory loopholes, the MPCA clarifies that a static definition would inadvertently create the exact vulnerabilities the commenters seeks to avoid. The MPCA recognizes the importance of clarity in proposing the cumulative impacts rule. Each project proposal will present a unique range and mixture of potential cumulative impacts. The complexity of all possible cumulative impact scenarios requires a broad approach for determining substantial adverse impacts. Introducing more specificity than necessary into the criteria introduces the risk of potential impacts passing unnoticed through evaluation for substantial adverse impacts. The MPCA is required under Minn. Stat. § 116.065 subd. 6(c)(3) to "define conditions, criteria, or circumstances

that establish an environmental or health impact as a substantial adverse impact". The proposed rule demonstrates that part 7007.6100, subpart 2, items A to E satisfies this requirement taking into consideration the range of potential impacts considered under this rule. Therefore, by substituting a static dictionary definition with a comprehensive, multi-criteria standard of review, the rule successfully fulfills its statutory mandate while closing loopholes that an inflexible threshold would inevitably create.

1229. In response to comments requesting a fixed definition of substantial adverse impacts to close industry loopholes and demanding stricter rules across water and soil pollution media, the MPCA clarifies that its regulatory scope is bounded by strict statutory directives. Under the governing authority of Minn. Stat. § 116.065, the legislature explicitly limited the scope of this cumulative impacts rulemaking to specific air quality permit actions located within or near statutorily defined Environmental Justice Areas. While the MPCA remains dedicated to protecting Minnesota's water and soil resources through separate, media-specific regulatory frameworks, the agency lacks the statutory authority to extend these specific cumulative impact rule provisions to non-air permit actions. Therefore, unlike multi-media frameworks utilized in other jurisdictions like New Jersey, the Minnesota framework must operate strictly within the legislative parameters established for atmospheric emissions.

1230. Furthermore, regarding the request for a static definition of a "substantial adverse impact," the agency maintains that an inflexible, dictionary-style threshold could inadvertently create the exact loopholes the commenter seeks to avoid. Because each unique project proposal features a distinct mixture of localized environmental stressors and facility-specific emissions profiles, a single definition would restrict the MPCA's administrative capacity to capture complex, non-linear adverse outcomes. Under Minn. Stat. § 116.065, subd. 6(c)(3), the legislature explicitly directed the MPCA to "define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact." The multi-layered evaluation criteria set forth under part 7007.6100, subpart 2, items A to E, fully satisfy this statutory requirement by forcing a comprehensive review of localized public health variables, baseline data from the stressors database, and public comments. By substituting a static threshold with an adaptable, multi-criteria standard of review, the rule successfully fulfills its statutory mandate while closing textual loopholes that unusual or compounding chemical mixtures could otherwise exploit.

Substantial adverse impact decision document

1231. The MPCA received one comment regarding how the MPCA will document and explain the substantial adverse impact determination.

1232. **Frontline Communities Protection Coalition (compiled comments)-045-173:** Side Corridor Residents, Owatonna East stated, "We support allowing the Commissioner to consider factors beyond numerical air quality thresholds when determining whether a proposed facility may create a substantial adverse impact. Cumulative impacts cannot always be captured by a single numerical value, and protecting communities requires consideration of broader environmental and health conditions.

However, the proposed rules should clearly explain how the Commissioner will evaluate and weigh the broader determination criteria, including the initial assessment, cumulative impacts analysis, public comments, mitigation measures, and existing environmental stressors. Without clear evaluation standards, similar projects could receive different outcomes despite having comparable facts and circumstances.

The written determination should explain not only the Commissioner's final conclusion, but also how each relevant factor contributed to that decision. Clearly documenting the reasoning behind a substantial adverse impact determination will promote consistency, transparency, and public confidence in the permitting process.

A transparent and consistent decision-making framework will help ensure that cumulative impacts determinations are based on the full context of a community's conditions and not limited to narrow regulatory thresholds alone."

MPCA RESPONSE

1233. In response to comments supporting the inclusion of non-numerical criteria but requesting clearer evaluation standards to prevent inconsistent outcomes among comparable projects, the MPCA clarifies that the rule balances case-by-case flexibility with a uniform, multi-step analytical sequence. Providing a detailed framework for evaluating cumulative impacts of factors that lack numerical thresholds is very difficult due to the wide range and complex mixtures of potential cumulative impacts caused by each unique project proposal. Rather than attempting to specify all potential substantial adverse impact outcomes, the MPCA has proposed a general framework that is applicable to the entire range of possible impact scenarios. The MPCA is required under Minn. Stat. § 116.065, subd. 3(1) to determine "whether a proposed permit action may substantially impact the environment or health of the residents of an environmental justice area"; and Minn. Stat. § 116.065 subd. 6(c)(3) to "define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact;" The MPCA contends that part 7007.6100, subpart 2, items A to E satisfy this requirement, taking into consideration the information required by part 7007.6100, subpart 1, and the range of potential impacts considered under this rule. Therefore, while the framework avoids rigid mathematical weightings to accommodate unique project profiles, it provides consistency by forcing every application through an identical, systematic review protocol.

1234. Furthermore, to ensure absolute transparency and prevent arbitrary decision-making, the proposed framework incorporates strict administrative accountability guardrails. The MPCA recognizes the importance of clarity in preparing the decision document for consistency and transparency in how these decisions are reached. Part 7007.6100, subpart 4, requires the MPCA to prepare a written decision document containing the reasons for the determination, including descriptions of the information used and how the information was weighed in consideration. The MPCA will make every effort to deliver clear, detailed reasoning and to ensure consistency, transparency, and fairness in each decision document. Consequently, this mandatory explanatory record binds the agency's final conclusion directly to the empirical evidence and community inputs, establishing a highly predictable and reviewable standard that builds essential public trust.

Substantial adverse impact rule language clarification

1235. The MPCA received one comment requesting a clarification regarding use of the term "or" versus "and" in the criteria that identify substantial adverse impacts

1236. **Health Professionals for a Healthy Climate-038-09:** The Health Professionals for a Healthy Climate stated, "**7007.6100, subp. 1, B (3), Substantial adverse impact.**

Subp. 1, A. After (1) should there be an "or" or an "and"?"

MPCA RESPONSE

1237. Thank you for your comment. There are 3 subitems under part 7007.6100, item A. The "or" at the end of (2) is there to indicate that any of those subitems are a trigger for substantial adverse impacts. The standard Minnesota Revisor drafting conventions dictate that the coordinating

conjunction is only placed after the penultimate item in a series.

PART 7007.6110 COMMUNITY BENEFIT AGREEMENTS

CBA process and communication

1238. The MPCA received seven comments regarding the CBA process that requests a meaningful role for community members, and meaningful and ongoing communication with affected communities.

1239. **Bonin-025-02:** Elizabeth Bonin stated, "I see that a facility can keep revising and submitting its Community Benefit Agreement (CBA) until it is approved, but there are no rules on when the Commissioner can completely deny a CBA and the permit for the facility. There should absolutely be criteria for denying a permit, such as a two-strike rule – if the facility submits a CBA and it gets sent back for revision twice, then the permit is denied. Even better, perhaps the Commissioner is required to conduct several community events (town halls) where community members living near the proposed facility can voice their concerns and recommendations about the facility and its CBA. The Commissioner could then be required to base the decision on approving or denying the CBA or permit on community input from those events. The events should also have an option to submit comments to the Commissioner virtually, as not everyone is physically able to attend in-person events."

1240. **Frontline Communities Protection Coalition (compiled comments)-045-104:** Julie Bode stated, "That is why I am concerned that the proposed cumulative impacts draft rules do not provide a clear path for denying a permit when a new or existing facility would add to the environmental burdens already facing communities like mine.

Under the current draft, a facility can continue revising its Community Benefit Agreement (CBA) until it is approved. There is no clear process for a community to say "no," and there are no specific circumstances that require the Commissioner to deny a permit. As someone who lives in an overburdened neighborhood, I see this as a significant gap in the rules. If cumulative impacts reviews are meant to protect Environmental Justice communities, there must be clear standards for when a permit should be denied.

For me, a meaningful community benefit is not simply a donation or a promise on paper. It means cleaner air, healthier soil, fewer pollution-related health risks, and confidence that my neighborhood will not continue to carry a disproportionate share of environmental harm. The people who live near these facilities and experience their impacts every day should have a meaningful voice in determining whether a facility is truly being a good neighbor.

I urge the MPCA to establish clear permit denial criteria that align with the intent of the law and provide real protections for communities already carrying significant environmental burdens. Without a clear pathway to deny permits when cumulative impacts become too great, these rules risk falling short of the protections that Environmental Justice communities need and deserve."

1241. **Frontline Communities Protection Coalition (compiled comments)-045-121:** Chelsey Blanke stated "I have the following suggestions for the proposed rules: The Community Benefit Agreement process must include meaningful and ongoing communication with affected communities."

1242. **Frontline Communities Protection Coalition (compiled comments)-045-131:** Melissa Zimmerman stated, "I am an Owatonna resident who has spent the past several years participating in environmental review, public engagement, and local permitting processes. While I have not personally negotiated a Community Benefit Agreement (CBA), I have spent time learning about how CBAs have been implemented in other communities and reviewing information from individuals and

organizations with firsthand experience using these agreements.

I believe Community Benefit Agreements deserve additional consideration before these rules are finalized.

Unlike many other components of the proposed rules, a CBA is intended to establish long-term commitments between a Project Proposer and the communities affected by a project's substantial adverse impacts. These agreements are designed to address complex environmental, health, and community concerns and may remain in place for many years. Because of their significance, CBAs should not be treated as simply another step in the permitting process.

I encourage the MPCA to continue refining these provisions with input from attorneys experienced in Community Benefit Agreements, frontline community members who have participated in CBA negotiations, local governments, and practitioners who have successfully implemented similar agreements in other jurisdictions. Learning from communities that have already used CBAs can help Minnesota create a stronger framework from the beginning while avoiding challenges that have been identified elsewhere.

The proposed rules also appear to place significant responsibility on the Project Proposer to develop the agreement. Because CBAs are intended to address the concerns and priorities of affected communities, the process should ensure that community members have a meaningful role in shaping the agreement from the beginning—not simply an opportunity to comment on a draft created by the Project Proposer.

Given the legal, technical, financial, and operational complexity of many projects, the MPCA should also consider whether communities need additional support, resources, or independent technical assistance to participate effectively in these negotiations. A process cannot be considered equitable if one side has significantly greater expertise and resources than the communities most affected by the project."

1243. **Frontline Communities Protection Coalition (compiled comments)-045-161:** Side Corridor Residents, Owatonna East stated, "Community meetings should provide a genuine opportunity for residents to help shape the final agreement—not simply an opportunity to comment on a document that has already been developed or effectively decided. Strengthening these provisions will help ensure that Community Benefit Agreements reflect meaningful community input and result in commitments that address the needs, priorities, and concerns identified by the communities most affected by the project."

1244. **Frontline Communities Protection Coalition (compiled comments)-045-182:** Kathleen Stuebner stated, "The CBA process lacks clear criteria for the commissioner to make the decision to deny a CBA. The community needs to have a voice in this process. Again, I am in favor of more clarity for the criteria and more involvement of the affected communities."

1245. **Ramsey County District 6-056-01:** Commissioner Xiong stated, "My name is Mai Chong Xiong, and I serve as the Ramsey County Commissioner for District 6, representing Saint Paul's Greater East Side, Payne Phalen, Dayton's Bluff, Conway, Battle Creek, Highwood and surrounding neighborhoods. District 6 is located within an Environmental Justice Area. Notably, Northern Iron & Machine, a metal foundry currently involved in multiple legal proceedings, is located within our district. I am also a lifelong Saint Paulite, a mother, and a resident who lives only a few blocks from Northern Iron. My son has asthma, so the connection between environmental policy and the health of our children is deeply personal to me.

For decades, East Side residents have lived with the cumulative effects of industrial emissions,

traffic, dust, lead exposure, and other environmental burdens. Communities like ours have too often been expected to accept pollution first and seek relief later. The 2023 cumulative impacts law recognizes that environmental permitting must account for cumulative impacts and the existing conditions faced by residents of environmental justice areas.

I am submitting this public comment to urge the MPCA to strengthen the proposed rules governing community benefit agreements, particularly proposed Minnesota Rule 7007.6110.

The proposed rule requires a facility owner or operator to prepare a community benefit agreement when (1) a cumulative impacts analysis is required and (2) issuing the requested permit action would have a substantial adverse impact. However, the current process gives the facility owner or operator primary responsibility for preparing and submitting both the draft and proposed agreements. Residents "may" suggest community benefits, and those benefits must be discussed with the owner or operator during public meetings. The owner or operator must "consider" public comments, but the proposed rule does not expressly require residents to approve the final agreement nor how the owner or operator shall consider or prioritize such suggestions.

Community members should not merely be consulted about what benefits a polluting facility is willing to provide. They should have meaningful decision-making power over an agreement intended to address adverse impacts on their health and neighborhood."

MPCA RESPONSE

1246. Part 7007.6080 requires the MPCA and owners or operators to engage early and often with community members, starting once it is determined that a cumulative impacts analysis is required and continuing through the preliminary determination for the CBA. Part 7007.6080, subpart 3, item A requires the owner or operator to develop a public participation plan. The plan must include details of how the owner or operator will comply with the public participation requirements, which include public meetings, public notices and comments, and providing a large amount of information to the public. Part 7007.6080 requires the MPCA to review and approve the public participation plan, attend the public meetings, and post information provided by the owner or operator on the agency website so the information is widely accessible.

1247. Additionally, the owner or operator is required in part 7007.6080, subpart 7, item D to create and maintain an electronic mailing list and provide interested persons with opportunities to sign up to receive notice of public outreach and engagement activities. Community members can sign up to receive this information and stay engaged in the CBA process.

1248. Furthermore, part 7007.6080, subpart 9, item D, subitem (3), requires the MPCA to post the owner or operators CBA public participation plan at least 30 calendar days before the public meeting required before the CBA is drafted (part 7007.6080, subpart 4, item B, subitem (1)). Providing the CBA public participation plan in advance of the meeting allows community members and organizations to review the plan ahead of the meeting and provide informed feedback on how the CBA public participation plan could be improved. Having the plan ahead of time will also help community members and organizations understand what the owner or operator will do for outreach and engagement, and this advance access will help community members and organizations to make their own plans to organize and participate in the CBA process.

1249. The MPCA acknowledges that information provided throughout the CBA process may be technical and beyond the expertise of some community members. To address this, part 7007.6080, subpart 6 specifies what information must be presented by the owner or operator at each required public meeting. As explained in the SONAR (p. 113), requiring specific information to be presented allows meeting attendees, including residents of the impacted EJ area, to ask questions in real time

and generate discussion between the owner or operator and meeting attendees.

1250. Additionally, part 7007.6080, subpart 5, item F requires the owner or operator to prepare a fact sheet that includes specific information for each required public meeting. Fact sheets must be posted by the MPCA on the agency website at least 30 calendar days before a meeting, per part 7007.6080, subpart 9, item A, subitem (2). As explained in the SONAR (p. 112), a fact sheet will help residents of the impacted environmental justice area participate in public meetings by making relevant information readily available in advance of the meeting. An agency representative must attend these meetings as well, per part 7007.6080, subpart 5, item E, and will be able to provide information pertaining to questions about the CBA process.

1251. The development of the public participation process in part 7007.6080 and the CBA process in part 7007.6110 were informed by information gathered from external parties, including individuals from universities, consulting firms, local governments, environment justice communities, industry, and community and environment advocacy groups. This information was provided through extensive outreach and public participation activities, including co-learning webinars, conversations with individuals that have implemented similar agreements, working sessions, input panels, and other outreach activities described in the "Public Participation and Stakeholder Involvement" section of the SONAR (p. 26). The MPCA acknowledges that this is a new program at the agency and there is a lot to be learned. The MPCA is a learning organization and receptive to feedback on how we and owners or operators can better support communities in the outreach conducted, especially as we navigate the implementation of the proposed rule.

Public comment opportunities and considering comments in CBA decision making

1252. The MPCA received three comments regarding public comment and how public comments will be considered in the CBA process that identified a request for clarity on opportunities to provide public comments before a CBA is approved and identified concern for how public comments will be considered in the decision to approve or deny a CBA.

1253. **Hamline Midway Coalition-003-09:** The Hamline Midway Coalition stated, "The lack of clarity in how public comments will be considered in the decision to approve or deny a CBA creates a serious accountability concern. Additionally, it's not entirely clear at what point the proposed CBA is no longer allowed revisions or if there is a pathway to deny a permit through this process if the community at large determines no meaningful benefits can be gained from the proposed permit action. The CBA process needs to have the addition of a clearer pathway to permit denial, not endless revisions, in order to align with the statute."

1254. **Hankerson-019-04:** Stephanie Hankerson stated, "The rule should establish a clear opportunity for public comment before a Community Benefit Agreement is approved. It should also require a transparent revision process with defined deadlines, after which no further revisions may be made, and it should explicitly provide a pathway for denying a permit if an acceptable agreement cannot be reached."

1255. **Ramsey County District 6-056-01:** Commissioner Xiong stated, "My name is Mai Chong Xiong, and I serve as the Ramsey County Commissioner for District 6, representing Saint Paul's Greater East Side, Payne Phalen, Dayton's Bluff, Conway, Battle Creek, Highwood and surrounding neighborhoods. District 6 is located within an Environmental Justice Area. Notably, Northern Iron & Machine, a metal foundry currently involved in multiple legal proceedings, is located within our district. I am also a lifelong Saint Paulite, a mother, and a resident who lives only a few blocks from Northern Iron. My son has asthma, so the connection between environmental policy and the health of our children is deeply personal to me.

For decades, East Side residents have lived with the cumulative effects of industrial emissions, traffic, dust, lead exposure, and other environmental burdens. Communities like ours have too often been expected to accept pollution first and seek relief later. The 2023 cumulative impacts law recognizes that environmental permitting must account for cumulative impacts and the existing conditions faced by residents of environmental justice areas.

I am submitting this public comment to urge the MPCA to strengthen the proposed rules governing community benefit agreements, particularly proposed Minnesota Rule 7007.6110.

The proposed rule requires a facility owner or operator to prepare a community benefit agreement when (1) a cumulative impacts analysis is required and (2) issuing the requested permit action would have a substantial adverse impact. However, the current process gives the facility owner or operator primary responsibility for preparing and submitting both the draft and proposed agreements. Residents "may" suggest community benefits, and those benefits must be discussed with the owner or operator during public meetings. The owner or operator must "consider" public comments, but the proposed rule does not expressly require residents to approve the final agreement nor how the owner or operator shall consider or prioritize such suggestions.

Community members should not merely be consulted about what benefits a polluting facility is willing to provide. They should have meaningful decision-making power over an agreement intended to address adverse impacts on their health and neighborhood."

MPCA RESPONSE

1256. Part 7007.6080, subpart 8, items A and B specify when the owner or operator must provide an opportunity for and accept public comments before a CBA is evaluated by the MPCA. The owner or operator must provide at least 30 calendar days for public comment for each public meeting identified in part 7007.6080, subpart 4, item B, subitems (1) and (2), and the public comment periods must remain open for at least 15 calendar days after the date of each meeting. Part 7007.6080, subpart 4, item B, subitem (1) specifies that a public meeting must be held before the draft CBA is prepared, and subitem (2) specifies that a public meeting must be held after the draft CBA is prepared. The public comment periods associated with these two public meetings provides opportunity for public comments to be submitted before a preliminary determination, per part 7007.6110, subpart 8, is made on a CBA.

1257. In determining whether to enter into a CBA, part 7007.6110, subpart 9, item B, subitems (5) and (6) requires the MPCA to consider public comments and the owner's or operator's responses to comments, and part 7007.6110, subpart 9, and item A, subitems (3) and (4) only allow the MPCA to enter into a CBA if the CBA demonstrates that it and the owner's or operator's responses address the issues raised in public comments. These requirements are explained in the SONAR (p. 155-157).

1258. Additionally, part 7007.6110, subpart 10 requires the MPCA to document how this information was weighted when making the determination about whether to enter into a CBA. This information will be publicly available within 30 calendar days of the MPCA's determination. If the MPCA's preliminary determination is to enter into the CBA, the public will have the ability to submit additional public comments during the public notice and comment period for the draft permit. This requirement is explained in the SONAR (p. 158).

1259. The public comments for a CBA will likely contain a wide range of topics and concerns that are specific to each permit application and associated CBA. Due to this, the MPCA cannot provide an exhaustive list of how comments will be considered. Instead, the MPCA is required to consider whether issues raised in comments are addressed in the owner's or operator's responses and in the proposed CBA. To provide transparency to this process, the MPCA must document how the

determination regarding the CBA was made and make this information publicly available.

Community advocating to deny a CBA

1260. The MPCA received 14 comments regarding community feedback on CBAs that requests an option for community members to advocate for a CBA to be rejected or to have the ability to reject a CBA.

1261. **Frontline Communities Protection Coalition-034-40:** The Frontline Communities Protection Coalition stated, "Item (B) - The current language under section 7007.6110 does not properly frame community benefit agreements as a choice but rather an inevitability. Community feedback is gathered under the assumption that an agreement will happen, not whether an agreement should happen. **We believe this is a critical issue with the proposed rule language**. When gathering community feedback, it must be clear that community members can advocate for a CBA being denied. The ability to deny a permit for a facility that will increase pollution in an EJ area aligns with the intent of the law which is embedded in the definition of "environmental justice" at 116.065, Sec. 23, subd. 1 (d), which includes in the definition "meaningful involvement" and "in all decisions … due consideration is given to the history of the area's and its residents' cumulative exposure to pollutants…" The right to say no at any time is also central to the UN's framework for Free, Prior, and Informed Consent. Without the ability to deny a CBA, residents are disenfranchised from the decision-making process in local projects that are polluting their communities. This omission would mean a failure to fulfill the purpose and spirit of this legislation and would force communities to continue to bear a disproportionate burden under the guise of a consensual "social license" to pollute. **This is not what our communities fought for with this law.**

It is evident that the agency does not wish to deny permits under this rule, despite the statute making it clear that permits must be denied if a facility fails to enter into a community benefit agreement. This section must be amended to include consideration of any community feedback that is opposed to entering into a CBA. **Without this amendment, these rules become a patronizing, performative gesture by the MPCA**. Ideally, having a neighborhood advisory council as outlined previously will provide another avenue for receiving feedback, but at minimum the Commissioner must consider community voices that are advocating for a rejection of a CBA and denial of the requested permit action.

