

39398 Minnesota Pollution Control Agency Post-Hearing Comment Period on Cumulative Impacts Rule

Closed Sep 21, 2026 · Discussion · 7 Participants · 1 Topics · 8 Answers · 0 Replies · 0 Votes

7

PARTICIPANTS

1

TOPICS

8

ANSWERS

0

REPLIES

0

VOTES

SUMMARY OF TOPICS

SUBMIT A COMMENT

 8 Answers · 0 Replies

Important: All comments will be made available to the public. Please only submit information that you wish to make available publicly. The Court of Administrative Hearings does not edit or delete submissions that include personal information. We reserve the right to remove any comments we deem offensive, intimidating, belligerent, harassing, or bullying, or that contain any other inappropriate or aggressive behavior without prior notification.

Natasha Villanueva · Citizen · (Postal Code: unknown) · Sep 07, 2026 12:33 pm

 0 Votes

My name is Natasha Villanueva, and I am fortunate to be a resident of the Jordan neighborhood on the Northside for two years. I'm writing to advocate for the strongest possible cumulative impacts rule to safeguard me, my family, my neighbors, and to honor the legacy of organizers who spent their lives advocating for our health and environment such as Karen Clark. I attended the hearing with the intention of giving my comment live, however, I ran out of time because I needed to knock doors in my community to share information with my neighbors about the largest polluter in Hennepin County and my motivation for commenting, the Hennepin Energy Recovery Center (HERC).

After renting a one-bedroom apartment with rising rents for ten years in Stevens Square-Loring Heights on the southside of HERC, my partner and I were fortunate to receive first time homebuyers' assistance and began our search for a vibrant, diverse place in the city filled with families where we could establish and invest ourselves. Our decision to choose Jordan neighborhood is affirmed each day as we walk our dog in nearby North Commons and Theodore Wirth Parks, vote at the Capri theater, or witness the strong response to the ICE occupation this past winter. My hope for our community's future is reparations, protection, and investment commensurate to its assets as well as historical marginalization. Polluters like HERC stand in the way of this future. Trash from residents, businesses, and suburban Hennepin County is transported by truck to burn in our backyard. The resulting toxic ash is deposited in a Rosemount, MN landfill. Our elected officials in the 1980s did not examine cumulative impacts when they ignored resistance to HERC being built in the first place nor the repeated pleas from residents to close it long after exceeding the proposed span of operation of 20 years.

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As I knock doors I listen to my neighbors' concern for our air quality, as well as their struggles with respiratory issues that lead to keeping their children indoors when they desire only to play. In fact, our zip code, 55411 has the highest rates of asthma in the state. When examined in conjunction with other polluters such as the surrounding highways that tore apart the fabric of our neighborhoods during redlining and resulting white flight, we cannot in good conscience allow HERC to continue burning. HERC runs on outdated permits without continuous monitoring of all pollutants it emits, and we not only have a right to know what is in our air, but a right to breathe freely. We must subject permit renewal requests such as HERC's to the same high level of scrutiny as that of a new facility, even and especially if that results in its closure. When it comes to cumulative impacts, we need to examine not only how a facility adds to the pollution burden at a single moment in time, but how long it has been polluting. We must also measure the vulnerability of impacted neighborhoods. This vulnerability score on the Northside could include factors such as how many grocery stores and clinics are available to address food apartheid and the lack of access to preventative care and pharmacies to mitigate the devastating respiratory, cardiac, and cancer complications associated with air pollution from lead, particulate matter, PFAS etc. emitted from HERC. We could take into account area median income as well as the ratio of schools to the population of children and level of formal education of adults to assess the financial safety net and earning potential of families that have to absorb the detrimental effects of missing school and work when sick from pollution. Thank you for your time and energy spent ensuring a strong cumulative impacts rule that protects our people and environment as fiercely as polluters threaten our very existence.

Katie Izzo · Citizen · (Postal Code: unknown) · Sep 18, 2026 4:17 pm

 0 Votes

Please see attached PDF for the MPCA's responses to hearing testimony and post-hearing comments posted as of 4:00pm on Sept. 18, 2026; the Agency will address any subsequent comments in a later Response to Comments filed before the end of the rebuttal period.

Andrew Morley · Citizen · (Postal Code: unknown) · Sep 21, 2026 12:48 pm

 0 Votes

Please find the attached additional comment from the Minnesota Chamber of Commerce.

Jenni Lansing · Citizen · (Postal Code: unknown) · Sep 21, 2026 3:26 pm

 0 Votes

Please see the attached comment letter on behalf of staff of the City of Minneapolis Health Department.

Mike Karbo · Citizen · (Postal Code: unknown) · Sep 21, 2026 3:43 pm

 0 Votes

Please see attached comments from the American Petroleum Institute.

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Yukyan Lam · Citizen · (Postal Code: unknown) · Sep 21, 2026 4:22 pm

 0 Votes

Please see attached comments from the The Tishman Environment & Design Center at The New School.

Kevin Pranis · Citizen · (Postal Code: unknown) · Sep 21, 2026 4:27 pm

 0 Votes

Please see attached comments and attachments (2/3) from LIUNA Minnesota and North Dakota

Kevin Pranis · Citizen · (Postal Code: unknown) · Sep 21, 2026 4:27 pm

 0 Votes

Please see additional attachment (3/3) from LIUNA Minnesota and North Dakota



Cumulative Impacts Rule
Hearing and Post-Hearing Response to Comments

Revisor ID No. R-04805
CAH Docket No. 21-9003-39398

September 2026

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Introduction

This document contains the response to the public testimony provided during the public hearing held on September 1, 2026, and the public comments received during the post-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. 14 commenters provided verbal testimony during the rule hearing on September 1, 2026. As of 4:00 pm on September 18, 2026, one commenter has submitted comments to the Court of Administrative Hearings' eComments website or via U.S. mail for the post-hearing comment period that ends at 4:30 pm on September 21, 2026.

The MPCA appreciates the thoughtful and thorough comments that were received during the public hearing and post-hearing comment period for this rule. The agency has provided its responses to those comments below, and where possible, has grouped similar comments together to provide a single response. For comments received during the post-hearing comment period that are not listed in this document, the MPCA will respond in a future response document.

List of interested parties

The following is a list of interested parties who submitted verbal testimony or written comments on the proposed rules during the public hearing held on September 1, 2026, or the post-hearing public comment period from September 1, 2026, through September 18, 2026 (with the post-hearing period set to close September 21).

Table 1. List of interested parties

Commenter ID	Date	Commenter Name	Organization Name	Notes
062	September 1, 2026	Justice Jones		Verbal testimony
063	September 1, 2026	Danielle Tietjen		Verbal testimony
064	September 1, 2026	Taisia Cleveland		Verbal testimony
065	September 1, 2026	Michelle Garvey		Verbal testimony
066	September 1, 2026	Roxxanne O'Brien		Verbal testimony
067	September 1, 2026	Hannah Resendiz-Olson		Verbal testimony
068	September 1, 2026	Marita Bujold		Verbal testimony
069	September 1, 2026	Monserrat Perez Barrios		Verbal testimony
070	September 1, 2026	Elena Gregoria Sut Rem		Verbal testimony, interpretation provided by CAH interpreter
071	September 1, 2026	Byron Renato Morales Galan		Verbal testimony, interpretation provided by CAH interpreter
072	September 1, 2026	Audua Pugh		Verbal testimony
073	September 1, 2026	Sasha Lewis-Norelle	Frontline Communities Protection Coalition	Verbal testimony
074	September 1, 2026	Andrés Vargas		Verbal testimony
075	September 1, 2026	Josefina Geronimo		Verbal testimony
076	September 7, 2026	Natasha Villanueva		

General comments

The MPCA received 19 general comments that were not specific to any rule part, which are identified and responded to below.

General support for the proposed rule

1. The MPCA received eight 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.
2. 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.
3. **Garvey-065-01:** Michelle Garvey stated, "My name is Michelle Garvey. I'm a mother in Minneapolis. I'm an urban farmer and I'm an environmental justice scholar and educator and community advocate for the past ten, fifteen years. I created the University of Minnesota's Systems First Environmental Justice course about ten years and have been teaching it ever since and over the years have been doing that in partnership with frontline community leaders, which led me to advocate early on for this cumulative impacts law. So I'm really happy to be a part of it and continue shaping it, along with the whole team that's here today, so thanks to all of you.

I just wanted to make mention of four brief points regarding community benefit agreements. Community benefit agreements, or CBAs, should benefit community impacted and should especially benefit people of color, indigenous, low income and/or people with limited English proficiency."
4. **O'Brien-066-01:** Roxxanne O'Brien stated, "Thanks for giving the community the opportunity to speak today. My name is Roxxanne O'Brien. So I've been doing this work for quite a long time in my community. One of the organizers who had to organize a campaign around a pollution facility in my neighborhood, known as Northern Metals, sorry, I'm a little nervous, and so it's just been a long fight.

So I was actually the first community member to work with Fu Lee on this bill, so we've come a long way and here we are today. Thank God, we're getting closer to implementing this bill. But it has been weakened during the process with MPCA, and so we want to just reiterate our points and what is really important for the MPCA, to help them to create these rules and hopefully for you to hold them accountable to that as well."
5. **Resendiz-Olson-067-03:** Hannah Resendiz-Olson stated, "Health and environmental impacts must be a priority through the rulemaking process to ensure protection from further irreparable harm to our health and safety. On behalf of myself and HPHC I appreciate the opportunity to submit further comments and recommendations in support of the effective implementation of this groundbreaking law and its anticipated contribution to equity and public health. Thank you."
6. **Bujold-068-03:** Marita Bujold stated, "And finally, the MPCA and the State of Minnesota must adequately fund and staff this work. This will take significant effort to include communities in this process complete and review the analysis and implement the final outcomes. Without proper funding and staffing levels the benefits of this work will be delayed for the communities that have already been waiting for government to be responsive to their needs. Normalizing environmental

justice in our state's planning is a practical necessity with enduring impacts. Thank you very much for taking our concerns seriously."

7. **Perez Barrios-069-01:** Monserrat Perez Barrios stated, "My name is Monserrat Perez Barrios. I work for COPAL, Communities Organizing Latino Power and Action. I thank you for the opportunity to provide comment and I also thank the Minnesota Pollution Control Agency for all the work they have done throughout these past three years of rulemaking.

I speak today not only for myself but on behalf of many community voices who cannot be in this room with us today. I want to speak plainly about what I see in these rules. It explains why the regulatory framework before you remains deeply incomplete.

Throughout this process we have raised concerns that touched the core of how this all will operate. While you're using demographic data to identify environmental justice areas is necessary step, that designation alone is meaningless without strong mandatory protections attached to it."

8. **Rem-070-01:** Elena Gregoria Sut Rem stated, "My name is Elena Gregoria Sut Rem. Well, as a member of the community, I consider that it is very important to have access to an environment as healthy for our families, and I consider that things like the nature, that they're not easy to replace and we cannot buy nature.

I know that as a human we have the right to be healthy, and every human being has the right to a healthy environment, to have good health, and we know that money cannot pay for things that cause pain. You cannot pay for the pain that a mother suffers when she sees her child suffer, or maybe see a relative that's suffering because of an illness.

When we talk about the cumulative impact, this cumulative impact is what we talk about as just a small actions, or acts, that keep accumulating and they will provoke or cause -- at any time a disaster can be caused.

And as we know, nature doesn't have borders and what we do here in one place will impact other countries, other places. So what we do here will impact in the whole humanity. We don't have another world, we don't have another planet where people live. We only have this one and that's why we have to take care of it.

That's why I think it's very necessary that in the cumulative impact act or law they take into account the opinions of the community. Because it is the Minnesota community who will be impacted by the industry or the actions that the industry that is affecting the nature, of a teenager, sorry.

As a mother, or maybe later as a grandmother, I'd like to see my children and my grandkids running in parks, breathing fresh air and being able to see green rivers and lakes. When I see everything it's - I see impacts that are being caused worldwide in nature. We saw flaws, we see fires, great fires, and that's what concerns me, because we're not prepared to handle those episodes.

That's why all the actions done by the industry should be regulated, and it should be a conscious regulation, taking into account the community and the health of the community. Thank you very much for listening to me. That's what I had to say this afternoon."

9. **Frontline Communities Protection Coalition-073-01:** The Frontline Communities Protection Coalition stated, "Well, thank you, Your Honor. My name is Sasha Lewis-Norelle, and I am speaking today on behalf the Frontline Communities Protection Coalition, a group of environmental and community organizations fighting to address systemic injustices in our regulatory system.

We have been involved in cumulative impacts since 2019, including helping to pass this bill into law in 2023. We've closely followed the rulemaking process and appreciate the work of everyone

involved in implementation to this point.

I'll try to keep my comments brief as we've already submitted a lengthy written comment, but I would like to reiterate our three main points. This law is very important to our communities who are fighting for protection from pollution and for healthier communities. We hope that our feedback will be taken into consideration and that these rules will be updated to better protect communities from pollution, while providing more clarity to all parties involved."

10. **Geronimo-075-03:** Josefina Geronimo stated, "This law presents a real opportunity to move towards responsible community centered environmental policy. It requires the State to look at the full picture, not just one pollution source at a time, and also the combined burden from the past that made neighborhoods like mine carry day after day.

Strong rules protect communities that already disproportionate harm, especially low income communities and communities of color. They prevent agencies from repeating the same patterns of neglect or ineptitude that leaves families vulnerable and exposed.

I strongly urge the MPCA to adopt firm community led rules with no loopholes or exceptions. We need protections to put public health ahead of industrial expansion and acknowledge the realities of residents in EJ areas. When agencies uplift community voices, prioritize culturally responsive outreach and commit to long term partnership we move toward environmental decision making that is just, effective and truly accountable. Thank you again for your time and commitment to this work."

MPCA RESPONSE

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

Support for comments provided by other commenters

12. The MPCA received two 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.
13. **Tietjen-063-04:** Danielle Tietjen stated, "I want to make note that this has been worked on by dozens of women and women of color, and I stand here in solidarity with them to speak to this because I've had the time to be able to do that. I'm a local community gardener and beekeeper in North Minneapolis. I consider it my home and love it dearly and this is deeply important to center a community and ensure that they are the center of the process and included in every piece of this process. Thank you."
14. **Perez Barrios-069-06:** Monserrat Perez Barrios stated, "Finally, I ask that you listen closely to the community members present in this room today. They are prepared to share testimonies on behalf of our neighborhood or families and our children about what this law means in their daily lives, their health and their future. Thank you, Your Honor, for your time and consideration today."

MPCA RESPONSE

15. 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

16. The MPCA received eight 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.

17. **Jones-062-01:** Justice Jones stated, “Hello. My name is Justice Jones. I currently live in Uptown but I was born and raised in North Minneapolis. For me, I imagine living in a community that takes the health of the residents that are there seriously.

Five years ago I started working in environmental justice and learned about the impact of the industrial corridor that was along the Mississippi River on the north side.

I come from a family that has experienced cancer, respiratory issues and skin conditions that are both caused and exacerbated by the toxins that come from this corridor.

While working in the EJ space I was part of a cohort that was able to remove one of the facilities causing major pollution issues, and the facility repeatedly lied on permit reporting, caught fire next to a gas station. Despite those false reports it took community members more than a decade to correct those harms and those harms are still not fully corrected.

The bill that we're talking about today was written with this fight in mind. Around my time in this work I've learned that north side is not the only area with major pollution that has adverse public health impacts. Places like Smith Foundry, Roof Depot and Owens Corning have created the necessity for green zones that many people reference today, that we just saw kind of in the earlier presentation.”

18. **Cleveland-064-01:** Taisia Cleveland stated, “I'm Taisia Cleveland, I'm 24. I previously testified on this with Fu Lee a few years back. So I'm just going to get right into it. The real and measurable impacts on racism should be included in all cumulative impacts analysis and called out explicitly.

You cannot address disproportionate impacts if you do not take into account the impacts from racism. A 2014 University of Minnesota study showed that people of color are exposed to nearly 40 percent more polluted air than white people. And Minnesota is among the top 15 states in this nation with the largest exposure gaps between people of color and whites.

Racism, both as interpersonal discrimination and as a structural form of oppression disproportionately and negatively impacts the health outcomes of people of color. Pollution has greater negative impacts because of the system that disadvantage people of color, and this compounding effect should be represented in cumulative impacts analysis. These disparities must be addressed directly with race and racism included intentionally. Anything else fails to address the disparities that exist and further disadvantages people of color. The MPCA must show direct action in mitigating its role and perpetuating structural racism and radically disparate health outcomes in our state. That's it. Thank you for your time.”

19. **Resendiz-Olson-067-01:** Hannah Resendiz-Olson stated, “Hello. My name is Hannah Resendiz-Olson and I live in an environmental justice area in North Minneapolis. I'm a volunteer with Health Professionals for a Healthy Climate, HPHC, and I also work in local public health. I'm deeply passionate about protecting community health in my neighborhood and others. The cumulative impacts or CI law is of great interest to me, as I have seen the deep harms done to communities without their voices being heard. We feel the harmful impacts of polluting facilities, like the HERC, and continued poor air quality and neglect in our area. There are so many factors that impact our health here, the lack of investment, job opportunities, public green spaces and more all contribute to the stressors and quality of life in our area.

I am deeply concerned about the current lack of methods to address substantial adverse impacts to public health and safety. HPHC's report on climate justice and public health in Minnesota explains

how 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.”

20. **Morales Galan-071-01:** Byron Renato Morales Galan stated, “Good afternoon. My name is Byron Renato Morales Galan. Well, thank you very much for giving me the opportunity. I have been a very interested in the environment and I have been participating as a panelist when they try to establish the rules in this project that we're addressing this time.

And I have been reading the project and I know -- I consider that I have been able to read the complete project. I can tell you that I'm concerned about the pollution, because as sometimes the water that's supposed to be drinkable has an odor. And I have had problems myself in my hands and the doctor said that maybe it's related to the exposure to cold or other things.

The country where I come from has suffered floods and also fires, and the forest fires there are being caused by the pollution, but also the pollution is caused by the global warming.

And there are statistics that show that the violent crime statistics -- or incidents of violent crimes increases when the temperature rises, when we have dense heat in the summer, along with other factors. We've also seen that suicide incidents has increased because the winters are harsher.”

21. **Pugh-072-01:** Audua Pugh stated, “My name is Audua Pugh. I have been living in North Minneapolis for the past 20 years. When I moved to North Minneapolis I did not have any breathing issues. Over the past 20 years I have gained a wheeze, where at night, I'm going to tell you how bad it was. One night I was dreaming that I was -- that I heard a noise, and I kept saying what is that noise, what is that noise, and I was yelling so loud in my dream, and I woke up, it was me, because I was wheezing in my sleep, that's how bad it was. I gained that wheeze because -- I'm not just going to say because of the HERC, I'm going to say because we do live in a cumulative area concentration of pollutants. We do.

But I also believe that because 94 and the HERC is there polluting our air, that's what makes it bad for us in North Minneapolis. Now, 94 can't go anywhere, right, but the HERC can. In 2024 I was, yeah, 2024, May of 2024, I was diagnosed with HER2 positive invasive carcinoma, which means I had breast cancer. It is not in my family. It is not genetic in my family. But I do believe that I got breast cancer because of the population in the area in which I live.

Again, we have a concentration of pollution. But the gap is already closed, yeah. 94 can't go anywhere, but the HERC can. We -- our air quality in North Minneapolis every day is between medium and poor air quality, and this is every day of our lives. And I've been living here 20 years, not to mention the people that have been living here all of their lives, and so I believe that this is also because of this concentration of pollution that we have in our area. And it's making us sick and it's killing a lot of us and something has to be done. And, again, since 94 can't go anywhere, the HERC can.

The biggest thing about the HERC being placed here in, what was it, 30 years ago when it was created, people didn't want it in their back yard, so they put it over here intentionally. Anywhere you read you know that this is the truth. And so now that we know that this is making us sick and so we know better, so we should do better, then that means that we have to -- and we also know that our air has impacted people's health, in the fact that they're dying, people are dying around us not taking care of -- and our earth is dying actually too, because we are not taking care of our gift, which is this earth. We're not taking care of our air, right, and these are the consequences behind it. So because we know better we need to do better, and because we need to do better removing -- taking the HERC down and finding another way to manage our waste has to be done. It has to be, or we're

going -- we are going to not exist anymore.

When I think about all these little babies that's being born in 2026, will they grow up to be almost 60 years old like I am? Because we are not taking care of our gift, which is the earth, we are not taking care of it properly. Which is impacting our health, our lives, the people, the plants.

So we have to do better because we know better. And because we have all this technology and all these things now, there is a better way and all we have to do is come together to agree. And one of the things that we can do to manage our own waste is that we can actually make it mandatory that we recycle, and organics recycle. From a state and local law we can do that, and I'm going to suggest that we do that, because if we don't, in a little while we may not be here. That's just something to think about. I appreciate your time. You have a good day."

22. **Vargas-074-01:** Andrés Vargas stated, "My name is Andrés Vargas. I am an environmental engineer, and back in 2024 I worked as a soccer coach at (inaudible) Park, primarily with children and families from the surrounding community. During the summer I regularly give children water breaks, especially during high temperatures. Around that time I was able to understand and acknowledge the environmental concerns surrounding the Felix community.

Also, in 2024, after an EPA inspection, a settlement was reached that ultimately resulted in the end of the facility's foundry operations. After an inspection, where they were exceeding particulate matter emissions limit and (inaudible) to the operation of pollution control equipment and require record keeping. Learning that made me pay much closer attention to the environmental conditions surrounding the children I was responsible for.

I remember noticing visible particulates in water from a drinking fountain used by the children at the park. I also noticed something similar in tap water at Holy Rosary Church. I want to be very clear about this, I did not collect samples and I cannot say what that material was, whether it represented a health risk or where it came from. I am not claiming that it came from Esme Foundry.

However, as an environmental engineer with a background in waste water treatment and water quality, seeing this concerned me. That is why I encourage to send in their own drinking water.

There were other environmental pressure as well. Traffic and highways noise sometimes made it difficult for me to communicate with the children during soccer practice.

I also monitor air quality and emissions. And when conditions were poor there were times when I moved activities indoors to reduce their exposure. I did not like to take that experience away from them. Those children experienced the highway traffic, air pollution, industry emissions, noise, water concerns, extreme summer heat, and every other environmental stressors in that neighborhood at the same time.

That is what I believe our environmental regulations need to recognize. A child playing soccer does not experience pollution (inaudible) at the time. They experience industrial emissions, traffic pollutions, noise, heat and other environmental stressors together, as I mentioned.

I ask in this case that -- and also the MPCA to create a strong enforceable cumulative impacts rules that concerns the total environmental burden a community is already carrying. Environmental protection should not begin only after we can prove that harm has already occurred. We should prevent the harm from happening in the first place. Thank you, Your Honor."