1262. **Sierra Club North Star Chapter (complied comments, set 1)-037-15:** Debra Evon stated, "Dear Judge Middendorf, The community benefit agreement (CBA) process needs clear criteria for community members to express if they do not want a CBA, or for the agency Commissioner to deny the proposed CBA. Please create strong, clear rules without loopholes for industry to exploit"

1263. **Norrgard-040-05:** Lois Norrgard stated, "Community Benefit Agreements: The community benefit agreement (CBA) process lacks clear criteria for the commissioner to deny a CBA. Communities must have the ability to express that a community benefit agreement is unwanted. I recommend that the facility owner and MPCA work with community organizations and leaders to create a community council to represent the community. This council would support community outreach, negotiate with the facility owner, and provide a recommendation to either approve or deny the proposed CBA. The commissioner must then respond to the recommendation and give a justification for their decision. This will better ensure that the CBA process is reflective of the community's desire. Communities must have the right to reject a community benefit agreement. Including for all new permits, any major expansions of permits, and the re-issuance of permits. The permit applicant must also show that there will be benefits to the impacted community that go beyond jobs, and for the reissuance of permits there must be an end-date to what seems an openended cycle in the rules draft of a facility going back to the "drawing board" time after time,

month after month, if the CBA is unacceptable by the commissioner as first proposed. This law is ultimately about empowering overburdened communities to determine what facilities can be sited in their areas. We need a regulatory process that works for the people and environment, and community members must be able to reject a community benefit agreement if taking on the additional pollution is not worth it to them.

1264. **Frontline Communities Protection Coalition (compiled comments)-045-04:** Maria Carter-Bertrand stated, “I was excited when the cumulative impacts legislation was passed, and I was proud that the MPCA was protecting me and my neighbors. However, what concerns me is that there is no way for me and my neighbors to express that a community benefit agreement (CBA) is unwanted or for the commissioner to deny a CBA. If the cumulative impacts legislation is truly meant to give us a voice, then we must be able to say that we don't want a CBA. The statute states that "unless the commissioner enters into a community benefit agreement with the facility owner or operator, the commissioner must deny a permit." I recommend that the facility owner and the MPCA work with community organizations and leaders to create a community council to represent the community. This council would support community outreach, negotiate with the facility owner, and provide a recommendation to either approve or deny the proposed CBA. The commissioner must then respond to the recommendation and provide a justification for their decision. This will better ensure that the CBA process reflects my and my neighbors' desires. Thank you for your time.

1265. **Frontline Communities Protection Coalition (compiled comments)-045-10:** Brian PaStarr stated, “I am also concerned about the current Community Benefit Agreement (CBA) process. The rules do not provide clear criteria for when the commissioner can deny a CBA, and there is no clear way for community members to express that they do not want a CBA. This goes against the intent of the statute, which states that “unless the commissioner enters into a community benefit agreement with the facility owner or operator, the commissioner must deny a permit.” A community benefit agreement should reflect what the community actually wants, not simply what a facility owner proposes. I recommend that the facility owner and MPCA work with community organizations and local leaders to create a community council that represents the affected community. This council would support community outreach, help negotiate with the facility owner, and provide a recommendation on whether to approve or deny the proposed CBA. The commissioner should then be required to respond to the council’s recommendation and provide a clear justification for their decision. This process would better ensure that CBAs are meaningful, transparent, and reflective of community needs and desires. Please ask these communities how proposed changes would affect them before approving a program. Then invest in programs that create a positive impact for seven generations or more. Thank you, Brian PaStarr

1266. **Frontline Communities Protection Coalition (compiled comments)-045-34:** Stacy Mooradian stated, “The Community Benefit Agreement (CBA) process lacks clear criteria for the MPCA to deny a Community Benefit Agreement, and it provides no meaningful way for residents to express whether they even want a CBA. This does not align with the statute, which states that “unless the commissioner enters into a community benefit agreement with the facility owner or operator, the commissioner must deny a permit.” The facility owner and the MPCA should work with the community to create a community council that represents the affected residents. This council would support community outreach, negotiate with the facility owner, and provide a recommendation on whether to approve or deny a proposed CBA. Following this process, the Commissioner should respond to the council's recommendation and provide a justification for their decision. This would better ensure that the CBA process reflects the community's wishes. Please revisit the proposed rule to ensure it aligns with the statute and meets the needs of the Minnesotans the law is intended to protect.”

1267. **Frontline Communities Protection Coalition (compiled comments)-045-62:** Karen Lunde stated, “The Community Benefit Agreement (CBA) process lacks clear criteria for the Commissioner to deny a Community Benefit Agreement. There is no meaningful way for community members to express that a CBA is unwanted or for the Commissioner to deny a CBA. This goes against the statute, which states that "unless the commissioner enters into a community benefit agreement with the facility owner or operator, the commissioner must deny a permit." I recommend that the facility owner and the MPCA work with community organizations and leaders to create a community council to represent the community. This council would support community outreach, negotiate with the facility owner, and provide a recommendation on whether to approve or deny the proposed CBA. The Commissioner should then respond to the recommendation and provide a justification for their decision. This would better ensure that the CBA process reflects the community's wishes.”

1268. **Frontline Communities Protection Coalition (compiled comments)-045-67:** Paul Moss stated, “The Community Benefit Agreement (CBA) process also lacks clear criteria for the Commissioner to deny a Community Benefit Agreement. There is currently no meaningful way for community members to express that a CBA is unwanted or for the Commissioner to deny a CBA. This does not align with the statute, which states that “unless the commissioner enters into a community benefit agreement with the facility owner or operator, the commissioner must deny a permit.” I recommend that the facility owner and the MPCA work with community organizations and leaders to create a community council that represents the community. This council would support community outreach, negotiate with the facility owner, and provide a recommendation on whether to approve or deny the proposed CBA. The Commissioner should then respond to the recommendation and provide a justification for their decision. This would better ensure that the CBA process reflects the community’s desires. Thank you for considering these comments.”

1269. **Frontline Communities Protection Coalition (compiled comments)-045-78:** Chel Anderson stated, “Create clear criteria for Community Benefit Agreements (CBAs). The rules need to provide clear criteria for when the Commissioner can deny a Community Benefit Agreement, which the current draft does not. This raises an important question: within the context of the statute, which states that “unless the commissioner enters into a community benefit agreement with the facility owner or operator the commissioner must deny a permit,” how can a permit be denied, or how can a community express that it does not want a Community Benefit Agreement?

To ensure the process is clear and reflects the community’s perspective, the MPCA and facility owners should work with community organizations and leaders to create a community council that represents the affected community. This council could support community outreach, negotiate with the facility owner, and provide a recommendation on whether to approve or deny a proposed Community Benefit Agreement. The Commissioner should be required to respond to the council’s recommendation and provide a justification for their decision.

Clean air is fundamental to health and should be a reality for every Minnesotan, regardless of geography or income. There is no excuse not to use the opportunities provided by the 2023 Cumulative Impacts Law to address the unacceptable air quality inequalities that exist across Minnesota.”

1270. **Frontline Communities Protection Coalition (compiled comments)-045-82:** Bridget Guiza stated, “The Community Benefit Agreement (CBA) process lacks clear criteria for the Commissioner to deny a Community Benefit Agreement. There is currently no meaningful way for community members to express that a Community Benefit Agreement is unwanted, or for the Commissioner to deny a CBA. This conflicts with the statute, which states that “unless the commissioner enters into a community benefit agreement with the facility owner or operator, the commissioner must deny a

permit." I recommend that facility owners and the MPCA work with community organizations and leaders to create a community council that represents the affected community. This council would support community outreach, negotiate with the facility owner, and provide a recommendation on whether to approve or deny a proposed CBA.

The Commissioner should then be required to respond to the council's recommendation and provide a justification for their decision. This would better ensure that the CBA process reflects the community's needs and priorities.

Thank you for taking the time to consider these comments and for your public service."

1271. **Frontline Communities Protection Coalition (compiled comments)-045-95:** Beth Daniels stated, "It concerns me that the current draft rules do not provide clear mechanisms for a community to say "no" to a Community Benefit Agreement (CBA), nor do they define when a Commissioner would deny a permit. The sections addressing the Cumulative Impact (CI) analysis and substantial adverse impacts (SAI) need additional strength. In particular, there is no clear method for determining how environmental and public health stressors contribute to adverse impacts. Additionally, pathways for assessing the cumulative impacts of existing facilities are not addressed. These gaps put Environmental Justice (EJ) communities at a severe disadvantage.

To address this gap, the rules should define clear permit denial criteria, including specific circumstances under which the Commissioner must deny a permit, consistent with statutory requirements. In addition, the rules should establish a community council process that requires facilities to engage with a representative group of local community organizations. This group should have the ability to make recommendations to the Commissioner and receive a response explaining the decision.

1272. **Frontline Communities Protection Coalition (compiled comments)-045-186:** Max McMeeken stated, The community benefit agreement (CBA) process lacks clear criteria for the commissioner denying a community benefit agreement. There is no ability for community members to express that a community benefit agreement is unwanted or for the commissioner to deny a CBA. This goes against the statute, which states that "unless the commissioner enters into a community benefit agreement with the facility owner or operator the commissioner must deny a permit". I recommend that the facility owner and MPCA work with community organizations and leaders to create a community council to represent the community. This council would support community outreach, negotiate with the facility owner, and provide a recommendation to either approve or deny the proposed CBA. The commissioner must then respond to the recommendation and give a justification for their decision. This will better ensure that the CBA process is reflective of the community's desire."

1273. **Frontline Communities Protection Coalition (compiled comments)-045-194:** Anne Englert stated, "Another concern I have with these draft rules is that the CBA process lacks specific criteria for the commissioner to deny a community benefit agreement. There is also no ability for community members to express that a community benefit agreement is unacceptable. I suggest that the facility owner and the MPCA work together with community leaders to create a council to represent the community. This council would reach out to residents, negotiate with the facility owner, and make a recommendation to approve or deny the proposed CBA. The commissioner must then respond to the recommendation and give a justification for their decision. This process will better ensure that the desires of the community are incorporated into the agreement."

1274. **Sierra Club North Star Chapter (complied comments, set 2)-047-06:** Susan Dragsten stated, "In addition, please model the cumulative impacts analysis after the New Jersey law. We need strong

laws agains [sic] pollution and the public must be given adequate time and space to comment on these rules. In this regard, the community benefit agreement process needs clear criteria for community members to express if they do not want a CBA."

MPCA RESPONSE

1275. Part 7007.6110, subpart 2 and part 7007.6080, subpart 4 establish public meeting requirements, which require an owner or operator to hold, at a minimum, two public meetings for a cumulative impacts analysis and two public meetings for a CBA. Part 7007.6080, subpart 5 establishes specific requirements for these meetings, including requiring the owner or operator to accept written and oral comments, provide a video and audio recording of the meetings, and provide public comment periods. Part 7007.6080, subpart 5, item E also requires an MPCA representative to be present at all required meetings. The intent of these meetings and comment periods is to provide opportunities for community members to voice support or opposition of a CBA and provide recommendations. Nothing in the rule precludes any individual or organization from submitting comments during the public meetings and comment periods that advocate against the CBA from being entered into.

1276. As explained in the SONAR (p. 156-157), the MPCA must consider comments received during the public notice and comments periods when determining whether to enter into a CBA. The MPCA encourages individuals and organizations to submit sincere comments that specify whether the commenter is in support of or against the CBA being entered into and why. The MPCA must consider these comments as well as the cumulative impacts analysis in determining whether to enter into a CBA, per part 7007.6110, subpart 9, item B, subitems (2) and (5). If the CBA and the owner's or operator's responses to comments do not address the issues raised in public comments, as required per part 7007.6110, subpart 9, and item A, subitems (3) and (4), then the MPCA cannot enter into the CBA.

1277. The MPCA did not include a process for community to approve or deny a CBA because doing so would be an impermissible delegation of the MPCA's powers under Minn. R. 1400.2100. As a CBA is required in order to issue a permit when a cumulative impacts analysis has determined there is a substantial adverse impact, allowing approval or denial of CBAs by community would grant external parties permitting authority which they do not have and MPCA legally cannot delegate, per Minn. R. 1400.2100(F). Additionally, Minn. Stat. § 116.065, subd. 5 expressly states a CBA is between the MPCA and an owner or operator.

Community recommendations on CBA and permit decisions

1278. The MPCA received one comment regarding CBAs and permits that requests the ability for community to provide recommendations to the MPCA on a CBA and for the MPCA to consider those recommendations when making a permit decision.

1279. **Minnesota Environmental Justice Table-031-10:** The Minnesota Environmental Justice Table stated, "**Community benefit agreement and air permit decision**

We appreciate the intent of the community benefit agreement (CBA) and believe that it has the potential to create true mutual benefits for the facility and community. However, it is possible that a community may not ultimately want a CBA if they feel that the harms from the facility outweigh the benefits in the CBA. Communities should be able to provide a recommendation to the MPCA about whether they want a CBA, and the Commissioner should take this recommendation into consideration when making the air permit decision."

MPCA RESPONSE

1280. Part 7007.6080, subpart 8, items A and B specify when the owner or operator must provide an

opportunity for and accept public comments before a CBA is reviewed by the MPCA. The owner or operator must provide at least 30 calendar days for public comment for each public meeting identified in part 7007.6080, subpart 4, item B, subitems (1) and (2). Part 7007.6080, subpart 4, item B, subitem (1) specifies that a public meeting must be held before the draft CBA is prepared, and part 7007.6080, subpart 4, item B, subitem (2) specifies that a public meeting must be held after the draft CBA is prepared. The public comment periods associated with these two public meetings provide opportunity for public comments to be submitted before a CBA is reviewed by the MPCA.

1281. In determining whether to enter into a CBA, part 7007.6110, subpart 9, item B, subitems (5) and (6) requires the MPCA to consider public comments and the owner's or operator's responses to comments, and part 7007.6110, subpart 9, and item A, subitems (3) and (4) only allow the MPCA to enter into a CBA if the CBA demonstrates that it and the owner's or operator's responses address the issues raised in public comments.

1282. Additionally, part 7007.6110, subpart 10 requires the MPCA to document how this information was weighted when making the determination regarding whether to enter into a CBA. This information will be publicly available within 30 calendar days of the MPCA's determination. If the MPCA's preliminary determination is to enter into the CBA, the public will have the ability to submit additional public comments during the public notice and comment period for the draft permit.

Community involvement in permit decisions

1283. The MPCA received nine comments regarding permit decisions that identified requests for a process in the rule that allows community to be involved in permit approval or denial decisions.

1284. **Norrgard-029-03:** Jeanne Norrgard stated, "It should not be left solely to the facility or industry to decide if they are being a good neighbor. Neighborhoods should be able to negotiate with a facility on a Community Benefit Agreement (CBA) and then provide their recommendation directly to the MPCA Commissioner on whether to approve or deny a permit, plus receive a response back from the MPCA with an explanation of the commissioner's response. The industry's contribution to the cumulative negative health effects in any given EJ neighborhood must be measured and factored into any permitting decision affecting that neighborhood.

1285. **Frontline Communities Protection Coalition-034-40:** The Frontline Communities Protection Coalition stated, "Item (B) - The current language under section 7007.6110 does not properly frame community benefit agreements as a choice but rather an inevitability. Community feedback is gathered under the assumption that an agreement will happen, not whether an agreement should happen. **We believe this is a critical issue with the proposed rule language**. When gathering community feedback, it must be clear that community members can advocate for a CBA being denied. The ability to deny a permit for a facility that will increase pollution in an EJ area aligns with the intent of the law which is embedded in the definition of "environmental justice" at 116.065, Sec. 23, subd. 1 (d), which includes in the definition "meaningful involvement" and "in all decisions … due consideration is given to the history of the area's and its residents' cumulative exposure to pollutants…" The right to say no at any time is also central to the UN's framework for Free, Prior, and Informed Consent. Without the ability to deny a CBA, residents are disenfranchised from the decision-making process in local projects that are polluting their communities. This omission would mean a failure to fulfill the purpose and spirit of this legislation and would force communities to continue to bear a disproportionate burden under the guise of a consensual "social license" to pollute. **This is not what our communities fought for with this law.**

It is evident that the agency does not wish to deny permits under this rule, despite the statute making it clear that permits must be denied if a facility fails to enter into a community benefit

agreement. This section must be amended to include consideration of any community feedback that is opposed to entering into a CBA. **Without this amendment, these rules become a patronizing, performative gesture by the MPCA.** Ideally, having a neighborhood advisory council as outlined previously will provide another avenue for receiving feedback, but at minimum the Commissioner must consider community voices that are advocating for a rejection of a CBA and denial of the requested permit action.

1286. **Frontline Communities Protection Coalition (compiled comments)-045-78:** Chel Anderson stated, "Create clear criteria for Community Benefit Agreements (CBAs). The rules need to provide clear criteria for when the Commissioner can deny a Community Benefit Agreement, which the current draft does not. This raises an important question: within the context of the statute, which states that "unless the commissioner enters into a community benefit agreement with the facility owner or operator the commissioner must deny a permit," how can a permit be denied, or how can a community express that it does not want a Community Benefit Agreement?

To ensure the process is clear and reflects the community's perspective, the MPCA and facility owners should work with community organizations and leaders to create a community council that represents the affected community. This council could support community outreach, negotiate with the facility owner, and provide a recommendation on whether to approve or deny a proposed Community Benefit Agreement. The Commissioner should be required to respond to the council's recommendation and provide a justification for their decision.

Clean air is fundamental to health and should be a reality for every Minnesotan, regardless of geography or income. There is no excuse not to use the opportunities provided by the 2023 Cumulative Impacts Law to address the unacceptable air quality inequalities that exist across Minnesota."

1287. **Frontline Communities Protection Coalition (compiled comments)-045-95:** Beth Daniels stated, "It concerns me that the current draft rules do not provide clear mechanisms for a community to say "no" to a Community Benefit Agreement (CBA), nor do they define when a Commissioner would deny a permit. The sections addressing the Cumulative Impact (CI) analysis and substantial adverse impacts (SAI) need additional strength. In particular, there is no clear method for determining how environmental and public health stressors contribute to adverse impacts. Additionally, pathways for assessing the cumulative impacts of existing facilities are not addressed. These gaps put Environmental Justice (EJ) communities at a severe disadvantage.

To address this gap, the rules should define clear permit denial criteria, including specific circumstances under which the Commissioner must deny a permit, consistent with statutory requirements. In addition, the rules should establish a community council process that requires facilities to engage with a representative group of local community organizations. This group should have the ability to make recommendations to the Commissioner and receive a response explaining the decision.

1288. **Frontline Communities Protection Coalition (compiled comments)-045-186:** Max McMeeken stated, "The community benefit agreement (CBA) process lacks clear criteria for the commissioner denying a community benefit agreement. There is no ability for community members to express that a community benefit agreement is unwanted or for the commissioner to deny a CBA. This goes against the statute, which states that "unless the commissioner enters into a community benefit agreement with the facility owner or operator the commissioner must deny a permit". I recommend that the facility owner and MPCA work with community organizations and leaders to create a community council to represent the community. This council would support community outreach, negotiate with the facility owner, and provide a recommendation to either approve or deny the

proposed CBA. The commissioner must then respond to the recommendation and give a justification for their decision. This will better ensure that the CBA process is reflective of the community's desire."

1289. **Health Professionals for a Healthy Climate (compiled Comments)-046-47:** Ava Corey-Gruenes stated, "*From a reproductive justice lens, I am particularly concerned with protecting communities' ability to say "no," or revoke consent, to pollution that harms their health, and the health of their children. Just as we should be allowed to say "no" to any other issue that harms our bodies, we should be able to say "no" to pollution. Communities deserve to have their "no" respected—not met with "how can I convince you?". Neglecting to provide a path for communities to deny a permit (either directly or through the CBA process) undermines the legitimacy of any permit that is granted, or CBA that is created—if you can't say "no", it's not an agreement. I'm also concerned about how this undermines communities' power to negotiate the conditions under which they might consent to a particular source of pollution. If a company understands that a CBA will be approved eventually regardless of consent, communities have very little bargaining power. Conversely, allowing communities to say "no" would increase the likelihood that companies agree to CBAs that yield more significant benefits for communities. For this reason, I ask that when impacted people indicate that they do not consent to a particular source of pollution, that should be the end of the conversation—the MPCA should respect that "no" and deny or revoke the permit. Thank you so much for your time and consideration.*"

1290. **Sierra Club North Star Chapter (complied comments, set 2)-047-03:** Kris Acuña stated, "We should have a say in what these polluting facilities are and are not able to do in our communities, our environment, and our health. The rules as currently written do not allow us to say "No" to a permit if we are not satisfied with the CBA. The permit denial criteria should be clearly defined. I'm asking you to model the cumulative impacts analysis after the New Jersey law. Thank you for creating a healthier MN."

1291. **Ohse-050-03:** Madonna Ohse stated, "To ensure these positive aspects of our neighborhood are maintained in a healthy environment, there must be defined permit denial criteria regarding the Community Benefit Agreement, so that a community has a mechanism to say no. I recommend that facilities be required to work with local community organizations to form a representative body that can negotiate CBAs and provide the Commissioner a recommendation to approve or deny. This process creates engagement and relationship for the greater good of all.

1292. **Ivan-058-02:** Ivan stated, "A lot of Rochester is impacted by continued construction as well. These facilities should be required to follow emission guidelines determined by the community benefit agreement (CBA). However, if there is no way for a community to say "no" then there is no way for construction to be barred. An easier way to solve this issue is to define permit denial criteria, spell out exactly how a commissioner may deny a permit. Stop putting the pull under the potential polluter's control."

MPCA RESPONSE

1293. Minn. Stat. § 116.065, subd. 5(b) establishes a reason to deny a permit, which states, "Unless the commissioner enters into a community benefit agreement with the facility owner or operator, the commissioner must deny a permit subject to this section for a facility in an environmental justice area if the cumulative impacts analysis determines that issuing the permit, in combination with the environmental stressors present in the environmental justice area and considering the socioeconomic impact of the facility to the residents of the environmental justice area, would have a substantial adverse impact on the environment or health of the environmental justice area and its residents." This is also reflected in the new language added in part 7007.1000, subpart 2, item H.

1294. In determining if there is a substantial adverse impact, the environmental stressors present in the community will be taken into consideration by the MPCA, per part 7007.6100, subpart 1, item B, subitem (3). The actual health and environmental conditions of the community will also be deduced from information provided during the initial assessment outlined in part 7007.6020, subpart 6, which utilizes the environmental stressors database outlined in part 7007.6020, subpart 5, as well the cumulative impacts analysis contents that are required to be provided in part 7007.6090, subpart 3. The initial assessment will ensure that permits in communities facing high burdens from existing stressors and conditions undergo the cumulative impact analysis process. The MPCA contends that the contents required for the cumulative impact analysis outlined in part 7007.6090, subparts 3 to 5 provide an adequate understanding of the current health and environmental conditions of the community necessary to determine whether there is the potential for a substantial adverse impact. Additionally, many of the non-air impacts do not have clear, numerical benchmarks available for comparison, and when they do exist, they may change over time with emergence of new scientific literature. For this reason, the proposed rule does not list any specific numerical thresholds. Given that the rule is written for air emission permits, the MPCA needs to consider how air emissions from a requested permit action will impact the health and environmental conditions of the community. The strongest and clearest method for understanding the potential risk of these emissions on the health and environment of the community are achieved through criteria air pollutant modeling as well as air toxic risk assessment. The modeling and risk assessment thresholds established in part 7007.6100, subpart 1, item A, subitems (1) and (2) are derived from scientifically robust, health-protective values.