23. **Geronimo-075-01:** Josefina Geronimo stated, "Again, thank you for the opportunity to speak about Minnesota's cumulative impacts law. My name is Josefina Geronimo. I live right on the border between North Minneapolis and Northeast Minneapolis. I also live in an environmental justice area.

I'm here today because this law directly affects the daily reality of my neighborhood and the communities I work with. Before moving to Minnesota in May of 2023 I experienced a three week evacuation due to a major fire in California in 2021. That experience showed me the direct impact of institutional ineptitude. How gaps in planning, communication and accountability can lead to real harm and long term disruptions for families.

When agencies fail to act responsibly or proactively communities pay the price. That evacuation shaped how I understand environmental risk and why strong protections matter. When I arrived in Minnesota I saw many of those same patterns reflected here, especially in front line neighborhood. Since moving here I have been actively involved in community spaces with COPAL, that's C-O-P-A-L, the Met Council Ceed, that's C-E-E-D, and the MPCA to understand the cumulative impacts law, share feedback and connect it to what I have lived through in both states.

Living in an environmental justice area has made cumulative impacts extremely tangible. There are days when we cannot open our windows because the smell in the air is overwhelming. Children in our neighborhood are not always able to play outside. People cannot reliably walk, jog or exercise outdoors. Even simple things like star gazing, enjoying fresh air or taking a peaceful evening walk are affected by pollution and industrial activity around us. These daily limitations change how we experience home and community."

24. **Villanueva-076-01:** Natasha Villanueva stated, "My name is Natasha Villanueva, and I am fortunate to be a resident of the Jordan neighborhood on the Northside for two years. I'm writing to advocate for the strongest possible cumulative impacts rule to safeguard me, my family, my neighbors, and to honor the legacy of organizers who spent their lives advocating for our health and environment such as Karen Clark. I attended the hearing with the intention of giving my comment live, however, I ran out of time because I needed to knock doors in my community to share information with my neighbors about the largest polluter in Hennepin County and my motivation for commenting, the Hennepin Energy Recovery Center (HERC). After renting a one-bedroom apartment with rising rents for ten years in Stevens Square-Loring Heights on the southside of HERC, my partner and I were fortunate to receive first time homebuyers' assistance and began our search for a vibrant, diverse place in the city filled with families where we could establish and invest ourselves. Our decision to choose Jordan neighborhood is affirmed each day as we walk our dog in nearby North Commons and Theodore Wirth Parks, vote at the Capri theater, or witness the strong response to the ICE occupation this past winter. My hope for our community's future is reparations, protection, and investment commensurate to its assets as well as historical marginalization. Polluters like HERC stand in the way of this future. Trash from residents, businesses, and suburban Hennepin County is transported by truck to burn in our backyard. The resulting toxic ash is deposited in a Rosemount, MN landfill. Our elected officials in the 1980s did not examine cumulative impacts when they ignored resistance to HERC being built in the first place nor the repeated pleas from residents to close it long after exceeding the proposed span of operation of 20 years. As I knock doors I listen to my neighbors' concern for our air quality, as well as their struggles with respiratory issues that lead to keeping their children indoors when they desire only to play. In fact, our zip code, 55411 has the highest rates of asthma in the state. When examined in conjunction with other polluters such as the surrounding highways that tore apart the fabric of our neighborhoods during redlining and resulting white flight, we cannot in good conscience allow HERC to continue burning. HERC runs on outdated permits without continuous monitoring of all pollutants it emits, and we not only have a right to know what is in our air, but a right to breathe freely."

MPCA RESPONSE

25. 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.

Cumulative Impacts Mapping and Analysis Platform (CI-MAP)

Census data and census tract boundaries

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

27. **Bujold-068-02:** Marita Bujold stated, “When defining environmental justice areas it is appropriate and necessary to use an error margin to conservatively assume a greater number of environmental justice areas and to keep in mind that since pollution moves and is not restricted by census boundaries that should help us understand why we need to make those areas larger.

Unless modeling and monitoring systems can show that the impacts from a facility do not contribute to negative health outcomes for people of color, low income people, or people with limited English proficiency, the MPCA should always assume a greater number of environmental justice areas exist. Not being directly counted in the census should not count against communities when it comes to addressing disproportionate impacts.

MPCA RESPONSE

28. These comments are similar to comments identified in paragraphs 427 to 437, under the “Census data and census tract boundaries” subheading in the MPCA response to notice comments (aq-rule2-25af).

29. Please see the MPCA’s response to comments regarding census data and census tract boundaries in paragraphs 438 to 445 in the MPCA response to notice comments (aq-rule2-25af).

Comments specific to the Proposed Rules

The MPCA received 38 comments regarding specific rule parts which are summarized and responded to below.

PART 7007.6010 DEFINITIONS

Creating a definition of “community”

30. The MPCA received one comment suggesting the addition of a definition for “community” with regard to the requested permit action and input for a community benefit agreement.

31. **Garvey-065-02:** Michelle Garvey stated, “So I want to first especially caution that these community members must be defined as impacted individuals. People who actually live in an EJ area, not as like third-party organizations or local government that might not have, you know, deep connections with all of the residents in an area.”

MPCA RESPONSE

32. These comments are similar to comments identified in paragraphs 584 to 585, under the “Creating a definition of “community”” subheading in the MPCA response to notice comments (aq-rule2-25af).

33. Please see the MPCA’s response to comments regarding creating a definition of community in

paragraphs 586 to 588 in the MPCA response to notice comments (aq-rule2-25af).

PART 7007.6020 APPLICABILITY AND PROCEDURES

Existing facilities and exemptions

34. The MPCA received two 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.

35. **Jones-062-05:** Justice Jones stated, “Thank you so much for allowing me to speak again, I really appreciate that. I found the notes that I missed from my prior comments.

So in addition to my previous comments, I wanted to note that I am having trouble seeing the adequate reason of providing an exemption to permit re-issuances for two years after the rules go into effect.

This law was passed in 2023 and there have been about three years in between, in which -- three years of rulemaking, which is what I believe to be more than enough time for existing facilities to prepare for the rule to be implemented. If an exemption period is granted it should be as short as possible, and it should definitely be shorter than what's currently written in.”

36. **Villanueva-076-02:** Natasha Villanueva stated, “We must subject permit renewal requests such as HERC's to the same high level of scrutiny as that of a new facility, even and especially if that results in its closure. When it comes to cumulative impacts, we need to examine not only how a facility adds to the pollution burden at a single moment in time, but how long it has been polluting.”

MPCA RESPONSE

37. These comments are similar to comments identified in paragraphs 590 to 602, under the “Existing facilities and exemptions” subheading in the MPCA response to notice comments (aq-rule2-25af).

38. Please see the MPCA’s response to comments regarding applicability of the proposed rules for existing facilities and exemptions in paragraphs 603 to 612 in the MPCA response to notice comments (aq-rule2-25af).

Use of environmental stressors throughout the rule

39. The MPCA received one comment regarding how environmental stressors factor into various parts of the proposed rule.

40. **Villanueva-076-03:** Natasha Villanueva stated, “We must also measure the vulnerability of impacted neighborhoods. This vulnerability score on the Northside could include factors such as how many grocery stores and clinics are available to address food apartheid and the lack of access to preventative care and pharmacies to mitigate the devastating respiratory, cardiac, and cancer complications associated with air pollution from lead, particulate matter, PFAS etc. emitted from HERC. We could take into account area median income as well as the ratio of schools to the population of children and level of formal education of adults to assess the financial safety net and earning potential of families that have to absorb the detrimental effects of missing school and work when sick from pollution. Thank you for your time and energy spent ensuring a strong cumulative impacts rule that protects our people and environment as fiercely as polluters threaten our very existence.”

MPCA RESPONSE

41. This comment is similar to comments identified in paragraphs 635 to 638, under the “Use of

environmental stressors throughout the rule” subheading in the MPCA response to notice comments (aq-rule2-25af).

42. Please see the MPCA’s response to comments regarding the use of environmental stressors throughout the rule in paragraphs 639 to 642 in the MPCA response to notice comments (aq-rule2-25af).

PART 7007.6050 INITIAL ASSESSMENT

Benchmarks for reissuance permits

43. The MPCA received four comments regarding the benchmarks for reissuance permits.
44. **Jones-062-05:** Justice Jones stated, “In addition, the rules in this law don’t provide protections for community members from existing facilities. We are so, so appreciative that it does have a focus on permit expansion and the issuance of new permits; however, I believe that adjusting the benchmarks for permit expansions and re-issuances should be the same.

The MPCA should set a benchmark that considers total emissions from both stationary sources and proposed expansions, in addition to existing environmental and health stressors in communities. Without this change the word cumulative loses its meaning and the current language only requires new or increased emissions without consideration of the current ones. This fails to address the burdens that this law was designed to confront. So I just wanted to make sure that that was included as well.”

45. **Resendiz-Olson-067-02:** Hannah Resendiz-Olson stated, “There are also sacrifice communities, because pollution is more likely to be situated in these areas, including hazardous waste landfills, petrol chemical plants, industrial facilities, waste incinerators, fossil fuel infrastructure and more. This rings true for me in my experience as a resident of an EJ community. When I think about public health impacts and important actions to prevent the most harmful impacts on EJ communities, permit re-issuance is especially impactful. HPHC believes that permit re-issuances 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 action alone is not sufficient and the rules as written are not clear on how the benchmarks apply. Many EJ communities, including my neighborhood, 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 re-issuances based on emissions and existing community stressors and how the proposed facility will impact these stressors. This will ensure that these rules can begin addressing the existing CI burden.”

46. **Perez Barrios-069-02:** Monserrat Perez Barrios stated, “Furthermore, the threshold for recording community (inaudible) analysis is far too restrictive. Under the proposed rules a facility only undergoes an analysis or inspections if a specific environmental benchmarks are exceeded or enforcement actions occur. This means communities are forced to observe harms before the regulatory system decides to step in.”
47. **Frontline Communities Protection Coalition-073-02:** The Frontline Communities Protection Coalition stated, “First, on permit re-issuances, we believe that enforcement actions should not be the only benchmark for requiring a cumulative impacts analysis for facilities seeking permit re-issuance. Others have mentioned this before, but this law was passed in large part because environmental justice communities are already facing a significant cumulative impacts burden. In order to address this existing burden we must set benchmarks based on total emissions from a

facility, as well as the existing environmental and public health stressors in the community.”

MPCA RESPONSE

48. These comments are similar to comments identified in paragraphs 671 to 720, under the “Benchmarks for reissuance permits” subheading in the MPCA response to notice comments (aq-rule2-25af).
49. Please see the MPCA’s response to comments regarding benchmarks for reissuance permits in paragraphs 721 to 729 in the MPCA response to notice comments (aq-rule2-25af).

Benchmarks and impacts

50. The MPCA received one comment regarding the connection between benchmarks and environmental/health impacts.
51. **Tietjen-063-01:** Danielle Tietjen stated, “Hi, my name is Danielle Tietjen. I live in North Minneapolis and I’ve lived there for over 25 years and have been part of this process since it started years ago, and testified before. Because this makes me a little nervous I’m just going to read what I have here.

Community members appreciate the opportunity to provide testimony on the cumulative impact rulemaking decision process. We believe that benchmarks or actions should be based on a comparative analysis. If the risk impact or pollution in an area is greater than the average for the entire state or county then action should be taken to reduce that impact globally.”