1295. Per Minn. Stat. § 116.065, subd. 1(h), permit is defined as, "a major source air permit, as defined in Minnesota Rules, part 7007.0200, or a state air permit required under Minnesota Rules, part 7007.0250, subpart 5 or 6. Permit includes a permit required for new construction or facility expansion or the reissuance of an existing permit." Therefore, existing stationary sources that propose new construction or facility expansion must conduct a cumulative impacts analysis. Existing stationary sources that come up for permit reissuance must conduct a cumulative impacts analysis if the stationary source was issued a violation according to part 7007.6050, subpart 4, item C. General, registration, and capped permit are exempt from the proposed rule, per part 7007.6020, subpart 2, item A, subitems (1) to (3). As explained in the SONAR (p. 72), the Minnesota Rules that identify provisions for these types of permits are not included in the definition of "permit" in Minn. Stat. § 116.065, and therefore are not subject to the proposed rules.

1296. If it is determined that the requested permit action would have a substantial adverse impact on the environment or health of the environmental justice area and its residents, the owner or operator is required to develop a CBA in accordance with part 7007.6080 and part 7007.6110. Part 7007.6080 specifies public participation requirements in developing a CBA, including public meetings, notice, and comment periods, per part 7007.8060, subparts 4 to 8. Part 7007.6110, subpart 9, item A specifies the requirements that must be satisfied before the MPCA can enter into a CBA, including demonstrating that the CBA and owner's or operator's responses address the issues raised during the CBA public notice and comment periods described in part 7007.6080. If those requirements are not satisfied, part 7007.6110, subpart 9, item C requires the owner or operator to provide additional information, or revise the community benefit agreement based on information considered in part 7007.6110, subpart 9, item B, to demonstrate or ensure the CBA satisfies the requirements of part 7007.6110, subpart 9, item A.

1297. If the owner or operator does not provide additional information or revise the community benefit agreement, the MPCA will not enter into the CBA and must deny the permit, per Minn. Stat. § 116.065, subd. 5(b), and part 7007.1000, subpart 2, item H. The SONAR (p. 154-157) provides an

explanation of the information the commissioner must consider and what requirements must be met before the commissioner can enter into a CBA. For example, the SONAR (p. 155) specifies that part 7007.6110, subpart 9, items A and B require that the commissioner, in determining whether to enter into the CBA, must consider whether the CBA and owner's or operator's responses address the issues raised in the public notice and comment periods.

1298. Additionally, the MPCA did not include a process in the rule that allows community to direct permit approval or denial decisions because doing so would be an impermissible delegation of the MPCA's powers under Minn. R. 1400.2100. Allowing approval or denial of a permit by community would grant external parties permitting authority which they do not have and MPCA legally cannot delegate, per Minn. R. 1400.2100(F). Additionally, Minn. Stat. § 116.065, subd. 5(b) and subd. 5(c) expressly state a CBA is between the MPCA and an owner or operator. Once an owner or operator has prepared a CBA with input from community and submitted the CBA for review, the MPCA must prepare a written document that documents how information considered was weighted when making the determination regarding whether to enter into a CBA, per part 7007.6110, subpart 10. Per part 7007.6110, subpart 9, item B, some of the information that must be considered must include comments received during the public participation process required under part 7007.6080. The proposed CBA must demonstrate that it addresses issues raised in public comments and gives priority to benefits that directly impact the residents of the impacted environmental justice area. The written document will be publicly available within 30 calendar days of the MPCA's determination. If the MPCA's preliminary determination is to enter into the CBA, the public will have the ability to submit additional public comments during the public notice and comment period for the draft permit.

1299. While community members may not get to approve or deny a permit, the MPCA and owners or operators are required to engage early and often with community members, per part 7007.6080, starting once it is determined that a cumulative impacts analysis is required and continuing through the preliminary determination for the CBA. Part 7007.6080, subpart 3, item A requires the owner or operator to develop a CBA public participation plan. The plan must include details of how the owner or operator will comply with the public participation requirements, which include public meetings, public notices and comments, and providing a large amount of information to the public. Part 7007.6080 requires the MPCA to review and approve the CBA public participation plan, attend the public meetings, and post information provided by the owner or operator on the agency website so the information is widely accessible. The CBA public participation plan provides community members opportunities to participate in the CBA process and provide comments, which the MPCA must consider and will help inform the MPCA's decision on whether to enter into a CBA.

1300. The MPCA considers the requirements of a CBA public participation plan to be meaningful involvement. In addition to the requirements for public meetings, public comment opportunities, and information to be provided, the proposed rule also includes language and translation requirements so that "all people, regardless of race, color, national origin, or income" can participate. The MPCA firmly believes it has adhered to the statute, seizing opportunities to develop rules, while balancing the limits to MPCA's rulemaking authority. It is unclear what portions of Minn. Stat. § 116.065 one commenter feels MPCA did not seize or use. Without more specifics on Minn. Stat. § 116.065, MPCA cannot respond to the specific opportunities this commenter feels MPCA has failed to use.

CBA revisions and permit denial

1301. The MPCA received 22 comments regarding CBA revisions and permit denial that identified requests for a process in the rule that prevents multiple revisions of a CBA and results in a permit

denial.

1302. **Hamline Midway Coalition-003-09:** The Hamline Midway Coalition stated, “The lack of clarity in how public comments will be considered in the decision to approve or deny a CBA creates a serious accountability concern. Additionally, it’s not entirely clear at what point the proposed CBA is no longer allowed revisions or if there is a pathway to deny a permit through this process if the community at large determines no meaningful benefits can be gained from the proposed permit action. The CBA process needs to have the addition of a clearer pathway to permit denial, not endless revisions, in order to align with the statute.”

1303. **Karlgaard-005-02:** Ben Karlgaard stated, “One of the issues with the current set of rules is that there is no clear path to deny a permit. Under the current draft, a proposed facility can keep revising its Community Benefit Agreement until it gets approved. To me, this means that even the most ill-advised project could eventually be approved, even if the community doesn’t want it. Instead, there should be clearly defined permit denial criteria, informed by community input. Industry is important, but there are clear cases when projects are not suitable for certain areas.”

1304. **Johnson-008-01:** Jan Johnson stated, “I’m concerned about the gap where a facility can keep revising its Community Benefit Agreement until it gets approved with no chance for the community to say no, plus no circumstances are established by which the Commissioner would deny a permit. Of course, this goes against the statute – “the Commissioner must deny a permit unless a CBA is entered”. This concerns me personally as my husband has a chronic health condition (COPD) which makes him more vulnerable to the effects of air pollution. We have cinder-like debris on our windowsills and smelly air from WLSSD [Western Lake Superior Sanitary District], a really valuable resource for the community, although stinky… So perhaps arriving at “permit denied criteria” that will point out specific circumstances under which the Commissioner must deny a permit—consistent with what the Statute requires. Of course, inviting the community to form a representative body that can negotiate CBA’s and offer recommendations.”

1305. **Hankerson-019-04:** Stephanie Hankerson stated, “The rule should establish a clear opportunity for public comment before a Community Benefit Agreement is approved. It should also require a transparent revision process with defined deadlines, after which no further revisions may be made, and it should explicitly provide a pathway for denying a permit if an acceptable agreement cannot be reached.”

1306. **Coming Clean Network-024-05:** The Coming Clean Network stated, “Weak or Inadequate Requirements - No clear path to deny a permit. Under the current draft, a facility can keep revising its Community Benefit Agreement (CBA) until it gets approved. There is no mechanism for a community to say "no," and no circumstances are defined under which the Commissioner would deny a permit. This provision does not fulfill statutory requirements, which say the Commissioner must deny a permit unless a CBA is entered.”

1307. **Bonin-025-02:** Elizabeth Bonin stated, “I see that a facility can keep revising and submitting its Community Benefit Agreement (CBA) until it is approved, but there are no rules on when the Commissioner can completely deny a CBA and the permit for the facility. There should absolutely be criteria for denying a permit, such as a two-strike rule – if the facility submits a CBA and it gets sent back for revision twice, then the permit is denied. Even better, perhaps the Commissioner is required to conduct several community events (town halls) where community members living near the proposed facility can voice their concerns and recommendations about the facility and its CBA. The Commissioner could then be required to base the decision on approving or denying the CBA or permit on community input from those events. The events should also have an option to submit comments to the Commissioner virtually, as not everyone is physically able to attend in-person

events."

1308. **Frontline Communities Protection Coalition-034-41:** The Frontline Communities Protection Coalition stated, "Item (C) - Similar to before, this section frames community benefit agreements as inevitable. Any facility that fails to meet the criteria must simply keep revising a CBA until the MPCA approves it. There is also no room for further community input for a CBA that fails to meet the criteria. This may result in private negotiation between a facility owner or operator and the MPCA until the Commissioner ends up approving the CBA. This is particularly problematic when it comes to permit reissuances, as those facilities do not have an incentive to enter into a CBA as they can continue operating on their old permit until a new one is approved. **There must be clear criteria under which the MPCA will deny a CBA, both for situations when the impacted environmental justice area clearly does not want one and when a facility owner or operator is continuously failing to put forward a viable CBA**. The rules directly reference the ability of the Commissioner to deny a proposed CBA in part 7007.1000, subpart 2, item (H). This is a restatement of what the statute directly describes as well, yet the proposed rules lack any provisions that regulate how a permit would be denied when a facility owner or operator fails to enter into a CBA.

Finally, **we believe that accountability and enforcement are critical aspects of this part of the law and have not been properly outlined in the proposed draft rules**. There is no information about what happens if a facility is found to be in violation of a community benefit agreement or how that would affect their permit. We propose that the CBA be included in the permit and that the MPCA should come up with a protocol for addressing facilities that are not complying with a CBA. This protocol should leave room for re-entering compliance or modifying the CBA, but not allow facilities to get away with a slap on the wrist for continued violation. **A CBA is an acknowledgement that a facility is having a significant impact on a historically marginalized community**. Any violation should be taken seriously, and should result in permit revocation when necessary."

1309. **Minnesota Public Health Association-035-05:** Minnesota Public Health Association stated, "**707.6110. Community benefit agreements**. [sic] The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not lay out any circumstances under which the commissioner would deny a CBA. We recommend that the MPCA and owner/operator work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement."

1310. **Health Professionals for a Health Climate-038-11:** The Health Professionals for a Health Climate stated, "**7007.6110 Community benefit agreements**. HPHC agrees with the Frontline Communities Protection Coalition (FCPC) comment that the community benefit agreement (CBA) process needs clear criteria and process for denial. The proposed rules describe a process that allows an owner/operator numerous opportunities to revise the CBA to meet requirements. However, it is unclear at which point the community can decide that the CBA is unwanted and the permit should be denied.

We recommend that the MPCA and owner/operator work with community organizations and representatives to create a community council to represent the community. This informal body could support community outreach, negotiate directly with a facility owner/operator, and provide a recommendation to either approve or deny the proposed CBA. The commissioner must then respond to the recommendation and give a justification for their decision. This would better ensure that the CBA process adequately represents the community's desires.

1311. **Norrgard-040-05:** Lois Norrgard stated, "Community Benefit Agreements: The community benefit agreement (CBA) process lacks clear criteria for the commissioner to deny a CBA.

Communities must have the ability to express that a community benefit agreement is unwanted. I recommend that the facility owner and MPCA work with community organizations and leaders to create a community council to represent the community. This council would support community outreach, negotiate with the facility owner, and provide a recommendation to either approve or deny the proposed CBA. The commissioner must then respond to the recommendation and give a justification for their decision. This will better ensure that the CBA process is reflective of the community's desire. Communities must have the right to reject a community benefit agreement. Including for all new permits, any major expansions of permits, and the re-issuance of permits. The permit applicant must also show that there will be benefits to the impacted community that go beyond jobs, and for the reissuance of permits there must be an end-date to what seems an openended cycle in the rules draft of a facility going back to the "drawing board" time after time, month after month, if the CBA is unacceptable by the commissioner as first proposed. This law is ultimately about empowering overburdened communities to determine what facilities can be sited in their areas. We need a regulatory process that works for the people and environment, and community members must be able to reject a community benefit agreement if taking on the additional pollution is not worth it to them.

1312. **Frontline Communities Protection Coalition (compiled comments)-045-104:** Julie Bode stated, "That is why I am concerned that the proposed cumulative impacts draft rules do not provide a clear path for denying a permit when a new or existing facility would add to the environmental burdens already facing communities like mine.

Under the current draft, a facility can continue revising its Community Benefit Agreement (CBA) until it is approved. There is no clear process for a community to say "no," and there are no specific circumstances that require the Commissioner to deny a permit. As someone who lives in an overburdened neighborhood, I see this as a significant gap in the rules. If cumulative impacts reviews are meant to protect Environmental Justice communities, there must be clear standards for when a permit should be denied.

For me, a meaningful community benefit is not simply a donation or a promise on paper. It means cleaner air, healthier soil, fewer pollution-related health risks, and confidence that my neighborhood will not continue to carry a disproportionate share of environmental harm. The people who live near these facilities and experience their impacts every day should have a meaningful voice in determining whether a facility is truly being a good neighbor.

I urge the MPCA to establish clear permit denial criteria that align with the intent of the law and provide real protections for communities already carrying significant environmental burdens. Without a clear pathway to deny permits when cumulative impacts become too great, these rules risk falling short of the protections that Environmental Justice communities need and deserve."

1313. **Health Professionals for a Health Climate (compiled comments)-046-08:** Rachel Wormer stated, "3. Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement. Thank you for the opportunity to comment on these critical public health rules."

1314. **Health Professionals for a Health Climate (compiled comments)-046-12:** Joshua Houdek stated, "3. Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets

requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement. Thank you for the opportunity to comment on these critical public health rules."

1315. **Health Professionals for a Health Climate (compiled comments)-046-16:** Michael Overend stated, "3. Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement. Thank you for the opportunity to comment on these critical public health rules."

1316. **Health Professionals for a Health Climate (compiled comments)-046-20:** Sophie Scharner stated, "3. Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement. Thank you for the opportunity to comment on these critical public health rules."

1317. **Health Professionals for a Health Climate (compiled comments)-046-24:** Dana Janowiak stated, "3. Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement. Thank you for the opportunity to comment on these critical public health rules."

1318. **Health Professionals for a Health Climate (compiled comments)-046-28:** Michael Maleska stated, "3. Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement. Thank you for the opportunity to comment on these critical public health rules."

1319. **Health Professionals for a Health Climate (compiled comments)-046-32:** Crystal Goggleye stated, "3. Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement. Thank you for the opportunity to comment on these critical public health rules."

1320. **Health Professionals for a Health Climate (compiled comments)-046-36:** Bryce Purdy stated, "3.

Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement. Thank you for the opportunity to comment on these critical public health rules."

1321. **Health Professionals for a Health Climate (compiled comments)-046-40:** Emily Onello stated, "3. Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement."

1322. **Health Professionals for a Health Climate (compiled comments)-046-45:** Jessica Fisher stated, "3. Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement. Thank you for the opportunity to comment on these critical public health rules."

1323. **Bisht-059-02:** Richa Bisht stated, "<u>One of the major gaps</u> in the current cumulative impacts draft rules is that there is not a clear path to deny a permit. Facilities can keep fixing their community benefit agreement until it is approved. Communities are not allowed to say "no," which takes away agency from communities and puts them at the mercy of industries who may not understand the importance of keeping these areas healthy and clean. <u>I support</u> clear definitions for permit denial."

MPCA RESPONSE

1324. Minn. Stat. § 116.065, subd. 5(b) establishes a reason to deny a permit, which states, "Unless the commissioner enters into a community benefit agreement with the facility owner or operator, the commissioner must deny a permit…". This is also reflected in the new language added in part 7007.1000, subpart 2, item H. Part 7007.6110, subpart 9, item A specifies the requirements that must be satisfied before the MPCA can enter into a CBA, including demonstrating that the CBA and owner's or operator's responses address the issues raised during the CBA public notice and comment periods described in part 7007.6080, and that the CBA gives priority to benefits that directly impact the residents of the impacted environmental justice area. If those requirements are not satisfied, part 7007.6110, subpart 9, item C requires the owner or operator to provide additional information, or revise the community benefit agreement based on information considered in part 7007.6110, subpart 9, item B, to demonstrate or ensure the CBA satisfies the requirements of part 7007.6110, subpart 9, item A.

1325. If the owner or operator does not provide additional information or revise the community benefit agreement, the MPCA will not enter into the CBA and must deny the permit, per Minn. Stat. § 116.065, subd. 5(b), and part 7007.1000, subpart 2, item H. The SONAR (p. 154-157) provides an explanation of the information the commissioner must consider and what requirements must be met before the commissioner can enter into a CBA. For example, the SONAR (p. 155) specifies that part 7007.6110, subpart 9, items A and B require that the commissioner, in determining whether to

enter into the CBA, must consider whether the CBA and owner's or operator's responses address the issues raised in the public notice and comment periods.

1326. Part 7007.6110, subpart 10 requires the MPCA to document how this information was weighted when making the determination about whether to enter into a CBA. This information will be publicly available within 30 calendar days of the MPCA's determination. If the MPCA's preliminary determination is to enter into the CBA, the public will have the ability to submit additional public comments on a CBA during the public notice and comment period for the draft permit.

1327. This process applies to a permit if the cumulative impacts analysis demonstrates that issuing the permit would have a substantial adverse impact on the environment or health of the environmental justice area and its residents. Per Minn. Stat. § 116.065, subd. 1(h), permit is defined as, "a major source air permit, as defined in Minnesota Rules, part 7007.0200, or a state air permit required under Minnesota Rules, part 7007.0250, subpart 5 or 6. Permit includes a permit required for new construction or facility expansion or the reissuance of an existing permit." Therefore, if a cumulative impacts analysis demonstrates substantial adverse impacts would result from reissuance, expansion, or new construction of one of these permits, the owner or operator is required to go through the CBA process. General, registration, and capped permit are exempt from the proposed rule, per part 7007.6020, subpart 2, item A, subitems (1) to (3). As explained in the SONAR (p.72), the Minnesota Rules that identify provisions for these types of permits are not included in the definition of "permit" in Minn. Stat. § 116.065, and therefore are not subject to the proposed rules.

1328. Additionally, Minn. Stat. § 116.065, subd. 6(c)(4) states, "Rules adopted under this section must: establish the content of a community benefit agreement and procedures for entering into community benefit agreements, which must include:" (i) active outreach to residents to promote community participation; and (ii) considerations that gives priority to considerations that directly impact residents of the environmental justice area. In part 7007.6110, subpart 2 to 10, the MPCA has established the content of and procedures for entering into a CBA. It is reasonable to expect that some proposed CBAs will need revisions to comply with the content and procedures required by the rule. Allowing revisions provides the owner or operator, MPCA, and community an iterative process to improve a proposed CBA, and ensure the CBA complies with the rule. Each CBA will be unique and specific to the communities that they serve so it is not feasible to identify a universal deadline by which revisions are no longer allowed, and would potentially be restrictive in ensuring the CBA addresses communities' needs.

MPCA creation of a community advisory council

1329. The MPCA received 33 comments regarding creating a community advisory council that identified requests for a process in the rule for developing a community council that would facilitate outreach, negotiate the CBA, and approve or deny the CBA.

1330. **Hamline Midway Coalition-003-10:** The Hamline Midway Coalition stated, "Furthermore, we recommend creating a community council process for this portion of the decision making that would. It is imperative that this process grant real shared decision making power to the community rather than tokenized public meeting opportunities."

1331. **Johnson-008-01:** Jan Johnson stated, "I'm concerned about the gap where a facility can keep revising its Community Benefit Agreement until it gets approved with no chance for the community to say no, plus no circumstances are established by which the Commissioner would deny a permit. Of course, this goes against the statute – "the Commissioner must deny a permit unless a CBA is entered". This concerns me personally as my husband has a chronic health condition (COPD) which makes him more vulnerable to the effects of air pollution. We have cinder-like debris on our

windowsills and smelly air from WLSSD [Western Lake Superior Sanitary District], a really valuable resource for the community, although stinky… So perhaps arriving at "permit denied criteria" that will point out specific circumstances under which the Commissioner must deny a permit—consistent with what the Statute requires. Of course, inviting the community to form a representative body that can negotiate CBA's and offer recommendations."

1332. **Hankerson-019-05:** Stephanie Hankerson stated, "In addition, I recommend creating a community advisory council or similar body composed of organizations and individuals with established relationships and trust within Environmental Justice (EJ) communities. Meaningful community engagement cannot rely solely on the permit applicant to conduct outreach. Historically, public meetings organized by agencies or institutions have often resulted in community concerns being rushed, minimized, or overlooked. This rule presents an opportunity to improve that process. Facilities should be required to support outreach conducted through trusted community institutions—including neighborhood organizations, faith communities, health systems, and local nonprofit organizations—so residents receive information from sources they already know and trust. The responsibility for effective community engagement should not fall on these organizations without adequate support, and communities should have meaningful representation during negotiations that affect their health and quality of life."

1333. **Coming Clean Network-024-09:** The Coming Clean Network stated, "**Necessary Improvements to the Draft Regulations Create a community council process.** Require facilities to work with local community organizations to form a representative body that can negotiate CBAs and provide the Commissioner a recommendation to approve or deny, with required justification."

1334. **Frontline Communities Protection Coalition-034-35:** The Frontline Communities Protection Coalition stated, "Item (D) - We support the option for facility owners or operators to work with third parties to conduct community engagement. We would recommend encouraging facility owners or operators to reach out to prioritize working with local community engagement organizations. We would also like to reiterate a point that we have made in previous comments. The proposed rules do not provide a proper framework for impacted environmental justice communities to negotiate a CBA directly with a facility owner or operator. They simply give a few opportunities for communities to provide input and leave it at that. This approach will leave many communities frustrated with the facility owner or operator and MPCA, as they won't feel like their voices are being heard. While the statute does describe the CBA as being signed by the Commissioner and facility owner or operator, the process for entering into a CBA must better allow communities to negotiate. This was a consistent point raised by community members, environmental justice advocates, local governments, and others during the CBA input panel the MPCA convened last year. The importance of communities leading CBA negotiations and decisions is also emphasized in the 2025 Climate and Communities CBA report [https://www.google.com/url?q=https://climateandcommunity.org/wp-content/uploads/2025/10/Building-Community-Power-report.pdf&sa=D&source=docs&ust=1784259017114418&usg=AOvVaw2rPmd-COqqv-JF3pQKJyBi] To address this critical issue, we have a proposal. Similar to Detroit, MI's CBA ordinance, we recommend the facility owner or operator and MPCA work with community leaders, organizations, and interested parties to create a neighborhood advisory council to represent the community. This council would be adhoc, but would support community members engaging in the public meetings and comment periods, negotiate with the facility owner or operator on the details of a proposed CBA, and submit a recommendation to the Commissioner to either approve, modify, or deny a CBA. The Commissioner must then include a response to this recommendation in their determination of whether to enter into a CBA. **We believe this approach is significantly better for centering**

environmental justice communities in the CBA process and will avoid some of the potential animosity the current approach is likely to create. This approach will also better fulfill the intention of the law, which is to give environmental justice communities a stronger voice over the permits of polluting facilities that are directly harming them."