MPCA RESPONSE

52. This comment is similar to comment identified in paragraph 745, under the “benchmarks and impacts” subheading in the MPCA response to notice comments (aq-rule2-25af).
53. Please see the MPCA’s response to comments regarding benchmarks and impacts in paragraph 746 in the MPCA response to notice comments (aq-rule2-25af).

MPCA review of an initial assessment

54. The MPCA received one comment regarding the review of the information contained within an initial assessment by MPCA and other interested parties.
55. **Tietjen-063-03:** Danielle Tietjen stated, “Notice of permitting work should be provided directly to everyone living within the impacted area of the facility’s pollution. Pollution goes through the air and the impact from facilities can extend several miles away.”

MPCA RESPONSE

56. This comment is similar to comments identified in paragraphs 774 to 775, under the “MPCA review of an initial assessment” subheading in the MPCA response to notice comments (aq-rule2-25af).
57. Please see the MPCA’s response to comments regarding MPCA review of an initial assessment in paragraphs 776 to 778 in the MPCA response to notice comments (aq-rule2-25af).

PART 7007.6080 Public Participation

Importance of public participation in the implementation of the proposed rule

58. The MPCA received one comment regarding the importance of public participation in implementing the proposed rule.
59. **Geronimo-075-02:** Josefina Geronimo stated, “In my work I have also seen how outreach without cultural humility or meaningful partnership can unintentionally perpetuate inequities. When

agencies rely on inaccessible communication, one time consultations or approaches that do not reflect community realities, residents feel extracted from rather than included. I have learned how critical it is to meet people where they are, communicate excessively and build trust through sustained engagement, not performative or short term efforts.”

MPCA RESPONSE

60. This comment is similar to comments identified in paragraphs 864 to 865, under the “Importance of public participation in the implementation of the proposed rule” subheading in the MPCA response to notice comments (aq-rule2-25af).
61. Please see the MPCA’s response to comments regarding the importance of public participation in the implementation of the proposed rule in paragraphs 866 to 867 in the MPCA response to notice comments (aq-rule2-25af).

Public comments and public comment periods

62. The MPCA received two comments regarding the requirements for public comment periods and handling public comments specified in the proposed rule.
63. **O'Brien-066-02:** Roxxanne O’Brien stated, “So my part today, I’ll be talking about meaningful community engagement and offsets. Meaningful engagement requires a tailored engagement approach based on the impacted geography and populations. Environmental justice communities must be given the tools and resources necessary to understand the technical aspects of a project so that they can effectively provide comment and participate.

Critically meaningful engagement must include an outcome, not just a process. Community members must have the ability to affect a result positively and to benefit impacted communities. So simply feeling heard is not enough. The MPCA should track and show how disproportionately impacted people, particularly people of color, low income people and people with limited English proficiency, um, show how they’re being included and communicated with throughout the permitting process.”
64. **O'Brien-066-03:** Roxxanne O’Brien stated, “The MPCA should also show how community involvement impacted the outcome. Sometimes our government moves really fast without us and forgets the reasons why these bills were passed in the first place were from just regular people in our community who have been dealing with this.”

MPCA RESPONSE

65. This comment is similar to comments identified in paragraphs 919 to 923, under the “Public comments and public comment periods” subheading in the MPCA response to notice comments (aq-rule2-25af).
66. Please see the MPCA’s response to comments regarding public comments and public comment periods in paragraphs 924 to 928 in the MPCA response to notice comments (aq-rule2-25af).

Requiring the facility to contact/work with community organizations

67. The MPCA received one comment regarding outreach and engagement activities with the public.
68. **Perez Barrios-069-04:** Monserrat Perez Barrios stated, “On top of that, allowing a facility seeking a permit to define and lead its own public outreach creates an inherent conflict of interest that breaks community trust.”

MPCA RESPONSE

69. This comment is similar to comments identified in paragraphs 950 to 966, under the “Requiring the facility to contact/work with community organizations” subheading in the MPCA response to notice comments (aq-rule2-25af).
70. Please see the MPCA’s response to comments regarding requiring the facility to contact/work with community organizations in paragraphs 967 to 976 in the MPCA response to notice comments (aq-rule2-25af).

PART 7007.6090 CUMULATIVE IMPACTS ANALYSIS

Cumulative impacts analysis contents in general

71. The MPCA received one comment regarding the contents in general included within the cumulative impacts analysis required under part 7007.6090.
72. **Tietjen-063-02:** Danielle Tietjen stated, “During the permitting process the focus should be on reducing and limiting the impacts of pollution on local communities. If a facility is receiving an air permit of any kind they should be required to reduce the pollution that is most impacting local residents, particularly people of color, low income people and people with limited English proficiency. This should include both criteria pollutants and air toxins.”

MPCA RESPONSE

73. This comment is similar to comments identified in paragraphs 1011 to 1019, under the “Cumulative impacts analysis contents in general” subheading in the MPCA response to notice comments (aq-rule2-25af).
74. Please see the MPCA’s response to comments regarding cumulative impacts analysis contents in general in paragraphs 1020 to 1021 in the MPCA response to notice comments (aq-rule2-25af).

PART 7007.6100 SUBSTANTIAL ADVERSE IMPACTS

Use of qualitative criteria in substantial adverse impact determination

75. The MPCA received two comments regarding the use of qualitative criteria in the substantial adverse impact determination.
76. **Perez Barrios-069-03:** Monserrat Perez Barrios stated, “We also see a major flaw in how substantial adverse impact is determined. Rather than establishing clear predictable criteria, the draft rules rely heavily on commissioner discretion using vague undefined standards if standards thresholds fail when emissions are violated in isolation.

A facility's true impact must be measured against the total overlapping burdens a neighborhood already carries. Just imagine, all of our communities are already near by highways, scrap yards, incinerators, and they already have (inaudible), like childhood asthma and so many others.”

77. **Frontline Communities Protection Coalition-073-03:** The Frontline Communities Protection Coalition stated, “Second, on the contents of the cumulative impacts analysis, we have significant concerns with leaving the main determination of substantial adverse impacts as a discretionary decision by the Commissioner. We believe that the analysis should provide an objective determination based on the facility's contribution to existing environmental stressors and whether the community is already facing an adverse cumulative stressor. This will reduce uncertainty around a major decision point for these rules for all parties involved.”

MPCA RESPONSE

78. This comment is similar to comments identified in paragraphs 1160 to 1165, under the “Use of qualitative criteria in substantial adverse impact determination” subheading in the MPCA response to notice comments (aq-rule2-25af).
79. Please see the MPCA’s response to comments regarding the use of qualitative criteria in substantial adverse impact determination in paragraphs 1166 to 1167 in the MPCA response to notice comments (aq-rule2-25af).

Defining substantial adverse impact conditions, criteria, or circumstances

80. The MPCA received 10 comments during the pre-hearing public notice period regarding how the MPCA has established the conditions, criteria, or circumstances defining when issuing a permit would result in a substantial adverse impact. The MPCA realized these comments were unintentionally excluded from the MPCA response to notice comments (aq-rule2-25af) and therefore have included them in this document.

81. **Frontline Communities Protection Coalition (compiled comments)-045-61:** Karen Lunde stated, “The definition of “substantial adverse impact” is too vague and undefined, leaving both facility owners and communities uncertain about how it will be determined 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 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.”

82. **Health Professionals for a Healthy Climate (compiled comments)-046-11:** Joshua Houdek stated, “2. 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.”

83. **Health Professionals for a Healthy Climate (compiled comments)-046-15:** Michael Overend stated, “2. 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.”

84. **Health Professionals for a Healthy Climate (compiled comments)-046-19:** Sophie Scharner stated, “2. 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.”

85. **Health Professionals for a Healthy Climate (compiled comments)-046-23:** Dana Janowiak stated,

“2. 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.”

86. **Health Professionals for a Healthy Climate (compiled comments)-046-27:** Michael Maleska stated, “2. 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.”
87. **Health Professionals for a Healthy Climate (compiled comments)-046-31:** Crystal Goggleye stated, “2. 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.”
88. **Health Professionals for a Healthy Climate (compiled comments)-046-35:** Bryce Purdy stated, “2. 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.”
89. **Health Professionals for a Healthy Climate (compiled comments)-046-39:** Emily Onello stated, “2. 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.”
90. **Health Professionals for a Healthy Climate (compiled comments)-046-44:** Jessica Fisher stated, “2. 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.”

MPCA RESPONSE

91. These comments are similar to comments identified in paragraphs 1197 to 1207, under the “Defining substantial adverse impact conditions, criteria, or circumstances” subheading in the MPCA response to notice comments (aq-rule2-25af).

92. Please see the MPCA's response to comments regarding the defining substantial adverse impact conditions, criteria, or circumstances in paragraphs 1208 to 1209 in the MPCA response to notice comments (aq-rule2-25af).

PART 7007.6110 COMMUNITY BENEFIT AGREEMENTS

Community advocating to deny a CBA

93. The MPCA received one comment 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.
94. **Garvey-065-04:** Michelle Garvey stated, "Third, the MPCA should deny a facility any CBA that doesn't meet the community defined criteria outlined in those set public meetings. I think there's like two public meetings that are currently set, rather than further negotiating with an industry privately outside of those community meetings. So I just wanted to clarify and emphasize that a CBA, bottom line, needs to be determined by the community and not by like private negotiations between the MPCA and the industry."

MPCA RESPONSE

95. This comment is similar to comments identified in paragraphs 1261 to 1274, under the "Community advocating to deny a CBA" subheading in the MPCA response to notice comments (aq-rule2-25af).
96. Please see the MPCA's response to comments regarding community advocating to deny a CBA in paragraphs 1275 to 1277 in the MPCA response to notice comments (aq-rule2-25af).

CBA revisions and permit denial

97. The MPCA received three comments regarding community benefit agreements 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.
98. **Jones-062-04:** Justice Jones stated, "In addition, the current statutory language outlines the need to deny permits without an established CBA and the process for this denial should be written clearly and needs to be enforceable by the commissioner or the MPCA.

These facilities, in tandem with wildfires and other events caused by the climate crisis will continue to operate as they please without proper structure and language to stop them from doing so.

Apologies, I'm looking at my notes. That is where I'll end my comment for today, and I look forward to submitting an additional written comment as well. And I want to thank you all for your time."

99. **Perez Barrios-069-05:** Monserrat Perez Barrios stated, "Most importantly, the rules fail to establish clear criteria and viable pathways for permit denial. They're relying instead on mechanisms like community benefit agreements to manage impacts, a process that cannot end in a permanent denial but instead default to negotiated mitigation gives communities the appearance of power without the substance of it. A process that cannot deny the permit is not protection at all for communities.

This is structural (inaudible) are bound together by a central behavior. The lack of comprehensive share legal vocabulary. Other international environmental frameworks define their essential terms before asking anyone to live under them.

During an MPCA panel on community benefit agreements last year, a community member, who will also be sharing some comments today, asked repeatedly for clear submissions across the entire law, including adverse or significant community impacts, community benefits, permit classification,

environmental stress factors, penalties for not compliance, neighborhood advisory councils and CBA rectification. Yet, the focus remained almost exclusively on the finding community benefit agreements itself, the single trend that served the applicant seeking a permit, rather than the community bearing its consequences.

While CBAs are a very important and essential piece of these framework, focusing narrowly on them while leaving the surrounding legal definitions (inaudible) creates an endless provision look that ultimately favors the facility.

A law without a shared legal vocabulary does not protect everyone equally. It protects whoever already has the resources to interpret that silence, and our communities do not have those resources. They never had it.