1335. **Minnesota Public Health Association-035-05:** Minnesota Public Health Association stated, "707.6110. Community benefit agreements. [sic] The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not lay out any circumstances under which the commissioner would deny a CBA. We recommend that the MPCA and owner/operator work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement."

1336. **Health Professionals for a Health Climate-038-11:** The Health Professionals for a Health Climate stated, "**7007.6110 Community benefit agreements**. HPHC agrees with the Frontline Communities Protection Coalition (FCPC) comment that the community benefit agreement (CBA) process needs clear criteria and process for denial. The proposed rules describe a process that allows an owner/operator numerous opportunities to revise the CBA to meet requirements. However, it is unclear at which point the community can decide that the CBA is unwanted and the permit should be denied.

We recommend that the MPCA and owner/operator work with community organizations and representatives to create a community council to represent the community. This informal body could support community outreach, negotiate directly with a facility owner/operator, and provide a recommendation to either approve or deny the proposed CBA. The commissioner must then respond to the recommendation and give a justification for their decision. This would better ensure that the CBA process adequately represents the community's desires.

1337. **Norrgard-040-05:** Lois Norrgard stated, "Community Benefit Agreements: The community benefit agreement (CBA) process lacks clear criteria for the commissioner to deny a CBA. Communities must have the ability to express that a community benefit agreement is unwanted. I recommend that the facility owner and MPCA work with community organizations and leaders to create a community council to represent the community. This council would support community outreach, negotiate with the facility owner, and provide a recommendation to either approve or deny the proposed CBA. The commissioner must then respond to the recommendation and give a justification for their decision. This will better ensure that the CBA process is reflective of the community's desire. Communities must have the right to reject a community benefit agreement. Including for all new permits, any major expansions of permits, and the re-issuance of permits. The permit applicant must also show that there will be benefits to the impacted community that go beyond jobs, and for the reissuance of permits there must be an end-date to what seems an openended cycle in the rules draft of a facility going back to the "drawing board" time after time, month after month, if the CBA is unacceptable by the commissioner as first proposed. This law is ultimately about empowering overburdened communities to determine what facilities can be sited in their areas. We need a regulatory process that works for the people and environment, and community members must be able to reject a community benefit agreement if taking on the additional pollution is not worth it to them."

1338. **Frontline Communities Protection Coalition (compiled comments)-045-04:** Maria Carter-Bertrand stated, "I was excited when the cumulative impacts legislation was passed, and I was proud that the MPCA was protecting me and my neighbors. However, what concerns me is that there is no way for me and my neighbors to express that a community benefit agreement (CBA) is unwanted or

for the commissioner to deny a CBA. If the cumulative impacts legislation is truly meant to give us a voice, then we must be able to say that we don't want a CBA. The statute states that "unless the commissioner enters into a community benefit agreement with the facility owner or operator, the commissioner must deny a permit." I recommend that the facility owner and the MPCA work with community organizations and leaders to create a community council to represent the community. This council would support community outreach, negotiate with the facility owner, and provide a recommendation to either approve or deny the proposed CBA. The commissioner must then respond to the recommendation and provide a justification for their decision. This will better ensure that the CBA process reflects my and my neighbors' desires. Thank you for your time."

1339. **Frontline Communities Protection Coalition (compiled comments)-045-10:** Brian PaStarr (Frontline Communities Protection Coalition (complied comments)) stated, “I am also concerned about the current Community Benefit Agreement (CBA) process. The rules do not provide clear criteria for when the commissioner can deny a CBA, and there is no clear way for community members to express that they do not want a CBA. This goes against the intent of the statute, which states that “unless the commissioner enters into a community benefit agreement with the facility owner or operator, the commissioner must deny a permit.” A community benefit agreement should reflect what the community actually wants, not simply what a facility owner proposes. I recommend that the facility owner and MPCA work with community organizations and local leaders to create a community council that represents the affected community. This council would support community outreach, help negotiate with the facility owner, and provide a recommendation on whether to approve or deny the proposed CBA. The commissioner should then be required to respond to the council’s recommendation and provide a clear justification for their decision. This process would better ensure that CBAs are meaningful, transparent, and reflective of community needs and desires. Please ask these communities how proposed changes would affect them before approving a program. Then invest in programs that create a positive impact for seven generations or more. Thank you, Brian PaStarr”

1340. **Frontline Communities Protection Coalition (compiled comments)-045-32:** Ianni Houmas stated, “3. Establish Community-Led Community Benefit Agreement (CBA) Controls - The Community Benefit Agreement (CBA) process lacks clear criteria for denying inadequate agreements, failing to uphold the statutory requirement to deny a permit if a valid CBA is not reached. Require the creation of an independent, representative Community Council made up of local leaders and community organizations. This council should be empowered to negotiate directly with the facility, formally recommend approval or denial of the CBA, and require the Commissioner to respond to those recommendations with a written justification. The health of East Side families should never be treated as the baseline collateral damage of industrial, logistical, or technological convenience. Without enforceable regulatory protections, historical burdens will simply continue. I urge the MPCA and Judge Middendorf to finalize a rule that fully accounts for the cumulative impacts of freeway corridors, aviation lead, stationary foundries, and emerging technology infrastructure, while delivering meaningful and enforceable protections for affected communities.”

1341. **Frontline Communities Protection Coalition (compiled comments)-045-34:** Stacy Mooradian stated, “The Community Benefit Agreement (CBA) process lacks clear criteria for the MPCA to deny a Community Benefit Agreement, and it provides no meaningful way for residents to express whether they even want a CBA. This does not align with the statute, which states that “unless the commissioner enters into a community benefit agreement with the facility owner or operator, the commissioner must deny a permit.” The facility owner and the MPCA should work with the community to create a community council that represents the affected residents. This council would support community outreach, negotiate with the facility owner, and provide a recommendation on

whether to approve or deny a proposed CBA. Following this process, the Commissioner should respond to the council's recommendation and provide a justification for their decision. This would better ensure that the CBA process reflects the community's wishes. Please revisit the proposed rule to ensure it aligns with the statute and meets the needs of the Minnesotans the law is intended to protect."

1342. **Frontline Communities Protection Coalition (compiled comments)-045-39:** April Graves stated, "Finally, the Community Benefit Agreement (CBA) process must provide meaningful opportunities for residents to shape decisions. Community organizations and trusted local leaders should help establish representative community councils that negotiate agreements, evaluate whether proposed benefits truly address community needs, and make recommendations to the MPCA. The Commissioner should publicly respond to those recommendations and clearly justify any decision that differs from the community's recommendation."

1343. **Frontline Communities Protection Coalition (compiled comments)-045-50:** Catherine Zimmer stated, "The Community Benefit Agreement (CBA) process also lacks clear criteria. I recommend establishing a community council that brings together facility owners, community members, and the MPCA to evaluate and either accept or deny a proposed CBA. This would provide the community with a meaningful opportunity to participate in the process, while also requiring the Commissioner to provide a clear justification for their final decision. The intent of these comments is to provide greater clarity in the cumulative impacts assessment process for permit reissuances, establish an objective basis for determining substantial adverse impact, and ensure that affected communities are meaningfully involved in final decisions that reflect their needs and desires."

1344. **Frontline Communities Protection Coalition (compiled comments)-045-62:** Karen Lunde stated, "The Community Benefit Agreement (CBA) process lacks clear criteria for the Commissioner to deny a Community Benefit Agreement. There is no meaningful way for community members to express that a CBA is unwanted or for the Commissioner to deny a CBA. This goes against the statute, which states that "unless the commissioner enters into a community benefit agreement with the facility owner or operator, the commissioner must deny a permit." I recommend that the facility owner and the MPCA work with community organizations and leaders to create a community council to represent the community. This council would support community outreach, negotiate with the facility owner, and provide a recommendation on whether to approve or deny the proposed CBA. The Commissioner should then respond to the recommendation and provide a justification for their decision. This would better ensure that the CBA process reflects the community's wishes."

1345. **Frontline Communities Protection Coalition (compiled comments)-045-67:** Paul Moss stated, "The Community Benefit Agreement (CBA) process also lacks clear criteria for the Commissioner to deny a Community Benefit Agreement. There is currently no meaningful way for community members to express that a CBA is unwanted or for the Commissioner to deny a CBA. This does not align with the statute, which states that "unless the commissioner enters into a community benefit agreement with the facility owner or operator, the commissioner must deny a permit." I recommend that the facility owner and the MPCA work with community organizations and leaders to create a community council that represents the community. This council would support community outreach, negotiate with the facility owner, and provide a recommendation on whether to approve or deny the proposed CBA. The Commissioner should then respond to the recommendation and provide a justification for their decision. This would better ensure that the CBA process reflects the community's desires. Thank you for considering these comments."

1346. **Frontline Communities Protection Coalition (compiled comments)-045-78:** Chel Anderson stated, "Create clear criteria for Community Benefit Agreements (CBAs). The rules need to provide

clear criteria for when the Commissioner can deny a Community Benefit Agreement, which the current draft does not. This raises an important question: within the context of the statute, which states that "unless the commissioner enters into a community benefit agreement with the facility owner or operator the commissioner must deny a permit," how can a permit be denied, or how can a community express that it does not want a Community Benefit Agreement?

To ensure the process is clear and reflects the community's perspective, the MPCA and facility owners should work with community organizations and leaders to create a community council that represents the affected community. This council could support community outreach, negotiate with the facility owner, and provide a recommendation on whether to approve or deny a proposed Community Benefit Agreement. The Commissioner should be required to respond to the council's recommendation and provide a justification for their decision.

Clean air is fundamental to health and should be a reality for every Minnesotan, regardless of geography or income. There is no excuse not to use the opportunities provided by the 2023 Cumulative Impacts Law to address the unacceptable air quality inequalities that exist across Minnesota."

1347. **Frontline Communities Protection Coalition (compiled comments)-045-82:** Bridget Guiza stated, "The Community Benefit Agreement (CBA) process lacks clear criteria for the Commissioner to deny a Community Benefit Agreement. There is currently no meaningful way for community members to express that a Community Benefit Agreement is unwanted, or for the Commissioner to deny a CBA. This conflicts with the statute, which states that "unless the commissioner enters into a community benefit agreement with the facility owner or operator, the commissioner must deny a permit." I recommend that facility owners and the MPCA work with community organizations and leaders to create a community council that represents the affected community. This council would support community outreach, negotiate with the facility owner, and provide a recommendation on whether to approve or deny a proposed CBA.

The Commissioner should then be required to respond to the council's recommendation and provide a justification for their decision. This would better ensure that the CBA process reflects the community's needs and priorities.

Thank you for taking the time to consider these comments and for your public service."

1348. **Frontline Communities Protection Coalition (compiled comments)-045-86:** Adam Daire stated, "Finally, the Community Benefit Agreement (CBA) process needs clear criteria and meaningful accountability. By forming a dedicated community council of local leaders to help negotiate these agreements and provide recommendations for approval or denial, we can ensure that the Commissioner's final decision truly reflects the needs and priorities of the community. The MPCA's current work is commendable, but true environmental justice requires stronger rules. Existing facilities should be held to the same rigorous standards as new facilities when their permits expire. Most importantly, the state must establish transparent authority for the MPCA Commissioner to reject permits when a Community Benefit Agreement fails to adequately protect local residents."

1349. **Frontline Communities Protection Coalition (compiled comments)-045-95:** Beth Daniels stated, "It concerns me that the current draft rules do not provide clear mechanisms for a community to say "no" to a Community Benefit Agreement (CBA), nor do they define when a Commissioner would deny a permit. The sections addressing the Cumulative Impact (CI) analysis and substantial adverse impacts (SAI) need additional strength. In particular, there is no clear method for determining how environmental and public health stressors contribute to adverse impacts. Additionally, pathways for assessing the cumulative impacts of existing facilities are not addressed. These gaps put

Environmental Justice (EJ) communities at a severe disadvantage.

To address this gap, the rules should define clear permit denial criteria, including specific circumstances under which the Commissioner must deny a permit, consistent with statutory requirements. In addition, the rules should establish a community council process that requires facilities to engage with a representative group of local community organizations. This group should have the ability to make recommendations to the Commissioner and receive a response explaining the decision.

1350. **Frontline Communities Protection Coalition (compiled comments)-045-186:** Max McMeeken stated, “The community benefit agreement (CBA) process lacks clear criteria for the commissioner denying a community benefit agreement. There is no ability for community members to express that a community benefit agreement is unwanted or for the commissioner to deny a CBA. This goes against the statute, which states that “unless the commissioner enters into a community benefit agreement with the facility owner or operator the commissioner must deny a permit”. I recommend that the facility owner and MPCA work with community organizations and leaders to create a community council to represent the community. This council would support community outreach, negotiate with the facility owner, and provide a recommendation to either approve or deny the proposed CBA. The commissioner must then respond to the recommendation and give a justification for their decision. This will better ensure that the CBA process is reflective of the community's desire.”

1351. **Frontline Communities Protection Coalition (compiled comments)-045-194:** Anne Englert stated, “Another concern I have with these draft rules is that the CBA process lacks specific criteria for the commissioner to deny a community benefit agreement. There is also no ability for community members to express that a community benefit agreement is unacceptable. I suggest that the facility owner and the MPCA work together with community leaders to create a council to represent the community. This council would reach out to residents, negotiate with the facility owner, and make a recommendation to approve or deny the proposed CBA. The commissioner must then respond to the recommendation and give a justification for their decision. This process will better ensure that the desires of the community are incorporated into the agreement.”

1352. **Health Professionals for a Health Climate (compiled comments)-046-08:** Rachel Wormer stated, “3. Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement. Thank you for the opportunity to comment on these critical public health rules.”

1353. **Health Professionals for a Health Climate (compiled comments)-046-12:** Joshua Houdek stated, “3. Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement. Thank you for the opportunity to comment on these critical public health rules.

1354. **Health Professionals for a Health Climate (compiled comments)-046-16:** Michael Overend stated, “3. Community benefit agreements: The community benefit agreement (CBA) process needs

clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement. Thank you for the opportunity to comment on these critical public health rules."

1355. **Health Professionals for a Health Climate (compiled comments)-046-20:** Sophie Scharner stated, "3. Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement. Thank you for the opportunity to comment on these critical public health rules."

1356. **Health Professionals for a Health Climate (compiled comments)-046-24:** Dana Janowiak stated, "3. Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement. Thank you for the opportunity to comment on these critical public health rules."

1357. **Health Professionals for a Health Climate (compiled comments)-046-28:** Michael Maleska stated, "3. Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement. Thank you for the opportunity to comment on these critical public health rules."

1358. **Health Professionals for a Health Climate (compiled comments)-046-32:** Crystal Goggleye stated, "3. Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement. Thank you for the opportunity to comment on these critical public health rules."

1359. **Health Professionals for a Health Climate (compiled comments)-046-36:** Bryce Purdy stated, "3. Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement. Thank you for the opportunity to comment on these critical public health rules."

1360. **Health Professionals for a Health Climate (compiled comments)-046-40:** Emily Onello stated, "3. Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement."

1361. **Health Professionals for a Health Climate (compiled comments)-046-45:** Jessica Fisher stated, "3. Community benefit agreements: The community benefit agreement (CBA) process needs clear criteria for denial. Under the current proposed rules, facilities can keep revising a CBA until it meets requirements. These rules do not acknowledge any circumstances under which the Commissioner would deny a CBA. To address this concern, the MPCA and owner/operator should work with community organizations and representatives to create a community council to represent the community and recommend the approval or rejection of a CBA agreement. Thank you for the opportunity to comment on these critical public health rules."

1362. **Ohse-050-03:** Madonna Ohse stated, "To ensure these positive aspects of our neighborhood are maintained in a healthy environment, there must be defined permit denial criteria regarding the Community Benefit Agreement, so that a community has a mechanism to say no. I recommend that facilities be required to work with local community organizations to form a representative body that can negotiate CBAs and provide the Commissioner a recommendation to approve or deny. This process creates engagement and relationship for the greater good of all."

MPCA RESPONSE

1363. During drafting of the proposed rule, the MPCA received requests for the proposed rule to include the creation of a community advisory council for each CBA, and for the community advisory council to decide whether to approve or deny a CBA. These requests were heard during Public Participation and Stakeholder Involvement activities, as identified in the SONAR (p. 26). The MPCA did not include creation of community advisory councils by the MPCA as part of the CBA process or community advisory council approval or denial of a CBA because doing so would be an impermissible delegation of the MPCA's powers under Minn. R. 1400.2100. As a CBA is required in order to issue a permit when a cumulative impacts analysis has determined there is a substantial adverse impact, allowing approval or denial of CBAs by community would grant external parties permitting authority which they do not have and MPCA legally cannot delegate, per Minn. R. 1400.2100(F). Additionally, the CBA as a two-party agreement between the facility and MPCA per Minn. Stat. § 116.065, subd. 5 will be subject to the agency's enforcement authorities. The MPCA would not be able to similarly enforce a legal agreement between a community and a facility.

1364. Having the MPCA create a community advisory council for each CBA also raises similar concerns as approval or denial of CBAs. The MPCA would not be able to give a community advisory council the ability to approve or deny a CBA for the reasons above. In addition, the MPCA also heard mixed opinions from communities on whether a community advisory council should be involved in the CBA process. Concerns the MPCA heard during the public engagement process for the rule included questions about who would serve on these councils, how they would be selected, the amount of time needed to create one, would it be representative of an entire community regardless of where the community is in Minnesota, and should the burden of approving or denying a CBA be the responsibility of a small number of community members when the decision could have substantial repercussions.

1365. While community members may not get to vote on a CBA, part 7007.6080 requires the MPCA and owners or operators to engage early and often with community members, starting once it is determined that a cumulative impacts analysis is required and continuing through the preliminary determination for the CBA. Part 7007.6080, subpart 3, item A requires the owner or operator to develop a CBA public participation plan. The plan must include details of how the owner or operator will comply with the public participation requirements of part 7007.6080, which include public meetings, public notices and comments, and providing information relevant to the cumulative impacts analysis and CBA. Part 7007.6110, subpart 2 and part 7007.6080, subpart 4 establish public meeting requirements, which require an owner or operator to hold, at a minimum, two public meetings for a cumulative impacts analysis and two public meetings for a CBA. Part 7007.6080, subpart 5 establishes specific requirements for these meetings, including requiring the owner or operator to accept written and oral comments, provide a video and audio recording of the meetings, and provide public comment periods. Part 7007.6080, subpart 5, item E also requires an MPCA representative to be present at all required meetings. Part 7007.6080, subpart 3, item C requires the MPCA to review and approve the public participation plan, and part 7007.6080, subpart 9, requires the MPCA to post information relevant to the cumulative impacts analysis and CBA, including the public participation plan, on the agency website so the information is widely accessible.

1366. Additionally, the owner or operator is required in part 7007.6080, subpart 7, item D to create and maintain an electronic mailing list and provide interested persons with opportunities to sign up to receive notice of public outreach and engagement activities. Community organizations can sign up to receive this information, and those community organizations can share the information with residents so residents receive the information from sources they know and trust.

1367. Part 7007.6080, subpart 9, item D, subitem (3), requires the MPCA to post the owner's or operator's CBA public participation plan at least 30 calendar days before the public meeting required before the CBA is drafted. Providing the CBA public participation plan in advance of the meeting allows community members and organizations to review the plan ahead of the meeting and provide informed feedback on how the CBA public participation plan could be improved. Having the plan ahead of time will also help community members and organizations understand what the owner or operator will do for outreach and engagement, and this advance access will help community members and organizations to make their own plans to organize and participate in the CBA process.

1368. The proposed rule does not preclude an owner or operator and community members or organizations from creating a community group to lead community participation in the CBA process. Additionally, part 7007.6110, subpart 2, item D allows for the owner or operator to hire a third party to assist in planning and facilitating outreach and engagement. As explained in the SONAR (p. 147), allowing a third party to assist in planning and facilitating outreach and engagement allows flexibility to use the best approach for conducting outreach and engagement in the impacted environmental justice area.

1369. Once an owner or operator has prepared a CBA with input from community and submitted the CBA for review, the MPCA must document how information considered was weighted when making the determination regarding whether to enter into a CBA, per part 7007.6110, subpart 10. Per part 7007.6110, subpart 9, item B, some of the information that must be considered must include comments received during the public participation process and the owner's or operator's responses to those comments required under part 7007.6080. This information will be publicly available within 30 calendar days of the MPCA's determination. If the MPCA's preliminary determination is to enter into the CBA, the public will have the ability to submit additional public comments during the public notice and comment period for the draft permit.

1370. Minn. Stat. § 16.065, subd. 6(c)(4) states, “Rules adopted under this section must: establish the content of a community benefit agreement and procedures for entering into a community benefit agreements, which must include: (i) active outreach to residents of the impacted environmental justice area designed to achieve significant community participation;…”. In part 7007.6080, and 7007.6110, subpart 2, the MPCA has established procedures for active outreach designed to achieve significant community participation. The MPCA acknowledges that this is a new program at the agency and there is a lot to be learned. The MPCA is a learning organization and receptive to feedback how on we and owners or operators can better support communities in the outreach conducted, especially as we navigate the implementation of the proposed rule.

CBA negotiation

1371. The MPCA received eight comments regarding the CBA process that identified concern about lack of community participation in CBA negotiations and clarity around how CBA negotiations will be conducted.

1372. **Hankerson-019-03:** Stephanie Hankerson stated, “**Section 7007.6110 – Community Benefit Agreements** - I have two primary concerns with this section. First, the rule does not clearly explain how Community Benefit Agreement (CBA) negotiations will be conducted. Second, it does not provide a meaningful role for the impacted community in the decision-making process.”

1373. **Hankerson-019-08:** Stephanie Hankerson also stated, “The proposed cumulative impacts rules are an important and necessary step toward addressing environmental injustice in Minnesota. However, they should be strengthened to ensure meaningful community participation in Community Benefit Agreement negotiations and to require cumulative impacts analyses whenever existing facilities continue to impose significant pollution burdens on surrounding communities.”

1374. **Minnesota House of Representatives-033-04:** Representative Fue Lee stated, “Finally, the proposed rules regarding community benefits agreements (CBAs) greatly restrict the role communities play. While meetings and public comments are amply provided for, the community has no direct involvement in CBA negotiations. EJA residents have no recourse other than to accept a CBA negotiated between the commissioner and an owner/operator in exchange for living with what the commissioner has already determined is a substantial adverse impact on their health. The rules should be amended to strengthen the community’s role with respect to shaping the substance of a CBA. Thank you for the opportunity to comment on the proposed rules. I look forward to further participation in this rulemaking process.”

1375. **Minnesota House of Representatives-033-14:** Representative Fue Lee stated, “**7007.6110. Community Benefits Agreements**

Under the proposed rules, while communities may attend meetings and make comments on proposals, they do not participate directly in negotiating the provisions of a community benefits agreement. The community is, in essence, required to accept a community benefits agreement negotiated by others, who may or may not wish to incorporate the community’s input, in exchange for living under what the commissioner has already determined to be a substantial adverse impact on residents’ health. The rules should be amended to strengthen the community’s role in shaping the substance of a community benefits agreement.”

1376. **Frontline Communities Protection Coalition-034-35:** The Frontline Communities Protection Coalition stated, “Item (D) - We support the option for facility owners or operators to work with third parties to conduct community engagement. We would recommend encouraging facility owners or operators to reach out to prioritize working with local community engagement organizations. We would also like to reiterate a point that we have made in previous comments. The

proposed rules do not provide a proper framework for impacted environmental justice communities to negotiate a CBA directly with a facility owner or operator. They simply give a few opportunities for communities to provide input and leave it at that. This approach will leave many communities frustrated with the facility owner or operator and MPCA, as they won't feel like their voices are being heard. While the statute does describe the CBA as being signed by the Commissioner and facility owner or operator, the process for entering into a CBA must better allow communities to negotiate. This was a consistent point raised by community members, environmental justice advocates, local governments, and others during the CBA input panel the MPCA convened last year. The importance of communities leading CBA negotiations and decisions is also emphasized in the 2025 Climate and Communities CBA report [https://www.google.com/url?q=https://climateandcommunity.org/wp-content/uploads/2025/10/Building-Community-Power-report.pdf&sa=D&source=docs&ust=1784259017114418&usg=AOvVaw2rPmd-COqqv-JF3pQKJyBi] To address this critical issue, we have a proposal. Similar to Detroit, MI's CBA ordinance, we recommend the facility owner or operator and MPCA work with community leaders, organizations, and interested parties to create a neighborhood advisory council to represent the community. This council would be adhoc, but would support community members engaging in the public meetings and comment periods, negotiate with the facility owner or operator on the details of a proposed CBA, and submit a recommendation to the Commissioner to either approve, modify, or deny a CBA. The Commissioner must then include a response to this recommendation in their determination of whether to enter into a CBA. **We believe this approach is significantly better for centering environmental justice communities in the CBA process** and will avoid some of the potential animosity the current approach is likely to create. This approach will also better fulfill the intention of the law, which is to give environmental justice communities a stronger voice over the permits of polluting facilities that are directly harming them."

1377. **Frontline Communities Protection Coalition (compiled comments)-045-27:** Dave Satre stated, There is currently no clear pathway to deny a permit if a Community Benefit Agreement (CBA) cannot be reached. Additionally, there is no clear avenue for meaningful community involvement in negotiating a CBA. This leaves me deeply pessimistic that this law will be implemented in the way its legislators and constituents intended when it was passed. There are many positive elements in the proposed rules, including the thorough analysis of conditions in EJ communities. These resources have allowed my family to better understand the true extent of our environmental exposure by using the MPCA's cumulative impacts map, along with the many other valuable resources the agency has developed and will continue to provide. Having recently become a father, I often think about the saying, "A society grows great when old men plant trees in whose shade they will never sit." Working in schools with the next generation of wonderful young Minnesotans makes those words feel even more meaningful. My students, my daughter, and my fellow Minnesotans deserve to see this law implemented as it was originally envisioned, with a real possibility of denying permits for polluters that cannot reach a legitimate Community Benefit Agreement and with meaningful community involvement throughout the negotiation process."

1378. **Frontline Communities Protection Coalition (compiled comments)-045-32:** Ianni Houmas stated, "3. Establish Community-Led Community Benefit Agreement (CBA) Controls - The Community Benefit Agreement (CBA) process lacks clear criteria for denying inadequate agreements, failing to uphold the statutory requirement to deny a permit if a valid CBA is not reached. Require the creation of an independent, representative Community Council made up of local leaders and community organizations. This council should be empowered to negotiate directly with the facility, formally recommend approval or denial of the CBA, and require the Commissioner

to respond to those recommendations with a written justification. The health of East Side families should never be treated as the baseline collateral damage of industrial, logistical, or technological convenience. Without enforceable regulatory protections, historical burdens will simply continue. I urge the MPCA and Judge Middendorf to finalize a rule that fully accounts for the cumulative impacts of freeway corridors, aviation lead, stationary foundries, and emerging technology infrastructure, while delivering meaningful and enforceable protections for affected communities."

1379. **Frontline Communities Protection Coalition (compiled comments)-045-178:** Dave Satre stated, "There is currently no clear pathway to permit denial under a failure to reach a Community Benefit Agreement, and the fact that there also is no clear avenue for community involvement in the negotiation to reach a Community Benefit Agreement leaves me deeply pessimistic that this law will be enforced the way that its legislators and their constituents had intended when it was passed.

There are many positive elements of the law as it is written, including the thorough analysis of conditions in EJ communities, which has allowed my family to understand the true extent of our exposure through utilizing the MPCA's cumulative impact map, along with the various other tremendously beneficial resources this does and will provide to the community.

Having recently become a father, I often revisit the adage: 'a society grows great when old men plant trees in whose shade they will never sit'. Working in schools with the next generation of wonderful little Minnesotans, this feels all the more relevant to me.

My students, my daughter, and my fellow Minnesotans deserve to see this law implimented [sic] exactly as initially envisioned. With a possibility for closure of a polluter that is unable to reach a legitimate Community Benefit Agreement, and with true community involvement in the negotion [sic] of the agreement."

MPCA RESPONSE

1380. Minn. Stat. § 116.065, subdivision 5 requires a CBA to be between the MPCA and an owner or operator. This reflects that the MPCA is the regulatory authority responsible for making permitting decisions, and the MPCA legally cannot delegate this authority, as specified in Minn. R. 1400.2100, subpart F.

1381. The proposed rule, part 7007.6080, subpart 4, item B establishes public meeting requirements, which provides multiple opportunities for community members to be directly involved in the development of a CBA. In determining the community benefits to be included in a CBA, part 7007.6110, subpart 4, item A specifies that residents of the impacted environmental justice area can suggest community benefits, which must be discussed between residents of the impacted environmental justice area and the owner or operator at the CBA public meetings. Community benefits that directly impact the residents of the impacted environment justice area must be prioritized, per part 7007.6110, subpart 4, item C.

1382. Additionally, part 7007.6080, subpart 3, requires the owner or operator to develop a CBA public participation plan. As explained in the SONAR (p. 105), a CBA public participation plan ensures owners or operators establish methods of outreach to meet the specific requirements of part 7007.6080, and to encourage participation and engagement in the development of a CBA. Part 7007.6080, subpart 5 specifies requirements for public meetings to encourage public participation during public meetings. This includes publishing notice of meetings, accepting comments, holding meetings in locations convenient for individuals expected to attend and at times that are generally accessible to most, providing recordings of meetings, providing interpretation and translation services, and providing specific information.

1383. Part 7007.6080, subpart 6, items C and D specify meeting specific requirements for the two required CBA specific public meetings. This includes providing specific information pertaining to developing a draft CBA and the draft CBA, and allowing opportunity for participants to make comments, ask questions, discuss information and the draft CBA, and propose benefits for inclusion in the CBA. Part 7007.6080, subpart 11 allows for additional outreach and engagement to provide flexibility for an owner or operator to conduct more outreach and engagement, and to allow community to request additional outreach and engagement.

1384. In developing a draft CBA, an owner or operator is required to consider comments from the public meeting and associated public comment period that is required before drafting a CBA, per part 7007.6110, subpart 6, item A, subitem (2). Part 7007.6080, subpart 9, item E, subitem (2) requires the MPCA to post the draft CBA on the agency website at least 30 calendar days before the public meeting required after a CBA is drafted. Providing the draft CBA in advance of the meeting allows community members and organizations to review the draft CBA ahead of the meeting and provide informed feedback on how the CBA could be revised or improved to better serve the residents of the impacted environmental justice area.

1385. In developing a proposed CBA, an owner or operator is required to consider comments from the public meeting and comment period that is required after drafting a CBA, per part 7007.6110, subpart 7, item B, subitem (2). As explained in the SONAR (p. 153), requiring an owner or operator to consider public comments during the different stages in developing a CBA ensures a CBA is developed with continuous community input.

1386. In determining whether to enter into a CBA, the MPCA must consider the cumulative impacts analysis and public comments, per part 7007.6110, subpart 9, item B, subitems (2) and (5), and determine whether the proposed CBA demonstrates that it addresses issues raised during public notice and comment periods, per part 7007.6110, subpart 9, item A, subitem (4). If this requirement is not satisfied, part 7007.6110, subpart 9, item C requires the owner or operator to provide additional information or revise the community benefit agreement. If the owner or operator does not provide additional information or revise the community benefit agreement to meet the requirements of the rule, the MPCA cannot enter into the CBA, and the permit must be denied, per Minn. Stat. § 116.065, subdivision 5(b). This is also reflected in the in the new language added in part 7007.1000, subpart 2, item H.

1387. These requirements provide multiple opportunities for the impacted community to participate in the CBA process and submit public comments to be considered by both owners and operators and the MPCA during the multiple stages of developing a CBA. The CBA as a two-party agreement between an owner or operator and MPCA per Minn. Stat. § 116.065, subd. 5, can only be negotiated between those two parties. If a proposed CBA does not meet the requirements of part 7007.6110, subpart 9, and an owner or operator revises the CBA, per part 7007.6110, subpart 9, item C, subitem (2), and the MPCA's preliminary determination of the revised CBA is to enter into the CBA, the public will have the ability to submit additional public comments on the revised CBA during the public notice and comment period for the draft permit.

Inclusion of specific benefits in rule

1388. The MPCA received one comment regarding community benefits that requests for specific benefits to be identified or limited in the rule.

1389. **Geldner-028-04:** Ryann Geldner stated, "4. Regenerative farming should be recognized as a mitigation strategy Minnesota has a long tradition of small regenerative farmers ("the ones in overalls") who build soil health, reduce chemical use, and protect air and water quality. Practices

such as cover cropping, reduced tillage, perennial systems, diversified rotations, and managed grazing reduce airborne chemical drift, reduce nutrient runoff, increase carbon sequestration, and protect pollinators and macroinvertebrates. Large agribusiness operations ("the ones in suits") often rely on high-volume chemical inputs and monoculture systems that increase airborne pollutants and watershed nutrient loading. Requested changes: Add regenerative farming practices to 7007.6110 as eligible community benefits. Allow cumulative-impact findings to limit large agribusiness expansion in EJ areas where burdens are already high."

MPCA RESPONSE

1390. The proposed rule does not preclude regenerative farming practices or limitations on large agribusiness expansion in applicable environmental justice areas from being eligible as community benefits in a CBA. As explained in the SONAR (p. 150), "Each CBA will be unique and specific to the communities that they serve so it is not feasible to develop an exhaustive list that includes every potential benefit that could be included in a CBA so including specific benefits in rule would be too restrictive. Not including specific benefits in rule provides flexibility in meeting communities' needs and in complying with the rule."

Criteria and requirements for community benefits

1391. The MPCA received six comments regarding community benefits that recommend adding criteria and modifying the requirements for community benefits.

1392. **University of Minnesota-030-43:** The University of Minnesota stated, "Further, the CBA does not require a relationship between environmental stressors and estimated project impacts has not been established within the Draft Rules. As a result, the permittee cannot estimate the costs and/or timeline of the proposed project and the associated CBA, even after the CIA is completed or, in fact, if the proposed project is even viable. The University recognizes the MPCA has considerable discretion to, "establish the content of a community benefit agreement," but urges the MPCA to better delineate within the rules its criteria for acceptable benefits. In particular, community benefits should be proportionate to the impacts from the proposed project and should be tailored to benefit the EJ community impacted by the proposed project. To protect public safety, these criteria must explicitly prevent well-intentioned but operationally infeasible community requests from compromising critical infrastructure. For example, community groups or the Agency might look to mandate zero-emission alternative technology, such as replacing a proposed diesel generator with a battery backup system. However, current battery technologies lack capacity and reliability to maintain clinical operations or protect critical research during extended grid failures. Permittees must not be required to compromise proven, highly regulated life-safety infrastructure in a CBA negotiation. In addition, the University urges MPCA to include consideration of impacts already provided to the community—such as existing programs to combat environmental racism and its impacts, to clean up existing brownfields, and to address health inequities—to avoid perverse incentives to wait until CBA negotiations to present already-planned-for projects to the public. The process of the planning, design and funding of a University building takes several years. Under the Draft Rules, these projects could be at risk because of the uncertainty related to previously undefined community benefits due to a qualitative determination of a substantial adverse impact."

1393. **University of Minnesota-030-44:** The University of Minnesota stated, "Recommendation: Modify Minn. R. 7007.6110, subp. 4 to:

- Establish parameters for community benefits to provide the community, permittees, and the MPCA with clear direction on what community benefits will be acceptable;
- Require that the community benefits be proportional to the potential impacts of the

requested permit action to the environment or the health of residents of the impacted environmental justice area, considering both positive and negative impacts; and
- Preclude community benefits that would require pollution controls or alternative technologies that could impede the function of permitted activities that provide environmental, medical, educational, research, or safety functions."

1394. **American Petroleum Institute-042-08:** The American Petroleum Institute stated, "**1.7 COMMUNITY BENEFIT AGREEMENTS SHOULD REMAIN PROPORTIONAL TO THE PERMITTING DECISION**

API supports meaningful community engagement. However, Community Benefit Agreements should remain connected to impacts reasonably attributable to the permitted activity. Benefits should be proportionate to:

- demonstrated impacts,
- feasible mitigation,
- applicant authority.

Community Benefit Agreements should not become mechanisms to address broader socioeconomic conditions unrelated to the permitted emissions."

1395. **American Petroleum Institute-042-20:** The American Petroleum Institute stated, "**1.14 PART 7007.6110 – COMMUNITY BENEFIT AGREEMENTS**

Community Benefit Agreements should remain connected to impacts attributable to the permitted activity. Benefits should be:

- proportional,
- technically feasible,
- related to demonstrated impacts,
- reasonably within the applicant's ability to provide.

Community benefits should not become mechanisms to address unrelated social or economic conditions. Where nonchemical stressors contribute to cumulative impacts, benefits should maintain a reasonable nexus to the impacts associated with the permitted air emissions."

1396. **Minnesota Hospital Association-051-09:** The Minnesota Hospital Association stated, **"8. Clarify the relationship between cumulative impacts requirements and community benefit agreements.** Community benefit agreements should not become a prerequisite for permit issuance where a hospital already complies with all applicable environmental requirements. The rule should recognize hospitals' existing contributions through charity care, community health programs, workforce development, and other community investments, and ensure any agreement is directly tied to project-related impacts."

1397. **Minnesota Hospital Association-051-20:** The Minnesota Hospital Association stated, "**8. Recognition of Existing Community Benefits**

Part 7007.6110, Subpart 4 - Add new Item D after line 73.20

Proposed Language:

D. For hospitals and health systems, existing community health improvement activities, charity care programs, workforce development initiatives, community health investments, behavioral health programs, preventive health services, and other community benefit activities shall be considered in determining whether community benefits have been provided and may satisfy all

or a portion of any required community benefit agreement.

Reason: Nonprofit hospitals already provide substantial and documented community benefits that directly support environmental justice communities and improve health outcomes."

MPCA RESPONSE

1398. The MPCA found it infeasible to establish a direct monetary relationship between environmental stressors and impacts, positive or negative, to the environmental stressors associated with a requested permit action due to the high variability in the types of projects in requested permit actions, and in environmental justice areas and the cumulative impacts of the environmental stressors that the residents experience. It is also infeasible to require the community benefits included in a CBA to be proportionate to the impacts from the requested permit action because this would result in the rule being too restrictive and potentially result in preventing the CBA from including community benefits that the residents of the impacted environmental justice area find to be the most important in meeting their needs.

1399. Minn. Stat. § 116.056, subd. 6(c)(4)(ii) requires the rule to establish the content of a CBA, which must include, "considerations other than or in addition to economic considerations, but with priority given to considerations that directly impact the residents of the environmental justice area". Part 7007.6110, subpart 4 establishes the requirements for community benefits and are intended to provide flexibility for communities to request benefits that meet their specific needs and flexibility for owners or operators to comply with the rule.

1400. Each CBA will be unique and specific to the communities that they serve so it is not feasible to specify in rule a monetary value, timeline, parameter, or proportional value that the CBA must meet. These factors will be dependent upon the project in the requested permit action and its impacts, and the needs of the residents of the impacted environmental justice area. Not including specific requirements for community benefits in rule provides flexibility for owners or operators and community members to consider a wide range of community benefits and determine which community benefits the owner or operator can feasibly provide to meet the communities' needs.

1401. Providing this flexibility also allows the owner or operator to vet suggested community benefits and determine whether they are feasible. The MPCA agrees that community benefits should be feasible and within the owner's or operator's ability to provide. If an owner or operator determines that a suggested community benefit is not feasible or could compromise or impede the function of critical safety functions or infrastructure, then the owner or operator should not include the infeasible benefit in the draft or proposed CBA.

1402. If an owner or operator provides benefits to the environmental justice area community, that were implemented before the application for the requested permit action was submitted, the owner or operator must provide that information in the initial assessment, per part 7007.6050, subpart 3, item C, subitem (2). The MPCA must consider this information in determining whether a cumulative impacts analysis is required, per part 7007.6070, subpart 3, item A, subitem (2).

1403. If the owner or operator is required to conduct a cumulative impacts analysis, the analysis must include, "A description of the socioeconomic impact of construction and operation of the stationary source on the residents of the impacted environmental justice area." per part 7007.6090, subpart 3, item I. Therefore, if an owner or operator provides socioeconomic benefits to the environmental justice area community, a description of the socioeconomic impacts needs to be included in the cumulative impacts analysis. As explained in the SONAR (p. 133), "This information is needed to evaluate how the stationary source is benefitting the community, including employment opportunities, health insurance opportunities, benefits, and other items that benefit the

community. …because socioeconomic factors directly and indirectly affect community health outcomes." The MPCA must consider this information in determining whether the requested permit action would result in a substantial adverse impact, per part 7007.6100, subpart 1, item B, subitem (2).

1404. Additionally, if an owner or operator is required to develop a CBA, the information provided in the cumulative impacts analysis must be considered by the MPCA in determining whether to enter into a CBA, per part 7007.6110, subpart 9, item B, subitem (2). So if an owner or operator includes existing benefits described in the cumulative impacts analysis as community benefits in a proposed CBA, it could affect the MPCA's decision on whether to enter into the CBA.

Community benefits and the CBA process

1405. The MPCA received nine comments regarding substantial adverse impacts, community benefits, and the CBA process that requests revisions to various parts of part 7007.6110.

1406. **Shaw-036-11:** Beth Shaw stated, "10. A "substantial adverse impact" should not be purchasable through a benefit agreement - The most serious weakness is what happens after MPCA determines that a permt would cause a substantial adverse impact. The proposed process allows the facility and MPCA to enter into a community benefit agreement, after which MPCA may still issue the permit. The agreement is legally between the commissioner and the facility—not between the facility and the affected residents. The rule overview states that when substantial adverse impacts are found, the permit must be denied only if the facility does not enter into a community benefit agreement with MPCA. MPCA may issue the permit when the agreement is signed and permit conditions are imposed. That allows the system to acknowledge serious harm and then authorize it anyway. Public meetings and comment responses are not the same as community consent. The facility prepares the draft agreement, revises it, and submits the proposed agreement to MPCA. Residents provide input but are not contractual parties with direct enforcement authority. The final rule should require that: Pollution prevention and emissions reduction come before unrelated benefits. A benefit must directly address the identified adverse impact. Jobs, donations, landscaping, short-term grants, or general economic activity cannot substitute for preventing serious health harm. The benefit must be proportional to the duration and severity of the harm. Residents or a democratically selected community body must approve the agreement. A qualified community representative must be a party to the agreement. Residents must have access to enforcement and remedies when the facility fails to comply. Agreements must include firm deadlines, measurable outcomes, public reporting, and consequences for noncompliance. A permit must be denied when the substantial adverse impact cannot actually be prevented, eliminated, or reduced to a protective level. A process that studies harm, confirms harm, conducts meetings about harm, and then permits the harm in exchange for benefits is not a sufficient environmental-justice standard.

1407. **Norrgard-040-05:** Lois Norrgard stated, "Community Benefit Agreements: The community benefit agreement (CBA) process lacks clear criteria for the commissioner to deny a CBA. Communities must have the ability to express that a community benefit agreement is unwanted. I recommend that the facility owner and MPCA work with community organizations and leaders to create a community council to represent the community. This council would support community outreach, negotiate with the facility owner, and provide a recommendation to either approve or deny the proposed CBA. The commissioner must then respond to the recommendation and give a justification for their decision. This will better ensure that the CBA process is reflective of the community's desire. Communities must have the right to reject a community benefit agreement. Including for all new permits, any major expansions of permits, and the re-issuance of permits. The permit applicant must also show that there will be benefits to the impacted community that go

beyond jobs, and for the reissuance of permits there must be an end-date to what seems an openended cycle in the rules draft of a facility going back to the "drawing board" time after time, month after month, if the CBA is unacceptable by the commissioner as first proposed. This law is ultimately about empowering overburdened communities to determine what facilities can be sited in their areas. We need a regulatory process that works for the people and environment, and community members must be able to reject a community benefit agreement if taking on the additional pollution is not worth it to them.