Your Honor, public participation is not a mere courtesy. It fulfills international standards such as paragraph H of the primal (inaudible) goal to the North American Agreement on Environmental Cooperation of 1993, which commits signatory states to include society in creating environmental norms. An obligation of this magnitude cannot be satisfied by a constraint process that leaves fundamental legal terms undefined.

I ask this Court and I ask MPCA to ensure that these rules clearly define every time this all depends on, because we depend on that. Creating a fully enforceable framework that prioritizes public health and the wellbeing of our community is essential.”

100. **Frontline Communities Protection Coalition-073-04:** The Frontline Communities Protection Coalition stated, “And, finally, on community benefit agreements, we do not believe that this section of the rule fulfills the requirements of the law. The statute clearly states that unless the Commissioner enters into a community benefit agreement the Commissioner must deny a permit that would have a substantial adverse impact.

The current rule lacks any criteria for denying a community benefit agreement and only outlines when an agreement must be accepted. It is suggests that there are no circumstances under which a community benefit agreement, and thus a permit, would be denied by the agency. We believe that these three rules are -- or these three issues are central to improving these rules. Without addressing them these rules will fail to address existing burden of pollution and will cause confusion and uncertainty around decision making. Thank you again for your time.”

MPCA RESPONSE

101. These comments are similar to comments identified in paragraphs 1302 to 1323, under the “CBA revisions and permit denial” subheading in the MPCA response to notice comments (aq-rule2-25af).
102. Please see the MPCA’s response to comments regarding community benefit agreements and permit denial in paragraphs 1324 to 1328 in the MPCA response to notice comments (aq-rule2-25af).

Community benefits and the CBA process

103. The MPCA received four comments regarding substantial adverse impacts, community benefits, and the CBA process that requests revisions to various parts of part 7007.6110.
104. **Garvey-065-03:** Michelle Garvey stated, “The second CBA point I wanted to make was that they should also account for local impacts from non permitted activities, such as reducing noise or preventing diesel truck traffic from traveling through communities that are already burdened.”

105. **Garvey-065-05:** Michelle Garvey stated, “And then finally, built into an CBA should be protection for existing residents against gentrification and the resulting displacement that can arise if and when a CBA results in beautification or higher employment rates and property values or enhanced municipal services, et cetera.”

106. **O'Brien-066-04:** Roxxanne O’Brien stated, “So nothing should be created about us without us. And I was -- I found out about some targeting happening in our communities that impacted even my mother and people that I knew in my community over cutting down trees. And so to talk about offsets a little bit, as a policy mechanism it's inherently unjust because the community continues to bear the burden of toxic emissions that are specific to that place and those people. So broader community benefit actions should not be used in place of direct onsite emissions reductions.

The environmental justice community has a long history of signing offsets unacceptable as an applied policy mechanism for pollution reduction because they are structured to benefit the polluter and their need for flexibility and low cost. But we've had this done in our communities in the past. They're planting trees that aren't -- they're baby trees. They don't have the capacity to capture carbon. And nobody is taking care of the trees, the trees are dying in our neighborhood.

So we know this is something that polluters like to use but it's not helpful for us. And I will yield my time. I'm done. Thank you.”

107. **Bujold-068-01:** Marita Bujold stated, “My name is Marita Bujold. I have participated in a number of leadership initiatives concerning environmental justice with the community members for environmental justice, as well as to many organizations that are responding to the absence of a just food economy. My own largest contribution is that I wrote legislation called the Headwaters Community Food and Water Bill, which is intended to rectify that. Sorry, I'm getting a call here. I beg your pardon.

So I'd like to comment on a number of things regarding cumulative impacts, beginning with this. So when defining community benefits it's important to omit any consideration that a proposed business or industry will create employment opportunities which will in some way offset the impact of the industry's pollution on the local community. It must be acknowledged as well that there is no mechanism for requiring a company to hire local residents.”

MPCA RESPONSE

108. These comments are similar to comments identified in paragraphs 1406 to 1414, under the “Community benefits and the CBA process” subheading in the MPCA response to notice comments (aq-rule2-25af).

109. Please see the MPCA’s response to comments regarding community benefits and the community benefit agreement process in paragraphs 1415 to 1432 in the MPCA response to notice comments (aq-rule2-25af).

Prioritizing community benefits

110. The MPCA received one comment regarding community benefits that request that benefits proposed by residents of the impacted environmental justice area to be prioritized.

111. **Jones-062-03:** Justice Jones stated, “It should be written into the rules that completion of a CBA requires that benefits proposed by residents should be prioritized.”

MPCA RESPONSE

112. This comment is similar to comments identified in paragraphs 1434 to 1435, under the

“Prioritizing community benefits” subheading in the MPCA response to notice comments (aq-rule2-25af).

113. Please see the MPCA’s response to comments regarding prioritizing community benefits in paragraphs 1436 to 1437 in the MPCA response to notice comments (aq-rule2-25af).

Enforcement of a CBA

114. The MPCA received one comment regarding enforcement that requests a process for addressing noncompliance with a CBA.

115. **Jones-062-02:** Justice Jones stated, “It’s often community members and community based organizations that call out these facilities when they’re not following the law, and it’s often community that notices the harms and brings it to the attention of both the city and MPCA.

This is why I believe that the language around CBAs within the rules needs to be corrected. For example, providing a list of criteria for when a commissioner is approving a CBA should be clear and there should be clear action noting what repercussions will come to a facility that doesn’t comply. It should be written into the rules that completion of a CBA requires that benefits proposed by residents should be prioritized.”

MPCA RESPONSE

116. This comment is similar to comments identified in paragraphs 1469 to 1473, under the “Enforcement of a CBA” subheading in the MPCA response to notice comments (aq-rule2-25af).
117. Please see the MPCA’s response to comments regarding enforcement of a community benefit agreement in paragraphs 1474 to 1478 in the MPCA response to notice comments (aq-rule2-25af).

PART 7007.6120 PERMIT DECISIONS

Permit decision considerations

118. The MPCA received one comment 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.

119. **Morales Galan-071-02:** The commenter stated, “That’s why the cumulative impact project should be should be prepared in a comprehensive way, in a very complete way, in order to apply the rules and those rules has to be clear. If you could see the rules that have been written, there are no definitions there yet. For example, there’s no definition of the cumulative impact or definition of the stress factors. It doesn’t have a definition either of the ratifying the CBA ratification, we don’t know yet.

It also says there that we’re working on protecting air and water, but nature includes also the wildlife, both plant life and animal life. It does not have a definition for pollution, because we could have different criteria to define pollution.

And also some of those definitions will benefit industry, because it depends who writes those definitions. Also, the rules written out haven’t defined what would be the principles for the environment -- or environmental principles. For example, you have the precaution or caution principle, or the preventative principle, and that regulates what would be the process for authorizing done by the agency.

When the agency authorizes something they should be based on those principles, both the

precautionary and the preventive principle. For example, we have a principle we called pro-nature principle, because that principle is something that we should use to base the decisions, the decisions to protect nature and benefit of the nature.

I could say that what we need is about 12 definitions and rules and regulations, and the same numbers of principles to protect the environment. If we ever have a trial to correct things, it will be in the courts, the judges will have a hard time deciding because there are weaknesses in the north. It will be difficult for the attorneys to explain what happened, to be able to understand, which were the causes of the pollution. If we don't have the principles in the law it will be a blank law. It will be necessary to read textbooks or other references to be able to apply the law.

Well, thank you very much for listening to me and I really thank the opportunity to address the group. I was able to listen to the contributions and I think that it will be necessary to participate, to contribute to the wellness of not only this country but other places of the world.”

MPCA RESPONSE

120. This comment is similar to comments identified in paragraphs 1524 to 1528, under the “Permit decision considerations” subheading in the MPCA response to notice comments (aq-rule2-25af).
121. Please see the MPCA’s response to comments regarding permit decision considerations in paragraphs 1529 to 1534 in the MPCA response to notice comments (aq-rule2-25af).



September 21, 2026

Minnesota Court of Administrative Hearings
Administrative Law Judge Kimberly Middendorf
600 N. Robert Street
St. Paul, Minnesota 55101

Comments submitted electronically through CAH eComments

Re: Minnesota Pollution Control Agency Proposed New Rules Governing Cumulative Impacts Analysis for Permit Decisions in Environmental Justice Areas, Minnesota Rules Chapter 7007; Revisor R-4805; CAH Docket No. 21-9003-39398

Dear Judge Middendorf:

I write today on behalf of the Minnesota Chamber of Commerce, a statewide trade association representing more than 6,300 businesses and more than 500,000 employees providing additional comment post-hearing on the Proposed New Rules Governing Cumulative Impacts Analysis for Permit Decisions in Environmental Justice Areas.

CI-MAP and Environmental Stressors Database

The CI-MAP tool and the data it contains regarding environmental stressors play an important role in the proposed rule, as both the Minnesota Pollution Control Agency (MPCA) and various commenters have recognized. As the MPCA noted in its response to comments from various parties regarding the environmental stressors, Minn. Stat. § 116.065, subd. 5(f) provides that MPCA is to create and maintain an “updated database of environmental stressors” and that the database is to be accessible to the public. See MPCA Pre-Hearing Response to Comments at paragraph 394. The Agency also recognized the need for a transparent update process and the importance of public comment in the update process stating, “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.”

To implement that intent, the Chamber recommends that MPCA amend the proposed rule to explicitly provide for a transparent process for updating CI-MAP that includes a specific cadence and process, including a comment period. The environmental stressors play a key role in the proposed rule. The details for how CI-MAP is updated should not be left to be worked out through more informal guidance following this rulemaking. As noted in multiple sets of comments on the proposal, the regulated

community needs greater certainty and predictability under this rule to make it workable in practice and not undermine future investments.

MPCA Decisions Regarding Whether to Require a Cumulative Impacts Analysis

Another area of the proposal that needs greater certainty and predictability is the section governing when MPCA will require a cumulative impacts analysis. While the proposed rule provides some benchmarks, it also provides the Commissioner broad discretion to require an analysis even if benchmarks are not met based on a determination that one is “necessary” and “supported by material evidence,” without more definition of what that means. We understand that this catch-all derives from the statute; however, the proposed rule could and should provide some guidance regarding what would make a cumulative impact analysis “necessary” under Subpart 2. Without any real guidance as to when the Commissioner is likely to exercise discretion and require a CIA, the proposed rule will create substantial uncertainty for owners and operators considering potential capital investments. As noted above, uncertainty undermines capital investment in new and existing infrastructure, which drives economic expansion and new jobs for our communities. The Chamber therefore recommends MPCA consider some form of notice and guidance prior to the Commissioner exercising discretion and requiring a CIA.

Benchmark for Reissuance of Existing Permits

In proposed Minn. R. 7007.6050, subp. 4(C), MPCA establishes a benchmark for whether a CIA is required for permit reissuances based on enforcement actions issued by the Agency, county governments acting under delegated MPCA authority, or U.S. EPA for a violation (1) for 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 penalty. The University of Minnesota and the Chamber pointed out that this benchmark could result in facilities having to conduct cumulative impact analyses based on minor violations with no nexus to environmental harm. The University of Minnesota provided some examples of violations with small monetary penalties that could trigger a CIA based on the proposed rule: the mislabeling of a hazardous waste container, an out-of-date contact on a contingency plan, and a tank owner’s failure to pass an agency-required examination. See MPCA Pre-Hearing Response to Comments at paragraph 674. Similarly, the Chamber pointed out that the rule would sweep in paperwork errors that did not increase emissions or otherwise contribute to environmental stressors. *Id.* at paragraph 673. The Agency failed to engage with these points; instead, it claimed that while an enforcement action may be resolved “the past impacts from it still need to be considered,” *id.* at 728, which misses the point that in some instances the conduct at issue will not have resulted in an impact or any genuine risk of one. The Chamber recommends that this portion of the rule be amended to only encompass violations which resulted in some actual impact to the health or environment in an environmental justice area.