1408. **Frontline Communities Protection Coalition (compiled comments)-045-06:** Aubree Derksen stated, "Regarding the Community Benefit Agreement (CBA) rules: I am a frontline community member involved in the hyperscale data center fight and have already consulted with an attorney regarding Community Benefit Agreements (CBAs) and Community Benefit Ordinances (CBOs). I have significant concerns about how the CBA/CBO provisions are currently structured, and I recommend a complete rewrite with the involvement of frontline community members and attorneys so the rules can be designed correctly. I am happy to volunteer to participate in this process. If this is not done, the CBA will not be designed early enough with the right people involved, will not be monitored correctly, will be unenforceable, may cause more harm when it is intended to prevent harm, and will create significant regulatory and enforcement confusion between state and local governments. Based on my conversation with an attorney, the CBA/CBO needs to be incorporated into local zoning ordinances because the state does not control zoning—local municipalities do. As I mentioned in another comment, the harms from these facilities do not remain within a neat and tidy 1-mile boundary. The initial siting of high-impact facilities occurs through municipal zoning well before permits are ever sought. Hyperscale data centers need to be included in this conversation, as they were not contemplated when these rules were originally drafted. The rules also need to account for new facilities, not just existing ones. An incredibly important point that needs to be highlighted is that CBAs/CBOs are legally binding contracts. They are used when a community has significant concerns about potential impacts and agrees to give up its right to sue in exchange for specific benefits or concessions from the entity causing the potential harm. Those benefits and concessions must be directly connected to the community's concerns. CBAs are not something that should be taken lightly. They should not be negotiated in two conversations, as the current rule suggests, nor should they be led by the polluters themselves, who will always have an incentive to minimize the harms they are causing. Please take the need for a rewrite seriously. I am including the following resource: "Detroit's Community Benefits Ordinance: Lessons Learned About the Community Engagement Process and Its Outcomes." https://www.wri.org/research/detroits-community-benefits-ordinance-lessons-learned-about-community-engagement-process - If a podcast or webinar is more your style, here is another helpful resource from Young, Gifted and Green titled "Making Polluters Pay: Practical Strategies for Community Benefits." https://www.youtube.com/live/37Em7lJUN7I?si=77GhFhuNwMkxQpYs"

1409. **Frontline Communities Protection Coalition (compiled comments)-045-204:** Aubree Derksen stated, "Regarding the Community Benefit Agreement Rules: I am a frontline community member in the hyperscale data center fight and have already consulted with an attorney regarding CBA/Community Benefit Ordinances (CBOs). I have significant concerns over how the CBA/CBO are structured and I suggest a complete re-write with frontline community members and attorneys so that the rules can be structured correctly and I am happy to volunteer to participate in this. If this is not done the CBA will not be designed early enough with the right people, monitored correctly, it will be unenforceable, cause more harm when they're designed to prevent harm and it will create significant regulatory and enforcement confusion between state and local bodies when it comes to zoning as per my conversation with the attorney the CBA/CBO is something that needs to be

incorporated in the zoning ordinances at the local level given the state does not control zoning, local municipalities do. As I have mentioned in another comment, the harms of these facilities does not stay within a neat and tidy 1 mile boundary, initial siting of high impact facilities happens via municipal zoning well before any permits are solicited, hyperscale data centers need to be included in the conversation and were not in the picture when the rules were initially created and new facilities, not just existing ones, need to be accounted for in this rule. An incredibly important point that needs to be highlighted is that when it comes to CBA/CBOs, they are legally binding contracts where a community has significant concerns about potential impacts to them and gives up their right to sue in exchange for certain agreed upon benefits/concessions from the entity doing the potential harm that are directly connected to those concerns. CBAs are not something that should be taken lightly, that can be done in two conversations as the current rule suggests or that should be left to the polluters to lead because they will always minimize the harm they're doing in the first place. Please take the rewrite seriously. I'm including the link to the "Detroit's Community Benefit Ordinance: Lessons Learned About the Community Engagement Process and Its Outcomes." https://www.wri.org/research/detroits-community-benefits-ordinance-lessons-learned-about-community-engagement-process If a podcast/webinar is more your jam here is another helpful resource from Young, Gifted and Green titled "Making Polluters Pay: Practical Strategies for Community Benefits" https://www.youtube.com/live/37Em7lJUN7I?si=77GhFhuNwMkxQpYs."

1410. **Prairie Island Indian Community-052-05:** Prairie Island Indian Community stated, "The Community further emphasizes that where community benefit agreements (7007.6110) are utilized, they must include tangible, measurable, and enforceable outcomes that directly offset identified cumulative burdens and result in meaningful improvements to community health and environmental conditions."

1411. **Ramsey County District 6-056-02:** Commissioner Xiong stated, "I recommend that the MPCA strengthen the rules in the following ways:

1. **Require meaningful community approval with the option for third-party oversight.** The proposed rule requires the MPCA to determine whether an agreement addresses issues raised through public participation and prioritizes benefits that directly affect residents. However, it does not clearly authorize the MPCA or an independent third party to ensure that residents' voices meaningfully shape the agreement throughout its development, negotiation, implementation, and enforcement. The final agreement should demonstrate support from residents of the impacted environmental justice area, not simply document that their comments were received and considered. The MPCA should establish a transparent process, possibly including oversight rules, for determining whether the agreement reflects community priorities, with particular weight given to residents who live closest to the facility and are most directly affected."

1412. **Ramsey County District 6-056-03:** Commissioner Xiong stated, "2. **Require community benefits to address the harms identified in the cumulative impacts analysis.** The proposed rule requires that the community benefits agreement describe the requested permit action's substantial adverse impact, its expected positive and negative impacts, and the effects of each benefit included or considered for inclusion. However, it does not expressly require each benefit to mitigate or otherwise have a direct relationship to a specific harm identified in the cumulative impacts analysis. Where residents face increased air pollution or respiratory risks, appropriate benefits could include additional emissions reductions, air filtration, health screenings, asthma prevention and treatment, environmental monitoring, lead remediation, green buffers, and investments that reduce exposure."

1413. **Ramsey County District 6-056-08:** Commissioner Xiong stated, "7. **Community benefits should prioritize long-term, community-controlled investments and guard against displacement.** The rule

should ensure that residents have a meaningful role in selecting and overseeing community benefits and should require consideration of whether proposed investments could contribute to the displacement of current residents or locally owned businesses. Benefits should improve the health, environment, and stability of existing residents, not increase property values while pushing those same residents out of the neighborhood. It is crucial that the impacted residents have the ability to define for themselves what these community benefits and impacts are."

1414. **Ramsey County District 6-056-09:** Commissioner Xiong stated, "Furthermore, I ask the MPCA to address the following questions:

- How will the agency determine whether a proposed agreement genuinely reflects community priorities?
- What happens when residents, the facility, and or the MPCA disagree about which benefits or adverse impacts should be included?
- What remedies will residents have when a facility fails to deliver a promised benefit?
- Will the MPCA require community participation and approval before an agreement is materially modified?
- If the community does not support the proposed community benefit agreement, how will its concerns meaningfully affect the agreement or the decision to modify or issue a permit?
- How can community members report concerns, both through the MPCA and/or through the owner or operator, and receive assurances that their concerns will be addressed?
- Will the MPCA notify local public health departments of any and all substantial adverse impacts, community benefit agreements entered, and other environmental impacts affecting residents?
- May the MPCA ensure that the community benefit agreements outline legal remedies that community may take in the instance that the owner or operator fails to fulfill its duties under the agreement?

Community benefit agreements can be a valuable tool, but they must not become a transactional substitute for clean air, a performative exercise to satisfy a legal requirement, or a process in which polluters decide what justice looks like.

Additionally, under the proposed rule, a community benefit agreement becomes relevant only after the MPCA determines that the permit action would have a substantial adverse impact. The broader permitting provisions should be reviewed carefully to confirm the precise circumstances under which the MPCA must deny the requested permit action and when a community benefit agreement allows the permit to be issued. Any exception must be built around meaningful pollution reduction, enforceable protections, and the priorities of the people who bear the harm."

MPCA RESPONSE

1415. Each CBA will be unique and specific to the communities that they serve, and dependent upon the project in the requested permit action and its impacts, and the needs of the residents of the impacted environmental justice area. The MPCA and owner's or operator's will not know and cannot presume what community benefits will be advantageous and meaningful to the communities that a CBA will serve.

1416. Minn. Stat. § 116.065, subd. 6(c)(4)(ii) specifies that the content and procedures for entering into a CBA must include, "considerations other than or in addition to economic considerations, but

with priority given to considerations that directly impact the residents of the environmental justice area;". This requirement is reflected in part 7007.6110, subpart 4, items A and B, which require community benefits other than or in addition to economic benefits to be considered and that directly impact the residents of the impacted environmental justice area to be prioritized. Including additional requirements that are not required in statute for community benefits, such as requiring them to target pollution prevention, emissions reduction, adverse impacts, or meet a proportional value would result in the rule being too restrictive and potentially result in preventing a CBA from including community benefits that the residents of the impacted environmental justice area find to be the most important in meeting their needs. Nothing in the rule precludes community from advocating for community benefits that target pollution prevention, emissions reduction, adverse impacts, or meet a proportional value. If community advocates for economic community benefits, such as jobs, donations, or grants, other noneconomic community benefits must be considered with priority given to community benefits that directly impact the residents of the impacted environmental justice area.

1417. Part 7007.6110, subpart 4, item A, subitem (2) requires suggested community benefits to be discussed between residents of the impacted environmental justice area and the owner or operator during the public meetings required in part 7007.6080, subpart 4, item B. The intent of this requirement is for the residents of the impacted environmental justice area to inform the owner or operator and MPCA of which suggested benefits are most important to the residents of the impacted environmental justice area for inclusion in the CBA, which will likely include benefits that directly impact those residents. The requirement is also intended for the owner or operator to consider the suggested benefits and inform residents of the impacted environmental area about whether the suggested benefits are feasible for the owner or operator to provide as part of the CBA. Additionally, these meetings are intended for discussion and decision making on which community benefits to include in a CBA. Some suggested benefits will be infeasible due to economical, technological, or other constraints. Because of this, requiring prioritization of benefits suggested by specific parties would result in the rule being too restrictive.

1418. In addition to the CBA specific public meetings, a public notice and comment period is required for each of these meetings, per part 7007.6080, subparts 7 and 8. Residents of the impacted environmental justice area can also suggest benefits and provide feedback on suggested benefits during these comment periods. The owner or operator is required to respond to these comments, per 7007.6080, subpart 8, item D. As part of the determination of whether to enter into a CBA, the MPCA must consider the owner's or operator's responses to these comments, per part 7007.6110, subpart 9, item B, subitem (6). If the CBA does not demonstrate that it addresses issues raised in public comments, or that it does not give priority to benefits that directly impact the residents of the impacted environmental justice area, as required in part 7007.6110, subpart 9, item A, subitems (4) and (5), then the MPCA cannot enter into the CBA.

1419. During drafting of the proposed rule, the MPCA received requests for the proposed rule to include the creation of a community advisory board for each CBA, and for community to decide whether to approve or deny a CBA. These requests were heard during Public Participation and Stakeholder Involvement activities, as identified in the SONAR (p. 26). The MPCA did not include community approval or denial of a CBA because doing so would be an impermissible delegation of the MPCA's powers under Minn. R. 1400.2100. As a CBA is required in order to issue a permit when a cumulative impacts analysis has determined there is a substantial adverse impact, allowing approval or denial of CBAs by community would grant external parties permitting authority which they do not have and MPCA legally cannot delegate, per Minn. R. 1400.2100(F). Additionally, the CBA as a two-party agreement between the facility and MPCA per Minn. Stat. § 116.065, subd.

5 will be subject to the agency's enforcement authorities. The MPCA would not be able to similarly enforce a legal agreement between a community and a facility.

1420. Having the MPCA create a community advisory board for each CBA also raises similar concerns as approval or denial of CBAs. The MPCA would not be able to give a community advisory board the ability to approve or deny a CBA for the reasons above. In addition, the MPCA also heard mixed opinions from communities on whether a community advisory board should be involved in the CBA process. Concerns the MPCA heard during the public engagement process for the rule included questions about who would serve on these boards, how they would be selected, the amount of time needed to create one, would it be representative of an entire community regardless of where the community is in Minnesota, and should the burden of approving or denying a CBA be the responsibility of a small number of community members when the decision could have substantial repercussions.

1421. Minn. Stat. § 116.065, subd. 5(b) establishes a reason to deny a permit, which states, "Unless the commissioner enters into a community benefit agreement with the facility owner or operator, the commissioner must deny a permit…". This is also reflected in the new language added in part 7007.1000, subpart 2, item H. Part 7007.6110, subpart 9, item A specifies the requirements that must be satisfied before the MPCA can enter into a CBA, including demonstrating that the CBA gives priority to benefits the directly impact the residents of the impacted environmental justice area, and that the CBA and owner's or operator's responses address the issues raised during the CBA public notice and comment periods described in part 7007.6080. If those requirements are not satisfied, part 7007.6110, subpart 9, item C requires the owner or operator to provide additional information, or revise the community benefit agreement based on information considered in part 7007.6110, subpart 9, item B, to demonstrate or ensure the CBA satisfies the requirements of part 7007.6110, subpart 9, item A.

1422. If the owner or operator does not provide additional information or revise the community benefit agreement, the MPCA will not enter into the CBA and must deny the permit, per Minn. Stat. § 116.065, subd. 5(b), and part 7007.1000, subpart 2, item H. The SONAR (p. 154-157) provides an explanation of the information the commissioner must consider and what requirements must be met before the commissioner can enter into a CBA. For example, the SONAR (p. 155) specifies that part 7007.6110, subpart 9, items A and B require that the commissioner, in determining whether to enter into the CBA, must consider whether the CBA and owner's or operator's responses address the issues raised in the public notice and comment periods.

1423. Additionally, part 7007.6110, subpart 10 requires the MPCA to document how information considered was weighted when making the determination regarding whether to enter into a CBA. This information will be publicly available within 30 calendar days of the MPCA's determination. If the MPCA's preliminary determination is to enter into the CBA, the public will have the ability to submit additional public comments during the public notice and comment period for the draft permit.

1424. While community members may not get to vote on a CBA, part 7007.6080 requires the MPCA and owners or operators to engage early and often with community members, starting once it is determined that a cumulative impacts analysis is required and continuing through the preliminary determination for the CBA. Part 7007.6080, subpart 3, item A requires the owner or operator to develop a public participation plan. The plan must include details of how the owner or operator will comply with the public participation requirements, which include public meetings, public notices and comments, and providing a large amount of information to the public. Part 7007.6080 requires the MPCA to review and approve the public participation plan, attend the public meetings, and post

information provided by the owner or operator on the agency website so the information is widely accessible to any interested party, including local public health departments. Some of the information required to be posted includes the cumulative impacts analysis, the MPCA's determination of substantial adverse impact, and the CBA, per part 7007.6080, subpart 9, items D and E.

1425. Additionally, the owner or operator is required, per part 7007.6080, subpart 7, item D, to create and maintain an electronic mailing list and provide interested persons with opportunities to sign up to receive notice of public outreach and engagement activities. Community organizations can sign up to receive this information, and those community organizations can share the information with residents so residents receive the information from sources they know and trust.

1426. Furthermore, per part 7007.6080, subpart 9, item D, subitem (3), the MPCA is required to post an owner's or operator's CBA public participation plan at least 30 calendar days before the public meeting required before the CBA is drafted. Providing the CBA public participation plan in advance of the meeting allows community members and organizations to review the plan ahead of the meeting and provide informed feedback on how the CBA public participation plan could be improved. Having the plan ahead of time will also help community members and organizations understand what the owner or operator will do for outreach and engagement, and this advance access will help community members and organizations to make their own plans to organize and participate in the CBA process.

1427. The proposed rule does not preclude the owner or operator and community members or organizations from creating a community body to lead community participation in the CBA process. Additionally, part 7007.6110, subpart 2, item D allows for the owner or operator to hire a third party to assist in planning and facilitating outreach and engagement. As explained in the SONAR (p. 147), allowing a third party to assist in planning and facilitating outreach and engagement allows flexibility to use the best approach for conducting outreach and engagement in the impacted environmental justice area.

1428. Minn. Stat. § 116.065, subd. 6(c)(4) states, "Rules adopted under this section must: 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 impacted environmental justice area designed to achieve significant community participation;…". In part 7007.6080, and part 7007.6110, subpart 2, the MPCA has established procedures for active outreach designed to achieve significant community participation. The MPCA acknowledges that this is a new program at the agency and there is a lot to be learned. The MPCA is a learning organization and receptive to feedback on how we and owners or operators can better support communities in the outreach conducted, especially as we navigate the implementation of the proposed rule.

1429. This process applies to a permit if the cumulative impacts analysis demonstrates that issuing the permit would have a substantial adverse impact on the environment or health of the environmental justice area and its residents. Per Minn. Stat. § 116.065, subd. 1(h), permit is defined as, "a major source air permit, as defined in Minnesota Rules, part 7007.0200, or a state air permit required under Minnesota Rules, part 7007.0250, subpart 5 or 6. Permit includes a permit required for new construction or facility expansion or the reissuance of an existing permit." Therefore, if a cumulative impacts analysis demonstrates substantial adverse impacts would result from reissuance, expansion, or new construction of one of these permits, the owner or operator is required to go through the CBA process. General, registration, and capped permit are exempt from the proposed rule, per part 7007.6020, subpart 2, item A, subitems (1) to (3). As explained in the SONAR (p. 72), the Minnesota Rules that identify provisions for these types of permits are not included in the definition of

"permit" in Minn. Stat. § 116.065, and therefore are not subject to the proposed rules.

1430. As previously mentioned, the CBA as a two-party agreement between the facility and MPCA per Minn. Stat. § 116.065, subd. 5 will be subject to the agency's enforcement authorities. Local governments will not have authority to enforce a CBA. To ensure enforceability, the CBA must specify timelines, how community benefits will be deemed complete or fully implemented, and reporting and notification requirements, per part 7007.6110, subpart 3, items F, H, and I. Reporting and notification requirements at a minimum must provide notices to the MPCA and interested parties of the start and completion of construction or implementation of each community benefit agreement identified in the CBA, and periodic progress reports summarizing the status of each community benefit, per part 7007.6110, subpart 5, items A and B.

1431. If an owner or operator fails to comply with the CBA, the MPCA has authority to pursue enforcement for identified violations, per Minn. Stat. § 115.071 and Minn. Stat. § 116.07, subd. 9. The MPCA has an established enforcement process to determine the appropriate enforcement action and associated penalty amount, if applicable, based on the seriousness or repeat violations. All enforcement actions include corrective actions an owner or operator must complete to address noncompliance. Enforcement actions will be publicly available once the action is closed or signed by the MPCA and owner or operator, and in accordance with Minn. Stat. § 13.03, subd. 1.

1432. The public can assist in oversight by submitting complaints if they witness or have evidence of noncompliance with rule requirements or CBA requirements. The types of permit holders covered by the rule are subject to routine compliance inspections by the MPCA, which is part of how the MPCA monitors stationary sources for compliance, and may also be evaluated if concern and questions exist regarding compliance.

Prioritizing community benefits

1433. The MPCA received two comments regarding community benefits that request that benefits proposed by residents of the impacted environmental justice area to be prioritized.

1434. **Frontline Communities Protection Coalition-034-36:** The Frontline Communities Protection Coalition stated, "Subp. 4. **Community benefits** - We support the prioritization of benefits that directly impact residents of the impacted environmental justice area. **We also believe that benefits proposed by the residents of the impacted environmental justice area should be prioritized**. A CBA should reflect the needs and desires of the impacted community, and prioritizing benefits proposed by community members will help ensure this is the case. We would also like to reiterate a recommendation from previous comment periods that MPCA should develop a non-exhaustive list of example benefits for us in this process. Having examples to react to will make it much easier for communities to brainstorm about what kinds of benefits make sense for their neighborhood. Given the statutory requirement of consideration of noneconomic benefits, we recommend categorizing the example benefits into economic, health, and environmental benefits. This will make it easier to ensure that non-economic benefits are being considered."

1435. **Ramsey County District 6-056-08:** Commissioner Xiong stated, "7. Community benefits should prioritize long-term, community-controlled investments and guard against displacement. The rule should ensure that residents have a meaningful role in selecting and overseeing community benefits and should require consideration of whether proposed investments could contribute to the displacement of current residents or locally owned businesses. Benefits should improve the health, environment, and stability of existing residents, not increase property values while pushing those same residents out of the neighborhood. It is crucial that the impacted residents have the ability to define for themselves what these community benefits and impacts are."

MPCA RESPONSE

1436. Part 7007.6110, subpart 4, item A, subitem (2) requires suggested community benefits to be discussed between residents of the impacted environmental justice area and the owner or operator during the public meetings required in the CBA process, per part 7007.6080, subpart 4, item B. The intent of this requirement is for the residents of the impacted environmental justice area to inform the owner or operator and MPCA of which suggested benefits are most important to the residents of the impacted environmental justice area for inclusion in the CBA, which will likely include benefits that directly impact the residents. The requirement is also intended for the owner or operator to consider the suggested benefits and inform residents of the impacted environmental area about whether the benefits are feasible for the owner or operator to provide as part of a CBA. Some suggested benefits will be infeasible due to economical, technological, or other constraints. Because of this, requiring prioritization of benefits suggested by specific parties would result in the rule being too restrictive.

1437. In addition to the CBA specific public meetings, a public notice and comment period is required for each of these meetings, per part 7007.6080, subparts 7 and 8. Residents of the impacted environmental justice area can also suggest benefits and provide feedback on suggested benefits during these comment periods. The owner or operator is required to respond to these comments, per 7007.6080, subpart 8, item D. As part of the determination of whether to enter into a CBA, the MPCA must consider the owner's or operator's responses to these comments, per part 7007.6110, subpart 9, item B, subitem (6). If the CBA does not demonstrate that it addresses issues raised in public comments, or that it does not give priority to benefits that directly impact the residents of the impacted environmental justice area, per part 7007.6110, subpart 9, item A, subitems (4) and (5), then the MPCA cannot enter into the CBA.

Developing an example benefits list and categorization of benefits

1438. The MPCA received one comment regarding community benefits that recommends developing a list of example benefits and categorizing benefits as economic, health, or environmental benefits.

1439. **Frontline Communities Protection Coalition-034-36:** The Frontline Communities Protection Coalition stated, "Subp. 4. **Community benefits** - We support the prioritization of benefits that directly impact residents of the impacted environmental justice area. **We also believe that benefits proposed by the residents of the impacted environmental justice area should be prioritized**. A CBA should reflect the needs and desires of the impacted community, and prioritizing benefits proposed by community members will help ensure this is the case. We would also like to reiterate a recommendation from previous comment periods that MPCA should develop a non-exhaustive list of example benefits for us in this process. Having examples to react to will make it much easier for communities to brainstorm about what kinds of benefits make sense for their neighborhood. Given the statutory requirement of consideration of noneconomic benefits, we recommend categorizing the example benefits into economic, health, and environmental benefits. This will make it easier to ensure that non-economic benefits are being considered."

MPCA RESPONSE

1440. Part 7007.6080, subpart 6, item C, subitem (4) requires that during the public meeting presentation required before a CBA is drafted, the owner or operator must include example benefits that could be included in a CBA. As explained in the SONAR (p. 115), "Providing the public with examples of what benefits may be included in a CBA will prompt discussions at the public meetings and contribute to achieving significant community participation. Clear discussions between residents of the impacted EJ area and owners and operators with examples of potential benefits will

help achieve a CBA that includes "considerations that directly impact the residents of the environmental justice area," as required by Minn. Stat. § 116.065, subd. 6(c)(4)(ii).

1441. Each CBA will be unique and specific to the communities that they serve so it is not practical to include a list of example benefits in rule without unintentionally restricting benefits that might be suggested for inclusion in a CBA. The MPCA is open to considering developing a list of example benefits, especially as we navigate the implementation of the proposed rule, and is receptive to feedback on example benefits to include and what category/categories the example benefits apply to.

Community benefits and existing requirements

1442. The MPCA received one comment regarding community benefits that requests for the proposed rule to state that community benefits must be additional to legal, permit, enforcement, remediation, and compliance requirements.

1443. **Ramsey County District 6-056-04:** Commissioner Xiong stated, "3. **Clarify that community benefits must be additional to, and may never replace, pollution prevention, emission controls, regulatory compliance, enforcement obligations, penalties, or remediation.** The proposed rule defines a "community benefit" broadly as a program, service, action, project, or resource providing a tangible health, environmental, social, economic, or other benefit. The community-benefit provisions do not expressly state that benefits must be additional to all existing legal, permit, enforcement, remediation, and compliance obligations. A facility should not be permitted to continue avoidable harm simply because it offers jobs, charitable contributions, or neighborhood improvements. Economic benefits cannot compensate for preventable illness. The community benefit agreement should also include clear accountability and enforcement measures, such as deadlines, compliance reporting, corrective action, and meaningful consequences, if an owner or operator fails to deliver, fully implement, or maintain the promised benefits, including pathways of legal relief for impacted community members."

MPCA RESPONSE

1444. Although it is not stated in the proposed rule that community benefits cannot replace permit requirements, required emission controls, enforcement related requirements, or remediation obligations, the proposed rule requirements are not replacing any existing requirements, but rather are in addition to existing requirements. This is reflected in parts 7007.0050, subpart E and part 7007.0100, subpart 7, item Y. If an owner or operator is required to develop a CBA, the requirements of a CBA will be in addition to the air emissions permit. Nothing in a CBA can replace the minimum requirements of an air permit pertaining to emission limits, emission controls, or compliance demonstration.

Bypassing steps to a CBA

1445. The MPCA received one comment regarding the CBA process that requests an option to enter into a CBA without conducting a cumulative impacts analysis and determining whether a substantial adverse impact would result from the requested permit action.

1446. **Minnesota Chamber of Commerce-027-49:** The Minnesota Chamber of Commerce stated, "e. The proposed rule should include an option for a permittee to choose to bypass the steps between the application and initial assessment submittal and the permittee preparation of the CBA public participation plan. The bypassed steps would include everything from the evaluation of mandatory and discretionary triggers, and MPCA's determination of need for a CIA, to MPCA's determination of a substantial adverse impact. In this situation, the permittee would forego the need to do a CIA, but

agree to enter into a CBA; and the process would include all the CBA steps."

MPCA RESPONSE

1447. Minn. Stat. § 116.065 does not allow for omitting the determination of whether a cumulative impacts analysis is needed, or the cumulative impacts analysis if it is determined that it is necessary. Minn. Stat. § 116.065, subd. 3(c)(1) to 3(c)(3) requires the MPCA to determine if a cumulative impacts analysis is required based on the MPCA's review and assessment of the permit application, the applicant's assessment of the need to conduct a cumulative impacts analysis, whether the proposed permit exceeds any of the benchmarks established in the rule, and any other relevant information, including material evidence accompanying a petition. Additionally, Minn. Stat. § 116.065 subd. 3(d)(1) and 3(d)(2) requires the MPCA to require an applicant to conduct a cumulative impacts analysis if the potential impacts of the permit issuance exceed any of the benchmarks established in the rule, or the MPCA determines that issuance of the permit may substantially impact the environment or health of the residents of an environmental justice area. Allowing the omission of the determination of whether a cumulative impacts analysis is needed, or the cumulative impacts analysis if it is determined that it is necessary would result in the rule not meeting the requirements of the statute.

1448. A community benefit agreement is only required, per Minn. Stat. § 116.065, subd. 5 "…if the cumulative impacts analysis determines that issuing the permit, in combination with the environmental stressors present in the environmental justice area and considering the socioeconomic impact of the facility to the residents of the environmental justice area, would have a substantial adverse impact on the environment or health of the environmental justice area and its residents." If an owner's or operator's initial assessment demonstrates a cumulative impacts analysis is required, it makes sense for the owner or operator to conduct the analysis and for the MPCA to determine whether issuing the permit would result in substantial adverse impact because if the MPCA determines issuing the permit would not result in substantial adverse impact, avoiding the CBA process would save time and resources for the owner or operator, MPCA, and impacted environmental justice area.

1449. Furthermore, a CBA is intended as a last option rather than a first option. Skipping important steps in the process, such as an initial assessment and cumulative impact analysis, would eliminate steps that could benefit the owners and operators and the environmental justice area, and remove information necessary for developing an informed CBA. For example, under part 7007.6100, subpart 5, if the negative impacts associated with the substantial adverse impact finding can be reduced, so that there is no longer a substantial adverse impact, a CBA would not be required.

1450. Additionally, a CBA is intended to be developed with the cumulative impacts analysis and determination of substantial adverse impacts in mind. The cumulative impacts analysis and determination of substantial adverse impacts are needed to inform an owner or operator, residents of the impacted environmental justice area, and the MPCA of what community benefits to include in the CBA.

Distributing printed informational material

1451. The MPCA received one comment regarding distributing printed informational material that expressed support for this requirement.

1452. **Frontline Communities Protection Coalition-034-34:** The Frontline Communities Protection Coalition stated, "**7007.6110 Community Benefits Agreement**

Subp. 2. **Public outreach and engagement**, item (B) - We support the requirement of distributing

printed material to all addresses in the impacted environmental justice area. We believe that mailed notices are an important method for reaching many community members who may not be as engaged in the permitting process."

MPCA RESPONSE

1453. The MPCA appreciates the support for the requirement to provide printed informational material.

Clarification of the term "consider"

1454. The MPCA received one comment regarding the term "consider" that requests clarification of the term.

1455. **Frontline Communities Protection Coalition-034-37:** The Frontline Communities Protection Coalition stated, "Subp. 6. **Draft community benefit agreement submission**, item (A), subitem (2) - We believe that the term "consider" should be clarified here. The draft CBA should be reflective of community sentiment during the public outreach process. Consideration of comments received during the process should be clarified to ensure that the draft CBA is directly shaped by feedback from the impacted environmental justice area."

MPCA RESPONSE

1456. The MPCA is utilizing the term "consider" as defined in the Merriam-Webster dictionary, "to think about carefully; such as: a) to think of especially with regard to taking some action; b) to take into account". Additionally, MPCA uses the term "consider" to provide consistency in terminology used in the rule and in the statute. For example Minn. Stat. § 116.065, subd. 5 states, "…the commissioner must consider the cumulative impacts analysis conducted, the testimony presented, and comments submitted in public meetings…"

Submittal deadline for a proposed CBA

1457. The MPCA received one comment regarding proposed CBAs that requests the ability to extend the deadline to submit a proposed CBA.

1458. **Frontline Communities Protection Coalition-034-38:** The Frontline Communities Protection Coalition stated, "Subp. 7. **Proposed community benefit agreement submission** - While we understand the importance of having a deadline for submitting a proposed CBA to ensure that facility owners or operators are finalizing a CBA in a timely manner, this does not leave room for further negotiation with the community if there are still unresolved issues after the second comment period. We recommend that the Commissioner have the ability to extend this deadline upon request from the impacted environmental justice area or facility owner or operator."

MPCA RESPONSE

1459. The public meeting and comment periods required in part 7007.6080 are minimum requirements. The owner or operator can choose to do additional community outreach and engagement, especially if residents of the impacted environmental justice area express a need for additional outreach and engagement. The proposed rule does not preclude the owner or operator from holding additional meetings before drafting a CBA.

1460. Part 7007.6110, subpart 7, item A does require a proposed CBA to be submitted within 45 days after the end of the public comment period associated with the public meeting required after the CBA is drafted. Providing a deadline for submittal of a proposed CBA prevents unnecessary delays to the timeline that would result in additional time and resources needed from the residents of the

impacted environmental justice area and an owner or operator.

1461. Part 7007.6110, subpart 8 requires the MPCA to make a preliminary determination about whether to enter into a proposed CBA. Part 7007.6110, subpart 10 requires the MPCA to document how information considered in part 7007.6110, subpart 9, item B, was weighted in making a preliminary determination regarding whether to enter into a proposed CBA. This information is required to be made publicly available on the agency website within 30 calendar days of the MPCA's determination. If the MPCA's preliminary determination is to enter into the CBA, the residents of the impacted environmental justice area will have an opportunity to submit additional public comments for the proposed CBA.

1462. If an owner or operator submits a proposed CBA and at the time of submittal requests to conduct additional community outreach and engagement that could result in changes to the proposed CBA, the MPCA would use discretion responding to this request. The MPCA would review comments submitted during the public comment period associated with the public meeting required after the CBA is drafted to determine whether to delay the preliminary determination required in part 7007.6110, subpart 8, and allow a revised proposed CBA to be submitted.

Requirements for entering into a CBA

1463. The MPCA received one comment regarding requirements for entering into a CBA that requests for priority to be given to comments and feedback from residents of the impacted environmental justice area in determining whether to enter into a CBA.

1464. **Frontline Communities Protection Coalition-034-39:** The Frontline Communities Protection Coalition stated, "Subp. 9. **Community benefit agreement; requirements**, item (A) - We support requiring a proposed CBA to address issues raised during the public notice and comment periods. Similar to our comment on subpart 4, we believe that the proposed CBA should reflect the feedback received during the public outreach process, with priority given to comments and feedback from residents of the impacted environmental justice area."

MPCA RESPONSE

1465. Feedback provided during public meetings must be accepted and responded to per part 7007.6080, subpart 5, item A, subitem (4). If the owner or operator chooses to conduct additional outreach and engagement, in addition to the requirements of part 7007.6080, the owner or operator can use the information gathered in preparing a CBA, as long as records of any written or oral comments received from residents of the impacted environmental justice area are maintained, per part 7007.6080, subpart 11, item B, subitem (4).

1466. In preparing both the draft and proposed CBA, the owner or operator must consider any comments received during the public meetings and comment periods required before and after preparing a draft CBA, per part 7007.6110, subpart 6, item A, subitem (2), and part 7007.6110, subpart 7, item B, subitem (2). As explained in the SONAR (p. 152-153), requiring the owner or operator to consider these comments ensures the draft CBA and proposed CBA are prepared using community input.

1467. Some public comments may include recommendations or requests that are infeasible due to economical, technological, or other constraints. Because of this, requiring prioritization of comments based on the party that submitted the comment would result in the rule being too restrictive.

Enforcement of a CBA

1468. The MPCA received five comments regarding enforcement that requests a process for addressing noncompliance with a CBA.

1469. **Frontline Communities Protection Coalition-034-41:** The Frontline Communities Protection Coalition stated, “Item (C) - Similar to before, this section frames community benefit agreements as inevitable. Any facility that fails to meet the criteria must simply keep revising a CBA until the MPCA approves it. There is also no room for further community input for a CBA that fails to meet the criteria. This may result in private negotiation between a facility owner or operator and the MPCA until the Commissioner ends up approving the CBA. This is particularly problematic when it comes to permit reissuances, as those facilities do not have an incentive to enter into a CBA as they can continue operating on their old permit until a new one is approved. **There must be clear criteria under which the MPCA will deny a CBA, both for situations when the impacted environmental justice area clearly does not want one and when a facility owner or operator is continuously failing to put forward a viable CBA**. The rules directly reference the ability of the Commissioner to deny a proposed CBA in part 7007.1000, subpart 2, item (H). This is a restatement of what the statute directly describes as well, yet the proposed rules lack any provisions that regulate how a permit would be denied when a facility owner or operator fails to enter into a CBA.

Finally, **we believe that accountability and enforcement are critical aspects of this part of the law and have not been properly outlined in the proposed draft rules**. There is no information about what happens if a facility is found to be in violation of a community benefit agreement or how that would affect their permit. We propose that the CBA be included in the permit and that the MPCA should come up with a protocol for addressing facilities that are not complying with a CBA. This protocol should leave room for re-entering compliance or modifying the CBA, but not allow facilities to get away with a slap on the wrist for continued violation. **A CBA is an acknowledgement that a facility is having a significant impact on a historically marginalized community**. Any violation should be taken seriously, and should result in permit revocation when necessary.”

1470. **Frontline Communities Protection Coalition (compiled comments)-045-132:** Melissa Zimmerman stated, “Finally, I encourage the MPCA to clearly establish how Community Benefit Agreements will be monitored and enforced. The proposed rules describe how a CBA is developed, reviewed, and approved, but they should also explain who is responsible for ensuring commitments are fulfilled and what happens when they are not.

CBAs should include measurable commitments, implementation timelines, reporting requirements, and ongoing monitoring. The rules should also establish a clear process for addressing noncompliance, including corrective actions, modifications to permit conditions when appropriate, or other enforcement tools available under the law.

Without a practical and clearly defined enforcement mechanism, Community Benefit Agreements risk becoming another set of commitments without accountability, which could further damage public trust. Communities should not be left responsible for enforcing agreements that were created to protect them. A strong enforcement framework is necessary to ensure that CBAs remain meaningful throughout the life of a project and that commitments made during the permitting process are actually delivered.

Minnesota has an opportunity to establish a thoughtful and effective Community Benefit Agreement framework. Taking additional time to ensure these provisions are informed by legal expertise, practical experience, and the perspectives of affected communities will help create agreements that are meaningful, enforceable, and capable of achieving their intended purpose."

1471. **Prairie Island Indian Community-052-05:** The Prairie Island Indian Community stated, "The Community further emphasizes that where community benefit agreements (7007.6110) are utilized, they must include tangible, measurable, and enforceable outcomes that directly offset identified cumulative burdens and result in meaningful improvements to community health and environmental conditions."

1472. **Ramsey County District 6-056-04:** Commissioner Xiong stated, "3. **Clarify that community benefits must be additional to, and may never replace, pollution prevention, emission controls, regulatory compliance, enforcement obligations, penalties, or remediation.** The proposed rule defines a "community benefit" broadly as a program, service, action, project, or resource providing a tangible health, environmental, social, economic, or other benefit. The community-benefit provisions do not expressly state that benefits must be additional to all existing legal, permit, enforcement, remediation, and compliance obligations. A facility should not be permitted to continue avoidable harm simply because it offers jobs, charitable contributions, or neighborhood improvements. Economic benefits cannot compensate for preventable illness. The community benefit agreement should also include clear accountability and enforcement measures, such as deadlines, compliance reporting, corrective action, and meaningful consequences, if an owner or operator fails to deliver, fully implement, or maintain the promised benefits, including pathways of legal relief for impacted community members."

1473. **Ramsey County District 6-056-06:** Commissioner Xiong stated, "5. **Establish measurable and enforceable requirements.** The proposed rules define a "community benefit agreement" as an enforceable agreement between the MPCA commissioner and the facility owner or operator. The agreement must include implementation timelines, reporting and notification requirements, and details describing how each benefit will be deemed complete or fully implemented. Progress reports must be submitted at least semiannually, and reports and notices must be provided to the commissioner and people on the applicable mailing list. However, the community-benefit provisions do not expressly establish resident enforcement rights, specific penalties for nonperformance, or a resident complaint process. Each benefit should include a responsible party, dedicated funding, a completion deadline, measurable outcomes, and consequences for noncompliance. Residents should have access to progress reports in plain language and in languages commonly spoken in the affected community. The rules should also create a clear process for residents to report noncompliance and request enforcement."

MPCA RESPONSE

1474. The CBA as a two-party agreement between the facility and MPCA per Minn. Stat. § 116.065, subd. 5 will be subject to the agency's enforcement authorities. To ensure accountability and enforceability, the CBA must specify timelines, how community benefits will be deemed complete or fully implemented, and reporting and notification requirements, per part 7007.6110, subpart 3, items F, H, and I. Reporting and notification requirements at a minimum must provide notices to the MPCA and interested parties of the start and completion of construction or implementation of each community benefit identified in the CBA, and periodic progress reports summarizing the status of each community benefit, per part 7007.6110, subpart 5, items A and B.

1475. Additionally, per part 7007.6110, subpart 3, item G, specifies that "if a community benefit results in a permanent physical structure or objects, identification of the party that will have legal ownership of the structure or objects upon completion and the party responsible for applicable taxes and maintenance" must be included in the CBA. As explained in the SONAR (p. 148), this information must be specified so it is clear to the owners and operators, residents, and the MPCA of who has final ownership and ongoing financial responsibility of physical community benefits.

1476. If an owner or operator fails to comply with the CBA, the MPCA has authority to pursue enforcement for identified violations, per Minn. Stat. § 115.071 and Minn. Stat. § 116.07, subd. 9. The MPCA has an established enforcement process to determine the appropriate enforcement action and associated penalty amount, if applicable, based on the seriousness or repeat violations. All enforcement actions include corrective actions that an owner or operator must complete to address noncompliance.

1477. The MPCA did not include a process in the rule that establishes resident enforcement rights because doing so would be an impermissible delegation of the MPCA's powers under Minn. R. 1400.2100. Allowing enforcement of CBAs by community would grant external parties enforcement authority which they do not have and MPCA legally cannot delegate, per Minn. R. 1400.2100(F).

1478. The public can assist in oversight by submitting complaints if they witness or have evidence of noncompliance with rule requirements or CBA requirements. The types of permit holders covered by the proposed rule are subject to routine compliance inspections by the MPCA, which is part of how the MPCA monitors stationary sources for compliance, and may also be evaluated if complaints are received or concern and questions exist regarding compliance.

CBA process and health monitoring to understand cumulative impacts

1479. The MPCA received one comment regarding the CBA process that requests consent and participation to be central, and for health monitoring to understand cumulative impacts.

1480. **Sierra Club North Star Chapter (complied comments, set 1)-037-05:** Shelby Capacio stated, "Dear Judge Middendorf, As someone who lives with asthma and as a journalist who has frequently reported on MPCA actions and the public health impacts of pollution, I implore you to address disparities and take strong measures to end environmental racism. Minnesota is often described as a climate haven, but we have significant issues with air quality, environmental toxins, and healthcare access. The heaviest burdens are shouldered by BIPOC and low-income communities, and this is not acceptable. Polluting facilities must be monitored, and the we also need robust health monitoring to understand the full scope of cumulative industry impacts so that we can respond appropriately to reduce harms and realize a more equitable, healthy, and sustainable future for every resident in the state, not just the affluent ones. To achieve this, we need strong rules with no loopholes, and a clear community benefit agreement process where consent and participation are central, not afterthoughts or nice-to-haves.

MPCA RESPONSE

1481. Minn. Stat. § 116.065, subd. 6(c)(4) states, "Rules adopted under this section must: 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 impacted environmental justice area designed to achieve significant community participation;". In part 7007.6110, the MPCA has established the content of and procedures for entering into a CBA. Part 7007.6110, subpart 2, and part 7007.6080, subparts 3 through 9 specifically, establish requirements for active outreach to residents of the impacted environmental justice area designed to achieve significant community participation. The SONAR (p. 104-126) provides an explanation of the requirements for active outreach to encourage community participation, which is central to the CBA process.

1482. Facilities that are subject to the proposed rule are required to monitor air pollutants in accordance with their air emissions permit. The MPCA monitors these facilities for compliance with their permits.

1483. For health monitoring, or biomonitoring, the MPCA recognizes that biomonitoring is a very

important aspect of people's lives and what they are exposed to. The MPCA though cannot disclose any health information that can be identifiable to a particular person, unless there is a court order to do so, for example under Minn. Stat. § 13.055, and Minn. Stat. § 13.3805.

1484. In order to gather biomonitoring data, the MPCA must coordinate with MDH on the collection of such data, as the "Commissioner" and the powers of Minn. Stat. § 13.3805 fall within the Minnesota Department of Health, not MPCA. The Minnesota Legislature did not appropriate monies or powers for MPCA to do so under the Cumulative Impacts statue or for implementation to perform biomonitoring at that scale with MDH.

1485. Further, Minn. Stat. § 116.065, subd. 1 (f)(1) specifically states that the holders of the data, and dissemination of biomonitoring data comes from MDH or CDC, "(1) environmental effects on health from exposure to past and current pollutants in the environmental justice area, including any biomonitoring data from residents reported through the Centers for Disease Control, the Department of Health, or peer-reviewed scientific or medical articles".

Focus on impacted environmental justice area is too narrow

1486. The MPCA received one comment regarding the cumulative impacts analysis and CBA that states the focus on the impacted environmental justice area is too narrow.

1487. **Minnesota Building and Construction Trades Council-041-13:** The Minnesota Building and Construction Trades Council stated, "**The Focus on "The Impacted Environmental Justice Area" is Too Narrow.**

These rules use census tracts as a unit to measure impacts, adverse impacts, and benefits of proposed permits. For instance, during a cumulative impacts analysis, it must include (proposed rules, page 63.1) a description of the socioeconomic impact of construction and operation of the stationary source on the residents of the impacted environmental justice area. Similarly, in a community benefits agreement (page 73.29) "community benefits that directly impact the residents of the impacted environmental justice area must be prioritized". This is too narrow. As mentioned earlier, census tracts in the core cities are tiny – often less than one square mile. Economic development and jobs –realistic benefits that could be offered to "the community" should not be limited to people who live within just a few blocks of the facility for the same reason the rule includes communities within a mile of an environmental justice area. This is especially true since census tracts tend to be bordered by commercial corridors, the same streets where large facilities tend to be located. If a facility is just inside one environmental justice area, but across the street from another, should we only consider the benefits to the technical census tract that includes the facility? The reality is that both the impacts and benefits of these facilities should be measured in the broader community. This is especially true to the extent that jobs and other socioeconomic factors will be weighed during the analysis or considered during the community benefits process. We have many members who live in environmental justice areas but work in other, nearby environmental justice areas. In fact, a broader interpretation of an impacted neighborhood would benefit workers in all environmental justice areas. By excluding consideration of workers who live in one environmental justice census tract and work in another, the rule risks doing net harm to the very communities it was intended to serve by depriving them of family-supporting jobs, health coverage, retirement security and all of the other individual and community benefits that accompany stable employment.