Air Modeling

In Paragraph 1106 of its Pre-Hearing Response to Comments, MPCA addressed recommendations regarding the focus and scope of air modeling stating:

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.

The Chamber welcomes the Agency's explanation of its position and its willingness to consider a change. The Chamber notes that there is a difference between a desire of "understanding" and an enforceable compliance point or boundary. Given the statutory focus on environmental justice areas, the Chamber believes an amendment to the proposed rule is appropriate. MPCA refers to the possibility of addressing the issue in guidance documents, see *id.* at 1107; however, addressing it in the proposed rule is more appropriate. Specifically, the Chamber recommends that a new item B be added to Subpart 1 of proposed Minn. R. 7007.6100 that provides as follows:

In evaluating the results of the air quality modeling analysis or air emissions risk analysis under item A, the commissioner shall focus the substantial adverse impact determination on modeled concentrations within the impacted environmental justice areas identified in the initial assessment or acceptable risk levels for receptors within the impacted environmental justice areas.

Potential Overlap with CIAs Required Under Other Rules

In its previous comments, the Chamber pointed out that the cumulative impact analyses required under the proposed rule could, in some cases, overlap with cumulative impact analyses required as part of environmental review and/or cumulative impact analyses required pursuant to the Agency's proposed Air Toxics Rule. In responding to the Chamber's comments on both issues, MPCA recognized the potential for such overlap, but did not agree to any amendment of the proposed rule. See MPCA Pre-Hearing Response to Comments at paragraph 1116 and 1121. With respect to cumulative impact analyses required for environmental review, MPCA stated it could "where applicable" use information that "can be shared across programs" but that the Commissioner reserves the right to request newer information. With respect to the proposed Air Toxics Rule, MPCA similarly noted the "opportunities to use existing information" between the two rules but disagreed that it should "establish rules that state that one analysis prepared for a different purpose always satisfies the requirements to prepare an analysis for the proposed rule."

The Chamber takes the Agency's point that information from a prior cumulative impact analysis will get stale as time passes and that there will not always be a perfect match between cumulative impact analyses prepared for different purposes. This is why the Chamber recommended that prior analyses should "presumptively" be satisfactory. Moreover, given the Agency's recognition of the real potential for overlap, the Chamber recommends that the proposed rule be amended to provide for the submission of a cumulative impact analysis originally prepared for another purposes, when appropriate. The Chamber has concerns about not having the principle recognized in the rule text and deferring everything to guidance. In the absence of textual support, Agency staff are likely to perceive legal risk if they do not do a new analysis each time. Adding the point to the text will reduce regulatory burden without creating any harm. Specifically, the Chamber recommends that a new Subpart 3 be added to proposed Rule 7007.6090 which would read as follows:

If the owner or operator has submitted a cumulative impact analysis for the same facility within the prior three years pursuant to Minnesota statutes or rules and such analysis substantially complies with the requirements set forth in this Section, it may re-submit that same cumulative

impact analysis in lieu of preparing and submitting an entirely new cumulative impact analysis. It may also prepare an updated or supplemented version of such a prior cumulative impact analysis and submit that updated or supplemented version in lieu of preparing and submitting an entirely new analysis. However, the commissioner may respond to such a submission of a prior, updated, or supplemented cumulative impact analysis by, when appropriate, directing that the owner or operator update the cumulative impact analysis, in whole or in part, supplement the cumulative impact analysis to address specific additional matters, or to prepare an entirely new cumulative impact analysis.

This proposed addition would allow MPCA to ensure that it has the analysis it needs, while giving owners and operators the opportunity to avoid potentially unproductive duplication.

Building Prior to Completion of Cumulative Impact Analysis or Permit

Under proposed Minn. R. 7007.1450, subp. 7(C), permittees are not allowed to begin construction until either the commissioner determines no cumulative impact analysis is required or, if one is required, a permit is issued. MPCA did not identify any statutory requirement for this aspect of the proposed rule, see MPCA Pre-Hearing Response Comments at paragraphs 534-535, and there is no indication in the statutory text that the Legislature intended for such a change. Of course, operations of the modification cannot begin until an amended permit is issued, which will protect the public and the environment from any adverse impacts (including contributions to cumulative impacts), but owners and operators should be allowed, at their own risk, to begin construction prior to receiving moderate permit amendments with a letter of approval, as is currently the case.

Thank you for consideration of these additional comments.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Morley", with a stylized flourish at the end.

Andrew Morley
Director, Environmental Policy
Minnesota Chamber of Commerce
amorley@mnchamber.com



Health Department
505 Fourth Ave S, Room 520
Minneapolis, MN 55415

www.minneapolismn.gov

September 21, 2026

Administrative Law Judge Kimberly J Middendorf
Minnesota Office of Administrative Hearings

*Comments submitted electronically on Office of Administrative Hearings Rulemaking
eComments website.*

RE: Comments of the Minneapolis Health Department on the Minnesota Pollution Control
Agency's Cumulative Impacts Rulemaking

The Minneapolis Health Department Sustainability, Healthy Homes, and Environment Division submits these comments in response to the Minnesota Pollution Control Agency's (MPCA) Notice of Intent to Adopt proposed new rules governing cumulative impacts analysis for permit decisions in Environmental Justice areas, Minnesota Rules chapter 7007.

1. 7007.6050 Subpart 1: The definition of "requested permit action" in 7007.6000 Subpart 35 is "an application submitted by an owner or operator of a stationary source that requests a permit." The definition of "permit" in 7007.6000 Subpart 31 is "any part 70 permit issued under part 7007.0200 or any state permit issued under part 7007.0250, subpart 5 or 6, that authorizes new construction or facility expansion." The definition of "facility expansion" in 7007.6000 Subpart 19 states that facility expansion does not include insignificant modifications, administrative permit amendments, or minor permit amendments. Therefore, we interpret this section to mean that the only permit amendment/modification types triggering an initial assessment are moderate and major amendments (in addition to new permits and permit renewals). We recommend that MPCA states clearly in this section and/or in guidance documents which permit types and specific actions under those permit types do and do not trigger the initial assessment (i.e., state clearly if administrative and minor permit amendments do not trigger the initial assessment). Additionally, we request clarification on whether a major amendment that is not triggered by an emissions increase would be required to complete the initial assessment (e.g., if the major amendment is triggered by changes to monitoring, reporting, or recordkeeping requirements only). We recommend that MPCA takes into consideration facilities that are completing voluntary pollution control equipment installations which require permit amendments and that MPCA minimizes permitting burden on these facilities. Finally, we recommend that MPCA publishes an

annual update of the August 2025 list of current facilities affected by the cumulative impacts law (Press release: *Approximately 89 current facilities may be affected by Minnesota's new cumulative impacts law*).

2. 7007.6050 Subpart 4(B)(1)(a-h): The criteria pollutant benchmarks listed here are the same as the maximum emissions increases for an insignificant modification as defined in 7007.1250. This indicates that a project with emissions increases in the minor amendment category would require a cumulative impacts assessment, despite minor amendments being excluded from the cumulative impacts process. We recommend that MPCA provides clarification on this. Is it possible that a facility completing a major amendment could have lower emissions increases than a facility completing a minor amendment (due to recordkeeping, monitoring, or reporting changes triggering the major amendment requirement)? And in that case would a major amendment facility be required to complete cumulative impacts analysis while another facility with larger emissions increases (completing a minor amendment) would not? We are concerned about scenarios where facilities completing voluntary air pollution control equipment installations could trigger major amendments due to permit changes despite relatively low emissions increases associated with the project, and that cumulative impacts analysis requirements could discourage them from pursuing the project.
3. 7007.6050 Subpart 4(C): We recommend that, in addition to the four violation types listed, a pending violation investigation (e.g., an unresolved finding of violation) be added as a trigger for cumulative impacts analysis. We understand that the process between an initial notice of violation and a final determination of criminal enforcement, monetary penalty, or administrative order can be lengthy. We request that facilities in active conference with a regulatory agency over an environmental violation be included in cumulative impacts analysis, both to ensure that facilities with very recent violations undergo cumulative impacts analysis, and to disincentivize intentional lengthening of the violation conference process.
4. 7007.6050 Subpart 5(B)(4): We support the requirement for MPCA to post a notice including a description of the requested permit action. We emphasize the importance that this description of the requested permit action be clear, brief, and understandable to the general public so that potential petitioners can focus their petitions appropriately. We recommend that MPCA includes in this description a distinction between the requested permit action that is up for review and the facility's general operations that are not up for review. Additionally, MPCA should specify in this posting if/when the facility's general operations will be up for review (e.g., a permit renewal timeline) so that potential petitioners know when they could plan for a petition unrelated to the current requested permit action.
5. 7007.6060 Subpart 2: We recommend that MPCA provide an optional petition template to help residents meet the requirements of this section, similar to the petition template and instructions webpage provided by the Minnesota Environmental Quality Board.

7007.6060 Subpart 2(A)(6): We have concerns about the petition process. It is a challenging task for residents to understand the scope of the requested permit action, the specific pollutants involved, and the adverse impacts of those pollutants. It is concerning that the community may go through the time-consuming process of submitting a petition and evidence if the facility was to fall into the mandatory cumulative impacts analysis anyway. MPCA should be transparent about what metrics in the petition process will push a facility into a discretionary cumulative impacts analysis. We recommend that MPCA's criteria for granting a petition be made public. As this process begins, if petitions do not actually result in discretionary cumulative impacts analysis requirements this will be a major source of frustration for impacted communities. One option to reduce the burden on communities would be to move the timing of the petition process until after the MPCA review of the initial assessment. If the MPCA determines the facility does not meet the requirements for a mandatory cumulative impacts analysis, then the MPCA could open the process at that point for community petition. We also recommend that MPCA provide examples of material evidence and make support resources available to help residents understand the requested permit action and the pollutant implications.

6. 7007.6060 Subpart 3(B): We oppose the requirement for petitioners to notify the facility directly. This is a burden on residents due to potential fear of retaliation if petitioners have to interact directly with the facility. Additionally, a mailing from a resident may not be filed properly and reach the right people at the facility as compared to a communication from MPCA. We recommend that MPCA add an option for MPCA to notify the facility after receiving the petition.
7. 7007.6060 Subpart 4(B): We support the requirement for MPCA to notify the petitioner and facility about whether the petition is compliant with the rule. We recommend that MPCA add a timeline specifying how long MPCA has to review and provide this compliance notification. If there is no timeline specified, a petitioner could be waiting for months to hear back about a petition and then suddenly find out that their petition was noncompliant and only have 15 days to correct.
8. 7007.6060 Subpart 4(D)(4): We oppose the timeline of 15 calendar days to remedy petition deficiencies before the petition is voided. This timeline is too short if petitioners are expected to go back to 100 people to get signature information corrected or collect additional signatures. We recommend making this timeline 30 calendar days. We anticipate a potential scenario in which a resident organizes a petition that focuses on the facility's general operations rather than a specific requested permit action, submits the petition, and finds out that it is deficient due to the incorrect focus. In this case 15 days would not be sufficient for them to re-educate signatories on the requested permit action and re-collect 100 signatures.
9. 7007.6060 Subpart 6(B)(5): Signatories may fear retaliation if the petition is posted online and includes their names and addresses. This is a particular concern if there are petition signatories who work at the facility or live immediately adjacent to the facility.