MPCA RESPONSE

1488. The cumulative impacts analysis and CBA are not limited to only the environmental justice area census tract, or tracts, that a stationary source is located in. Part 7007.6010, subpart 12 defines CBA,

as an agreement, establishing benefits provided "to residents of the impacted environmental justice area." Part 7007.6010, subpart 26 defines "Impacted environmental justice area" to mean "one or more environmental justice areas, in whole or in part, that are within one mile of the property boundary of a stationary source, including any environmental justice area that a stationary source is located in." As explained in the SONAR (p. 67), this term includes the environmental justice areas that are in, or within one mile of, the property boundary of the stationary source as that is the maximum reach of the proposed rules under the applicability criteria established in Minn. Stat. § 116.065. Additionally, part 7007.6110, subpart 4, item A provides that residents of the impacted environmental justice area can suggest benefits and that benefits in addition to economic benefits must be considered. Part 7007.6110 ,subpart 9, item A, subitem 5 expressly requires that the CBA prioritizes benefits that directly impact residents of the impacted environmental justice area.

1489. Therefore, in conducting a cumulative impacts analysis, and in developing a CBA, an owner or operator must consider and prioritize the environmental justice area census tract or tracts that a stationary source is located in, the environmental justice area census tracts that are entirely within one mile of the property boundary of a stationary source, and the environmental justice area census tracts that are partly within one mile of the property boundary of a stationary source. In instances where environmental justice area census tracts are partly within one mile of the property boundary of a stationary source, the entire census tract must be considered in conducting a cumulative impacts analysis and developing a CBA.

CBA revision after second CBA specific meeting

1490. The MPCA received one comment regarding the CBA process that requests for a CBA to remain open for revisions following the second CBA specific meeting.

1491. **Frontline Communities Protection Coalition (compiled comments)-045-160:** Side Corridor Residents, Owatonna East stated, "The draft CBA should remain open to revision following the second public meeting. When substantive public comments identify additional community priorities, concerns, or deficiencies, those comments should be meaningfully considered and incorporated into the agreement when appropriate before it is finalized."

MPCA RESPONSE

1492. Following the second CBA specific public meeting, per part 7007.6110, subpart 8, item B, "If the commissioner makes a preliminary determination to enter into a community benefit agreement with the owner or operator of a stationary source, the community benefit agreement must not be entered into by the commissioner until after the draft permit public notice and comment period required under part 7007.0850, subpart 2. As explained in the SONAR (p. 154), "It is important to wait until after the public notice and comment period for the draft permit because the comment period could inform decisions about the terms and conditions of a permit, including whether to enter into a CBA."

1493. In developing a draft CBA, an owner or operator is required to consider comments from the public meeting and associated public comment period that is required before drafting a CBA, per part 7007.6110, subpart 6, item A, subitem (2). Part 7007.6080, subpart 9, item E, subitem (2) requires the MPCA to post a draft CBA on the agency website at least 30 calendar days before the public meeting required after a CBA is drafted. Providing the draft CBA in advance of the meeting allows community members and organizations to review the draft CBA ahead of the meeting and provide informed feedback on how the CBA could be revised or improved to better serve the residents of the impacted environmental justice area.

1494. In developing a proposed CBA, an owner or operator is required to consider comments from the

public meeting and comment period that is required after drafting a CBA, per part 7007.6110, subpart 7, item B, subitem (2). As explained in the SONAR (p.153), requiring an owner or operator to consider public comments during the different stages in developing a CBA ensures a CBA is developed with continuous community input.

1495. In determining whether to enter into a CBA, the MPCA must consider comments, per part 7007.6110, subpart 9, item B, subitem (5), and determine whether the proposed CBA demonstrates that it addresses issues raised during public notice and comment periods, per part 7007.6110, subpart 9, item A, subitem (4). If the MPCA's preliminary determination is to enter into the CBA, the public will have the ability to submit additional public comments on the CBA during the public notice and comment period for the draft permit. This process is intended to provide opportunities for the impacted community to participate in the CBA process and submit public comments to be considered by both owners and operators and the MPCA during the multiple stages of developing a CBA.

Party responsible for developing a CBA

1496. The MPCA received one comment regarding CBAs that requests for CBAs to be drafted by community.

1497. **Frontline Communities Protection Coalition (compiled comments)-045-197:** David Derksen stated, "The developer and city officials already snuck in a CBA and voted on it without ever really presenting this to the public. This brings me to your rule change. In particular, I want to highlight the CBA part and recommend changes that enshrine true community participation. We need robust rules or criteria upon which CBAs are approved or disapproved by the Commissioners. I suggest CBAs should only be accepted when they are drafted by citizen commission from the affected community in order to ensure big money interests do not exploit vulnerable populations. I love my rural community, and I want my neighbors along with myself to have a say when it comes to major developments coming into my community that may forever change and possibly harm those who live there. Please consider requiring CBAs be drafted with local citizen commission inputs so that what is happening in Pine Island does not happen elsewhere in our great state."

MPCA RESPONSE

1498. Part 7007.6110, subpart 9, items A and B specify the requirements for the MPCA in determining whether to enter into a CBA, including the information that must be considered and what that information must demonstrate. This includes considering comments received during public participation required under part 7007.6080, and ensuring the proposed CBA and owner's or operator's response to comments address the issues raised during the public comment periods required in part 7007.6080. If the information considered does not demonstrate compliance with the requirements of part 7007.6110, subpart 9, item A, and an owner or operator does not provide additional information or revise the CBA, per part 7007.6110, subpart 9, item C, the MPCA's cannot enter into the CBA.

1499. As explained in the SONAR (p. 144), the proposed rule requires a CBA to be prepared by the owner or operator of a stationary source because the CBA is similar to a permit application, in that the owners and operators are proposing what they will do in order to meet the requirements of the rule and statute. Additionally, owners and operators have the expertise on whether they can feasibly provide the community benefits requested by participants of the CBA process.

1500. While community may not get to draft a CBA, a CBA must be developed with input from community. Minn. Stat. § 116.065, subd. 6(c)(4) requires the rule to establish the procedures for entering into community benefit agreements, which must include: "(i) active outreach to residents

of the impacted environmental justice area designed to achieve significant community participation;". Part 7007.6080 and part 7007.6110, subpart 2 establish multiple outreach and engagement opportunities for the owners and operators to complete, and through these outreach and engagement opportunities, provide residents of the impacted environmental justice area opportunities to give the owners and operators input and feedback on what is important to them to be included in a CBA.

PART 7007.6115 MODIFYING COMMUNITY BENEFIT AGREEMENTS

Timeline and process to modify a CBA

1501. The MPCA received two comments regarding modifying CBAs that requests revisions and review of the process in the proposed rule.

1502. **Frontline Communities Protection Coalition-034-42:** The Frontline Communities Protection Coalition stated, "7007.6115 Modifying Community Benefits Agreements - Subp. 2. Modifying a community benefit agreement; other changes, item (D) - We believe that 15 days notice is too short for this section. Proposed modification of a CBA could result in a significant change in community sentiment about the CBA and facility. In order to ensure that communities can properly engage in this process, a minimum of 45 days notice should be required. Modification of a CBA should also require at least one additional public meeting, with similar requirements to part 7007.6080, subpart 4, item (B), subitem (2). If the proposed changes to the CBA are significant, the Commissioner should require the facility owner or operator to go through the entire CBA process from the beginning, with a deadline for completion.

To reiterate, a CBA represents an already overburdened and marginalized community agreeing to take on an additional pollution burden in exchange for legally mandated benefits. If a facility wants to significantly change those benefits after they have already been agreed upon, the community must have ample opportunity to provide feedback, and that feedback must be taken into serious consideration.

1503. **Ramsey County District 6-056-07:** Commissioner Xiong stated, "6. **Require meaningful public participation before an agreement may be modified or terminated.** Proposed Rule 7007.6115 establishes a process for requesting modifications to an approved community benefit agreement. That process should be carefully reviewed to determine which changes require public notice, public comment, or meetings and whether any modification requires evidence of community support. A facility should not be able to weaken a benefit after receiving its permit without notice, community review, and MPCA approval. Material changes should require the same level of participation and community support as the original agreement."

MPCA RESPONSE

1504. The requirement to provide a notice 15 calendar days before the start of a public comment period for modifying a CBA, per part 7007.6115, subpart 2, item D, is consistent with the notice required under part 7007.6080, subpart 7, item A. There is only one calendar day difference in when the public comment periods can begin after notice is provided (*e.g.* public comment can start 14 days after notice in part 7007.6080, subpart 7, item A). However, the public comment period for modifying a CBA must be 45 days, per part 7007.6115, subpart 2, item D, subitem (4), versus at least 30 calendar days for public comment periods associated with public meetings, per part 7007.6080, subpart 8, item A. With the notice being provided directly to persons that provided comments during the public notice and comment periods under part 7007.6080, per part 7007.6115, subpart 2, item D, the MPCA feels 60 days to submit comments is sufficient as it is longer than other comment

periods in the proposed rule.

1505. The intent of part 7007.6115 is not to allow significant changes to a CBA that has been entered into. Part 7007.6115 is intended, as explained in the SONAR (p. 160), to allow flexibility in complying with the proposed rule if unforeseen circumstances arise.

1506. In place of requiring a public meeting to modify a CBA, the process for evaluating a modified CBA is similar to the process for evaluating a proposed CBA, outlined in part 7007.6110, subpart 9, items A and B. Part 7007.6115, subpart 3 specifies what the commissioner is required to consider in determining whether to approve a requested change to a CBA. This includes the request, the notice for the public comment period, which includes reasons for the requested change, comments received during the comment period, and the owner's and operator's responses to comments.

1507. The MPCA can only enter in a modified CBA if the items considered demonstrate that the request and notice were prepared in compliance with part 7007.6115, and the modified CBA and owner's and operator's response to comments address issues raised during the public comment period, per part 7007.6115, subpart 3, item A. Nothing in the rule precludes community from requesting a public meeting or the owner or operator from holding a public meeting to discuss a request to modify a CBA.

PART 7007.6120 PERMIT DECISIONS

Permit denial criteria

1508. The MPCA received seven comments regarding permit denial criteria. Commenters suggested that the proposed rules should define the criteria where the MPCA must deny a permit.

1509. **Caucutt-016-01**: Amy Caucutt stated, "Nearly everyone in older neighborhoods, like mine (Elton Hills) in Rochester looks to me to be affected by this law. I have lived in my home 50 years. I would like to think that I could be involved in preventing future pollution in my city. I am active in League of Women Voters and plan to continue to watch my government and affect GOOD change. There are gaps in your rules "proposed MPCA rules."

1) You need to define denial criteria, else there will never be denials and community members will be disillusioned and fail to participate."

1510. **Gormen-021-01**: Ben Gorman stated, "To the Minnesota Pollution Control Agency, We are transplants to Rochester from Boston and St. Paul. We love the green spaces we have found in Rochester, living on a park and being in nature. We are worried, however, about the MN PCA proposed Cumulative Impacts draft rules. We feel that changes to our communities must ultimately benefit our communities. Under the current draft, there isn't a way for our community to say "no" to proposed changes. We would like to see denial criteria overall, and a community council process so we can be more deeply involved in proposed changes. Benefits to our communities should be defined by our communities."

1511. **Kelly-022-01**: Camry Kelly stated, "To the Minnesota Pollution Control Agency, We are transplants to Rochester from Boston and St. Paul. We love the green spaces we have found in Rochester, living on a park and being in nature. We are worried, however, about the MN PCA proposed Cumulative Impacts draft rules. We feel that changes to our communities must ultimately benefit our communities. Under the current draft, there isn't a way for our community to say "no" to proposed changes. We would like to see denial criteria overall, and a community council process so we can be more deeply involved in proposed changes. Benefits to our communities should be defined by our communities."

1512. **Coming Clean Network-024-10**: The Coming Clean Network stated, "**Necessary Improvements to the Draft Regulations Define permit denial criteria.** Spell out the specific circumstances under which the Commissioner must deny a permit, consistent with what the statute actually requires."

1513. **Norrgard-029-04**: Jeanne Norrgard stated, "The MPCA must be able to actually deny a permit. And to level the playing field for all parties, the MPCA rules should be amended to clearly and strongly state what the criteria and specific circumstances are that would support and require permit denial, consistent with state statute requirements. Potential loopholes that facilities and industries could exploit must be written out of the rules and avoided altogether."

1514. **Frontline Communities Protection Coalition (compiled comments)-045-180**: Kathleen Stuebner stated, "I am concerned that these proposed rules do not take into account existing problems in re-permitting and lack clear criteria for denying new permits. The rules leave too much undefined."

1515. **Gorfine-061-03**: Mary Gorfine stated, "2) Make clear if a permit is denied, why that is, and monitor corrective action."

MPCA RESPONSE

1516. The MPCA appreciates the commenters' suggestion to identify specific criteria regarding the decision to deny a permit. The criteria for issuing and denying permits is established through a combination of statutory language in Minn. Stat. § 116.065, subd. 5, proposed rule language in part 7007.6120, and modifications to existing rule language in part 7007.1000.

1517. Minn. Stat. § 116.065, subd. 5 establishes when the MPCA must deny a permit for a facility subject to the requirements of the proposed rule. Minn. Stat. § 116.065, subd. 5 (b) states, "Unless the commissioner enters into a community benefit agreement with the facility owner or operator, the commissioner must deny a permit subject to this section for a facility in an environmental justice area if the cumulative impacts analysis determines that issuing the permit, in combination with the environmental stressors present in the environmental justice area and considering the socioeconomic impact of the facility to the residents of the environmental justice area, would have a substantial adverse impact on the environment or health of the environmental justice area and its residents."

1518. The MPCA proposed rule language in part 7007.6120 to identify what the commissioner must consider in determining whether to issue or deny a permit for a facility subject to the proposed rules. Part 7007.6120, subpart 1, item A identifies the actions the commissioner must take including determining whether a cumulative impacts analysis is required in subitem (1), determining whether issuing the permit would have a substantial adverse impact in subitem (2), and determining whether to enter into a community benefit agreement if issuing the permit would have a substantial adverse impact in subitem (3). Items B through D identify the information that the MPCA must consider in determining whether to issue or deny the permit including that the MPCA must deny the permit if issuing the permit would have a substantial adverse impact and the commissioner does not enter into a community benefit agreement with the facility.

1519. The MPCA also proposed modifications to existing rule language in part 7007.1000 to update the preconditions for issuing and grounds for denying a permit identified in part 7007.1000, subparts 1 and 2 to align with the requirements in Minn. Stat. § 116.065, subd. 5 regarding permit decisions.

1520. Part 7007.1000, subpart 1 requires that all the conditions identified in items A through I must be satisfied for the MPCA to issue a permit or permit amendment. Item I identifies that all applicable provisions of Minn. Stat. § 116.065 and the proposed rule have been fulfilled. This means that for

the MPCA to issue a permit for a facility subject to the requirements of the proposed rule, the MPCA must determine that all applicable provisions of Minn. Stat. § 116.065 and the proposed rule have been fulfilled.

1521. Part 7007.1000, subpart 2 identifies when the MPCA can deny a permit or permit amendment for any of the reasons identified in items A through H. Item A, which is not being modified by the proposed rule, identifies that when the MPCA is unable to make any of the determinations required under subpart 1 as one reason for denying a permit. This means that if the MPCA is unable to determine that all applicable provisions of Minn. Stat. § 116.065 and the proposed rule have been fulfilled, then the MPCA has grounds for denying that permit or permit amendment. Item H identifies the circumstances where MPCA must deny a permit as identified by Minn. Stat. § 116.065, subd. 5(b). Specifically, if the applicant fails to enter into a community benefit agreement with the commissioner, the MPCA has grounds for denying that permit or permit amendment.

1522. Through this combination of new and existing rule parts and statutory language, the MPCA must consider a wide variety of information specific to the facility and the environmental justice areas impacted as part of making a decision to issue or deny a permit subject to the proposed rules. This includes the cumulative impacts analysis, the comments and testimony that people may provide during the public participation aspects of the proposed rule, and the owner's or operator's response to those comments. This provides opportunities for community members to provide input throughout the steps of implementing the cumulative impacts analysis process and identifies the information that the MPCA must consider in determining whether to issue or deny a permit consistent with the statutory directives in Minn. Stat. § 116.065, subd. 5.

Permit decision considerations

1523. The MPCA received five comments regarding the information that MPCA should consider as part of making the determination to issue or deny a permit. Commenters provided suggestions of the type of information that should be considered, how that information should be considered, and other recommendations.

1524. **Hill-014-02**: Joanne Hill stated, "However, I respectfully urge the Administrative Law Judge and the MPCA to strengthen the rule by requiring that cumulative health impacts carry significant weight in permit decisions—not simply be documented. As a public health nurse, CRNA, and lifelong Minnesotan, I have cared for the very people these cumulative burdens affect. North Minneapolis represents one of Minnesota's clearest examples of cumulative environmental injustice. Historic redlining, industrial zoning, and the construction of Interstate 94 concentrated pollution in predominantly Black, Brown, Indigenous, and low-income communities. HERC adds another source of PM2.5, nitrogen oxides, sulfur dioxide, heavy metals, and dioxins to neighborhoods already carrying disproportionate environmental burdens. HERC .pdf The science is well established. Air pollution contributes to asthma, cardiovascular disease, stroke, lung disease, cancer, and premature death. Public health analyses estimate approximately 1–2 premature deaths annually associated with HERC emissions, asthma emergency department visits are five to six times higher in impacted communities, and pollution-related health damages have been estimated at approximately $16 million annually from particulate matter alone. 26 Public Health Forum.pdf These illnesses are treated every day at Hennepin Healthcare, Minnesota's largest safety-net hospital. We continue investing public dollars to treat preventable diseases while investing far less in preventing the pollution that contributes to those illnesses. Prevention should become a measurable outcome of the cumulative impacts policy."

1525. **Frontline Communities Protection Coalition-034-43**: The Frontline Communities Protection Coalition stated, "**7007.6120 Permit Decisions**

We do not have any specific feedback on this section, though if any of our recommendations are incorporated into the rules then this section must be updated."

1526. **American Petroleum Institute-042-21**: The American Petroleum Institute stated, "**1.15 PART 7007.6120 – PERMIT DECISIONS** The permit decision should remain grounded in:

- scientific evidence;
- exposure assessment;
- risk characterization;
- applicable regulatory standards.

The rule should clarify that:

- compliance with enforceable emission limits;
- successful implementation of permit conditions;
- completion of any required mitigation;
- weigh heavily in favor of permit issuance. Permit denial should remain reserved for circumstances where substantial adverse impacts cannot reasonably be avoided or mitigated.

Thank you for considering these comments. API looks forward to continued engagement with MPCA as the rulemaking proceeds."

1527. **Frontline Communities Protection Coalition (compiled comments)-045-193**: Anne Englert stated, "These draft rules need to take into account that there is already a burden of cumulative impacts in many such communities, due to the decades of pollution from existing facilities, and they should pave the way for shutting them down, or at least significantly reducing their levels of pollution. Reissuances of permits should be based on the existing health and environmental stressors of impacted communities as well as toxic emissions from facilities."

1528. **Prairie Island Indian Community-052-04**: Prairie Island Indian Community stated, "With respect to the proposed cumulative impacts rule governing the permitting of emission facilities and stationary sources, the Community recognizes that the inclusion of community benefit agreements represents a positive step toward addressing inequities. However, for this rule to be meaningful and effective, it must go further in ensuring that new or modified permits do not deepen existing cumulative impacts. We strongly recommend the rule prioritizes the prevention of additional harm by clearly requiring permits to be denied where additional emissions would exacerbate already significant cumulative impacts in EJ areas, particularly where baseline conditions exceed state or health-based benchmarks. It also is critical that the rules define "substantial adverse impact" using clear, objective, and science-based criteria, supported by measurable thresholds and transparent methodologies, to ensure that determinations are consistent, defensible, and protective of public health."

MPCA RESPONSE

1529. The MPCA appreciates the commenters' suggestions regarding how different information and impacts should factor into a decision to issue or deny a permit. The information that the MPCA must consider as part of making a decision to issue or deny a permit is established through a combination of statutory language in Minn. Stat. § 116.065, subd. 5 and proposed rule language in part 7007.6120.

1530. Minn. Stat. § 116.065, subd. 5 establishes information the MPCA must consider in determining whether to issue or deny a permit for a facility subject to the requirements of the proposed rule, when the MPCA must deny a permit, and options to impose conditions on the construction and

operation of a facility to protect public health and the environment.

1531. The MPCA proposed rule language in part 7007.6120 to identify what the commissioner must consider in determining whether to issue or deny a permit for a facility subject to the proposed rules. Part 7007.6120, subpart 1, item A identifies the actions the commissioner must take including determining whether a cumulative impacts analysis is required in subitem (1), determining whether issuing the permit would have a substantial adverse impact in subitem (2), and determining whether to enter into a community benefit agreement if issuing the permit would have a substantial adverse impact in subitem (3). Items B through D identify the information that the MPCA must consider in determining whether to issue or deny the permit including that the MPCA must deny the permit if issuing the permit would have a substantial adverse impact and the commissioner does not enter into a community benefit agreement with the facility.

1532. Throughout the overall cumulative impacts analysis process established by the proposed rule, there are multiple points where a wide range of information must be considered to understand the potential impacts associated with issuing a permit for a facility subject to the proposed rules. For example, there is the consideration of impacts to the environment and the health of the residents of an environmental justice area in determining whether a cumulative impacts analysis is needed (part 7007.6070) based on the information provided in an initial assessment (part 7007.6050) and/or provided through a petition (part 7007.6060). This information is also considered in determining whether issuing the permit would have a substantial adverse impact on the environment and the health of the residents of an environmental justice area (part 7007.6100).

1533. In both the initial assessment (part 7007.6050) and cumulative impacts analysis (part 7007.6090), there are requirements for those analyses to include various information that is meant to help inform the decision-making steps throughout the proposed rule. For example, this includes information such as:

- The current and proposed operations of the facility including the control measures and other actions taken by the facility to avoid, minimize, or reduce the impacts of those operations (see part 7007.6050, subpart 3, item C, subitem (4)).
- The environmental stressors present in the area and how they may increase the adverse effects of the impact the facility has on the environment and the health of the residents of an environmental justice area (see part 7007.6050, subpart 3, item G, subitem (4)).
- Any current and proposed measures to avoid, minimize, or reduce negative impacts; or provide environmental or health benefits to residents of the environmental justice area (see part 7007.6050, subpart 3, item I).
- The air quality modeling and air emission risk analyses required (see part 7007.6090, subparts 4 and 5) to help understand the specific impacts quantifiable through these types of analyses

1534. Through this combination of rule language and statutory language, the MPCA must consider a wide variety of information specific to the facility and the environmental justice areas impacted as part of making a decision to issue or deny a permit subject to the proposed rules. This includes the wide variety of relevant information required through the cumulative impacts analysis process, the comments and testimony that people may provide during the public participation aspects of the proposed rule, and the owner’s or operator's response to those comments. This provides a solid basis for the MPCA to make a decision to issue or deny a permit based on the unique circumstances specific to each permit, the location of the facility seeking the permit, and the community members living in the impacted environmental justice areas.