We recommend that MPCA redact signatory names and addresses in the online posting and when providing the petition to the facility. If this is not possible, we request that MPCA make it clear to signatories that their information will be posted.

10. 7007.6080 Subpart 6: We support the meeting-specific requirements in this section. We recommend that MPCA add a requirement for the facility or MPCA to provide childcare and/or a community meal and/or a hybrid option for these community meetings to improve access for community members.
11. 7007.6080 Subpart 7: We support the public notice requirements in this section. We recommend that MPCA adds a requirement for facilities to directly notify the local municipality and neighborhood association or other community groups, if present in the environmental justice area, about the public meeting.
12. 7007.6090 Subpart 2(A): We support the requirement for the facility to submit a cumulative impacts analysis to MPCA at least 45 days before the public meeting. We recommend that a required timeline is specified for MPCA to publish the cumulative impacts analysis prior to the public meeting. For example, "The commissioner must publish the cumulative impacts analysis online and provide it to interested community members at least 15 calendar days before the public meeting." This will give community members time to review the analysis before the public meeting.
13. 7007.6090 Subpart 3(F): While we support the requirement for the facility to develop an odor, dust, and noise mitigation or management plan, we are concerned that the inclusion of this requirement at this point in the process will incentivize facilities to claim that they have no potential to cause odor, dust, or noise off-site, in order to move forward without developing the mitigation or management plan. We recommend that MPCA provide a mechanism of accountability to determine if claims from facilities that they have no potential to cause odor, dust, or noise off-site are reasonable. Odor, dust, and noise are common concerns from residents so we support the inclusion of those topics in this process.
14. 7007.6110 Subpart 5(C): We support the requirement of a mid-year progress report for the community benefits agreement. We recommend that MPCA specifies whether this progress report is required to be submitted twice per year indefinitely, or if there is an event triggering the end of mid-year progress report requirements. We recommend consideration of scenarios where a community benefit agreement could include establishment of a long-term asset like a community center. Would a mid-year progress report be required for the entire lifespan of operation of that community center?

The Minneapolis Health Department Sustainability, Healthy Homes, and Environment Division appreciates the opportunity to submit these comments on MPCA's cumulative impacts rulemaking.

Sincerely,

Jenni Lansing, MS, REHS

Senior Environmental Project Manager

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For reasonable accommodations or alternative formats please contact Minneapolis Health Department at 612-673-2301 or via email at health@minneapolismn.gov. People who are deaf or hard of hearing can use a relay service to call 311 at 612-673-3000.

Para ayuda, llame al 311. Rau kev pab, hu 311. Hadii aad caawimaad u baahantahay, wac 311.



Mike Karbo
Regional Director
API
202-682-8304
Karbom@api.org

September 21, 2026

RE: Proposed Rules Governing Cumulative Impacts Analysis for Permit Decisions in Environmental Justice Areas
Revisor's ID No. R-04805
CAH Docket No. 21-9003-39398

Dear Judge Middendorf:

Thank you for the opportunity to provide post-hearing comments regarding the proposed cumulative impacts rule.

API appreciates the effort that the Minnesota Pollution Control Agency (MPCA) has invested in developing this framework and the extensive stakeholder engagement conducted throughout the rulemaking process. The Agency has clearly undertaken a significant effort to respond to comments and provide additional explanation regarding the proposed rule. Our comments focus on whether several key elements of the proposed rule have been sufficiently supported and explained to demonstrate their need, reasonableness, and practical implementation.

1. FOCUS ON IMPACTS ASSOCIATED WITH THE PERMIT DECISION

One question raised throughout this rulemaking is how the cumulative impacts analysis remains connected to the permit action under review. The proposed framework incorporates a broad range of environmental, health, social, and community indicators. Many of these factors provide important context regarding community conditions and may help characterize existing burdens. However, it remains unclear how some factors ultimately inform permit decisions when they are not directly attributable to, or reasonably influenced by, the facility seeking a permit.

In our view, the administrative record would benefit from additional explanation regarding how MPCA distinguishes between:

- information that provides community context;
- information that is used to evaluate facility-specific impacts; and
- information that can meaningfully influence permit outcomes or mitigation measures.

2. SCIENTIFIC SUPPORT FOR EVALUATING ENVIRONMENTAL STRESSORS

API remains concerned that portions of the cumulative impacts analysis appear to require evaluation of interactions among environmental stressors for which accepted methodologies remain limited or evolving. The rule appropriately recognizes that community vulnerabilities can influence overall health outcomes. At the same time, questions remain regarding how applicants are expected to evaluate interactions among nonchemical stressors and facility-specific emissions in a consistent and scientifically supportable manner. We believe additional clarity would improve implementation and reduce the likelihood of inconsistent analyses across facilities and communities.

3. NEED FOR GREATER TRANSPARENCY IN DECISION-MAKING

The proposed rule establishes benchmarks and screening criteria, which we can support as an effort to improve consistency and predictability. However, the rule also provides significant discretion regarding determinations of need, substantial adverse impacts, and consideration of material evidence. Several commenters requested greater clarity regarding how these determinations will be made and how competing sources of information will be weighed.

The MPCA responses acknowledge these concerns but generally reference existing explanations in the SONAR. While those explanations are helpful, we continue to believe additional clarity regarding decision criteria would strengthen implementation of the program and improve transparency for all parties.

4. MATERIAL EVIDENCE AND PETITION-TRIGGERED ANALYSES

The petition process is an important mechanism for public participation. However, uncertainty remains regarding what constitutes material evidence and how that evidence will be evaluated when determining whether a cumulative impacts analysis should be required. A clearer description of evidentiary standards would benefit both communities seeking to participate in the process and applicants seeking to understand how permitting decisions will be made.

5. SCIENTIFIC BASIS FOR SUBSTANTIAL ADVERSE IMPACT THRESHOLDS

API also continues to question whether the record provides sufficient explanation for the selection of certain thresholds used in the substantial adverse impact determination. For example, MPCA's response regarding the 50 percent NAAQS and MAAQS threshold explains the policy rationale for the selected value but also acknowledges that the threshold does not correspond to a specific health or toxicity endpoint.

We respectfully suggest that additional explanation connecting the selected threshold to the statutory concept of a "substantial adverse impact" would strengthen the administrative record and provide greater transparency regarding how these determinations will be made.

6. IMPLEMENTATION CONSIDERATIONS

Finally, multiple commenters raised concerns regarding implementation complexity, permitting timelines, and resource requirements associated with the proposed framework. These concerns were not limited to industry commenters and were raised by a variety of stakeholders.

As implementation moves forward, we believe it will be important to ensure that the process remains predictable, transparent, and focused on information that is most relevant to the permit decision under review.

7. CONCLUSION

API appreciates MPCA's efforts to develop a cumulative impacts framework and its willingness to engage stakeholders throughout this process. We respectfully encourage careful consideration of these issues as part of the review of whether the proposed rule is supported by a sufficient showing of need and reasonableness.

Thank you for the opportunity to comment.

Sincerely,

Mike Karbo

Midwest Region Director

American Petroleum Institute



Tishman Environment
and Design Center

September 21, 2026

Attn: CAH Docket No. 21-9003-39398

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

Submitted via webform at

<https://minnesotaoah.granicusideas.com/discussions/39398-minnesota-pollution-control-agency-post-hearing-comment-period-on-cumulative-impacts-rule>

Re: In the Matter of the Proposed New Rules Governing Cumulative Impacts Analysis for Permit Decisions in Environmental Justice Areas, Minnesota Rules chapter 7007; Revisor's ID Number R-4805

Introduction

The Tishman Environment Design Center at The New School (“Tishman Center”) submits the following comments in reference to the Minnesota Pollution Control Agency’s (MPCA’s) Proposed Permanent Rules Relating to Cumulative Impacts Analysis in Environmental Justice Areas. The Tishman Center is a center focused on environmental justice (EJ), with expertise and a long-standing body of work related to cumulative impacts science and policy. As a technical partner to grassroots and frontline EJ organizations around the country, as well as in Minnesota and the Twin Cities area specifically, we have followed with interest the passage of Minnesota’s Frontline Communities Protection Act in the state’s omnibus law H.F. 2310¹ (hereinafter, “the law” or “the cumulative impacts law”) and the MPCA’s subsequent rule-making.

We would like to express our concern and feedback on several key aspects of MPCA’s proposed rules. Many of these points were expressed by commenters, including the Frontline Communities Protection Coalition and the Minnesota Environmental Justice Table, during the pre-hearing comment period as well as the public hearing held on Sept. 1, 2026. We believe that these aspects of the proposed rules seriously compromise the agency’s ability to address cumulative impacts, the intent of the law. The intention was well captured by the MPCA commissioner’s own words in her letter to the H.F. 2310 conference committee during the final legislative negotiations, wherein the commissioner noted, “Throughout the session the House, Senate, and Governor have all proposed a version of cumulative impacts [policy], a testament to our shared commitment to protect vulnerable and overburdened populations from harmful

¹ Minnesota Statutes § 116.065, <https://www.revisor.mn.gov/bills/93/2023/0/HF/2310/versions/4/>.

effects of pollution...’’² The MPCA understands the purpose of the law and sees its role as follows: “The purpose of this rulemaking project, known as the Cumulative Impacts rule, is to comply with **Minnesota Statutes § 116.065, intended to remedy Minnesotans’ disproportionate exposure to pollutants**. The statute defines EJ areas and **requires the MPCA to conduct a rulemaking process to address the cumulative impacts of pollution during permitting processes**.’’³

At this point in the post-hearing comment period, we feel compelled to express our disappointment with MPCA’s Pre-Hearing Response to Comments,⁴ which reveal that the agency thus far has largely been unswayed by public input and unwilling to make the necessary improvements to the proposed rules that community members have asked for. We sincerely hope that the agency will take this post-hearing opportunity to reconsider its stance on these issues and meaningfully strengthen the proposed rules, so that the law and rule together can be a noteworthy example of cumulative impacts policy, effectively protecting vulnerable and overburdened populations and remedying their disproportionate pollution exposures as intended.

Our top-level concerns are as follows:

1. Methods for Determining Substantial Adverse Impact will Insufficiently Address Cumulative Impacts.

Under the law, the rules should “define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact.”⁵ In our view, the three-avenue approach proposed by MPCA in part 7007.6100, Substantial Adverse Impact, is an inadequate definition of substantial adverse impact in the context of a law to address cumulative impacts. Two avenues of the approach to determine substantial adverse impact rely on pollutant-by-pollutant comparisons to risk assessment-derived benchmarks that are themselves established in a pollutant-by-pollutant way, while the third approach, which acknowledges that cumulative impacts are relevant to the determination, leaves the decision at the discretion of the commissioner. In other words, MPCA’s proposed rules provide no assurance to communities that there is *some* level of endured cumulative impacts beyond which additional pollution should not be permitted.

A. Air Quality Modeling Analysis

The first condition under which a requested permit action would be determined to result in a substantial adverse impact is if “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

² Sarah Strommen, “State Agency Letters to Conference Committee,” April 28, 2023, https://assets.senate.mn/conference_committee/2023-2024/1526_Conference_Committee_on_H.F._2310/State%20Agency%20Letters%20to%20Conference%20Committee.pdf.

³ “Notice of Intent to Adopt Rules With a Hearing,” Minnesota Pollution Control Agency, 2026, <https://www.pca.state.mn.us/sites/default/files/aq-rule2-25ad.pdf>.

⁴ Minnesota Pollution Control Agency (MPCA), “Cumulative Impacts Rule: Pre-Hearing Response to Comments,” Aug. 2026, <https://www.pca.state.mn.us/sites/default/files/aq-rule2-25af.pdf> (hereinafter, “Pre-Hearing Response to Comments”).

⁵ Minnesota Statutes § 116.065, subd. 6(c)(3).

quality standard.”⁶ The MCPA’s response to comments justified the greater than or equal to 50 percent threshold as “human-health protective, as it is lower than the National Ambient Air Quality Standards (NAAQS) and Minnesota Ambient Air Quality Standards (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.”⁷ However, the NAAQS were not defined with cumulative impacts considerations, and do not account for the harm associated with multiple pollutants or compounding stressors that may exacerbate impacts in EJ communities. Even when in theory, the NAAQS are supposed to be set at levels protective of both general populations and sensitive subpopulations,⁸ in reality the consideration of sensitive subpopulations in the establishment of NAAQS and other risk thresholds has been deficient, as problematized in a 2023 consensus statement from a multidisciplinary expert panel on chemical assessments: “EPA has not applied a consistent or complete approach to identifying PESS [potentially exposed or susceptible subpopulations] thus far and does not currently incorporate factors or utilize methodologies to approximate the combined risk resulting from exposure to multiple chemicals, and non-chemical stressors such as food insecurity, pre-existing disease, poverty, or racism, into its risk evaluations – even though doing so would reflect the ‘best available’ scientific approach to risk assessment in many cases.”⁹

Simply put, chemical evaluations that lead to the establishment of thresholds such as the NAAQS do not adequately account for the multiple burdens that frontline communities experience. Pullen Fedinick et al. call attention to the problem as follows: “Extensive scholarship has demonstrated that communities of color, low-income communities, and Indigenous communities face greater environmental and health hazards compared to communities with more White or affluent people. These communities disproportionately face extreme threats to their health from their environments, including high numbers of toxic ‘legacy’ sites, large numbers and concentrations of chemical storage and industrial facilities, air pollution from traffic or ports, environmental exposure to heavy metals such as lead, workplace and take-home exposures, increased rates of drinking water violations, and heightened exposure to toxic chemicals, such as pesticides and other contamination in consumer products, food, and air.... Despite the mountains of evidence that demonstrate the existence and significance of the elevated toxic social and environmental exposures experienced by these communities, the inclusion of these factors into chemical

⁶ Minnesota Pollution Control Agency, “Proposed Permanent Rules Relating to Cumulative Impacts Analysis in Environmental Justice Areas,” (April 6, 2026) <https://www.pca.state.mn.us/sites/default/files/aq-rule2-25ab.pdf> (hereinafter, “Proposed Rules”), part 7007.6100, subpart 1(a)(1).

⁷ Pre-Hearing Response to Comments, para. 1189.

⁸ In developing the NAAQS, the United States Environmental Protection Agency (EPA) was required to create standards with an “adequate margin of safety...” Historically, the NAAQS margin of safety has been interpreted as “requiring the protection of both general populations and sensitive subpopulations, or those subgroups potentially at increased risk for ambient particle health effects.” Philip R. S. Johnson and John J. Graham, “Fine Particulate Matter National Ambient Air Quality Standards: Public Health Impact on Populations in the Northeastern United States,” *Environmental Health Perspectives* 113, no. 9 (2005): 1140–47, <https://doi.org/10.1289/ehp.7822>.

⁹ Tracey J. Woodruff et al., “A Science-Based Agenda for Health-Protective Chemical Assessments and Decisions: Overview and Consensus Statement,” *Environmental Health* 21(Suppl 1) (2023): 132, <https://doi.org/10.1186/s12940-022-00930-3>. See also Kristi Pullen Fedinick et al., “A Cumulative Framework for Identifying Overburdened Populations under the Toxic Substances Control Act: Formaldehyde Case Study,” *International Journal of Environmental Research and Public Health* 18, no. 11 (2021): 6002, <https://doi.org/10.3390/ijerph18116002>; Philip R. S. Johnson and John J. Graham, “Fine Particulate Matter National Ambient Air Quality Standards: Public Health Impact on Populations in the Northeastern United States,” *Environmental Health Perspectives* 113, no. 9 (2005): 1140–47, <https://doi.org/10.1289/ehp.7822>.

evaluations has been scarce.”¹⁰ Thus, regardless of the percentage used (50 percent or something else), the approach of part 7007.6100, subpart 1(A)(1) relies on a contaminant-by-contaminant comparison to thresholds established disregarding cumulative impacts, rendering the approach on its own inadequate for addressing cumulative impacts.

B. Air Emissions Risk Analysis

The second condition for determining substantial adverse impacts is also dependent on risk assessment analyses, requiring the owner or operator of a stationary source to analyze air emissions risk from the facility pollutant by pollutant, using “acceptable risk levels” including cancer risks, hazard quotients for “acute, subchronic, and chronic inhalation risk,” and hazard indexes for “noncancer health endpoints.”¹¹ The MPCA’s response to comments stated, “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.”¹² However, risk assessment parameters inadequately account for the cumulative impacts of multiple pollutants or other social or environmental factors that may exacerbate the risk of harm to local communities, as we described in the subsection above. Therefore, air toxic risk assessments that analyze the impacts of individual pollutants on specific health endpoints are not conservative or health-protective thresholds for reducing harm in EJ communities. Moreover, the air toxics contributions from the source in question are evaluated one by one, not jointly at any point. Once again, we note that doing a pollutant-by-pollutant analysis against risk-based quantitative thresholds inadequately accomplishes the goals of a cumulative impacts policy.

C. Determining Environmental or Health Impacts are Substantial Adverse Impacts

(i) The list of criteria is unclear and does not constitute an adequate methodology for determining substantial adverse impacts.

The third condition for determining a substantial adverse impact relies on the commissioner’s own finding that an environmental or health impact identified in the cumulative impacts analysis (CIA) is a substantial adverse impact (part 7007.6100, subpart 1(A)(3)). However, apart from specifying that the commissioner must consider criteria including the requested permit action, the CIA, environmental stressors in the impacted EJ area, and public comments, the proposed rules do not lay out a specific methodology for how cumulative impacts should be assessed in this determination. According to part 7007.6100, subpart 2, the commissioner must evaluate: “A. the type, extent, and reversibility of the environmental or health impact; B. cumulative impacts, considering: (1) whether the impact is significant; (2) whether the contribution from the requested permit action is significant when viewed in connection with other contributions to the impact,” and any actions proposed by the owner or operator to “eliminate, minimize, or mitigate the

¹⁰ Kristi Pullen Fedinick et al., “A Cumulative Framework for Identifying Overburdened Populations under the Toxic Substances Control Act: Formaldehyde Case Study,” *International Journal of Environmental Research and Public Health* 18, no. 11 (2021), 2, <https://doi.org/10.3390/ijerph18116002>. (Citations removed.)

¹¹ Proposed Rules, part 7007.6100, subpart 1(A)(2).

¹² Pre-Hearing Response to Comments, para. 1194.

contributions from the requested permit action.” The rules do not define “significant” as it is used in this section, nor do they specify how any pollution contributions from the requested permit action should be evaluated in conjunction with other stressors or pollution contributions.

The MPCA wrote that substantial adverse impacts are determined by a “comprehensive assessment that heavily weighs human-health vulnerabilities and social context alongside direct emissions,”¹³ but with no methodology for evaluating these factors, how vulnerability, social context, and pollution information are weighed and assessed is left to the commissioner’s discretion. Moreover, without a decision threshold, impacted communities cannot easily understand how permit decisions are made, which reduces MPCA’s accountability to the communities they serve (as well as predictability for owners and operators). The MPCA defended this lack of a cumulative impacts calculation, writing “relying on a static checklist or tally of stressors would obscure the highly localized, compounding risks that the MPCA is statutorily mandated to evaluate.”¹⁴ Yet notably, the first two conditions used to define a substantial adverse impact (part 7007.6100, subparts 1(A)(1) and 1(A)(2)) are the exact type of “static checklist” thresholds the MPCA claims to avoid. We agree that using static checklists of risk-based thresholds and health endpoints are insufficient to assess cumulative impacts. However, the rules must outline a clear and replicable methodology that actually consists of a *cumulative* assessment and that does not rely on the discretion of the commissioner, to increase both accountability and transparency.

(ii) Disproportionality should be a clear trigger for determining substantial adverse impact, as remedying disproportionality is the main purpose of the law.

When responding to comments requesting that Minnesota adopt a cumulative impacts methodology similar to New Jersey’s cumulative impacts rule, MPCA wrote that it would be “inappropriate,” since “environmental stressors do not necessarily result in an adverse impact merely because their values are above the median percentile of non-overburdened areas.”¹⁵ However, a disproportionate burden, as compared to other areas of the state or county, should be considered an adverse impact. This follows logically from the purpose of the law, which the MPCA well recognizes is to “remedy Minnesotans’ disproportionate exposure to pollutants.”¹⁶ Quantifiable risk thresholds are not needed to identify disproportionate burdens and adverse impacts on overburdened communities. This risk-focused mindset directly contradicts the purpose and spirit of the cumulative impacts law and rules.

Moreover, the centering of risk-centered approaches in a cumulative impacts policy starkly contrasts with the call to action for cumulative impacts policies, growing out of the EJ movement’s denouncement of the systemic failures of risk-based frameworks to address the lived reality of fence-line communities.¹⁷ It is disappointing to see MPCA’s proposed rules relying so heavily on risk-based methodologies as one of the

¹³ Pre-Hearing Response to Comments, para. 1147.

¹⁴ Pre-Hearing Response to Comments, para. 1150.

¹⁵ Pre-Hearing Response to Comments, para. 1147.

¹⁶ “Notice of Intent to Adopt Rules With a Hearing,” Minnesota Pollution Control Agency, 2026, <https://www.pca.state.mn.us/sites/default/files/aq-rule2-25ad.pdf>.

¹⁷ Yukyan Lam et al., Seeing the Whole: Using a Cumulative Impacts Analysis to Advance Environmental Justice (Natural Resources Defense Council, 2022), 7-8, <https://static1.squarespace.com/static/634ec24de312bd652b110530/t/63d9652fdaa29811a5a498d8/1675191601636/seeing-whole-cumulative-impacts-analysis-ej-report.pdf>.

primary ways of determining grounds for permit denials. Given that the stated purpose of the law is to remedy disproportionate exposures, it is astounding that amongst the proposed rules' criteria for evaluating substantial adverse impacts, not a single factor captures the concept of disproportionality (part 7007.6100, subpart 2). Whether MPCA chooses to adapt New Jersey's method or offer its own method, it should at the very least incorporate disproportionality into its decision-making criteria (along with criteria such as pre-existing pollution from other stationary and non-stationary sources, etc.), and specify an actual methodology for reaching a decision based on said criteria.

2. Existing facilities are insufficiently covered by requirements to conduct a mandatory cumulative impacts analysis, compromising the law's objective of *reducing* pollution and *remediating* disproportionate exposures.

Policies that are meant to address environmental injustice must reduce existing sources of pollution that have and continue to contribute to a community's disproportionate burden. The renewal of existing facilities in EJ communities continues to drive disproportionate pollution burdens, and allowing these facilities to pollute under "business as usual" operations, even if those operations meet regulated pollutant thresholds, does not remedy legacy pollution or the problem of cumulative impacts. The law's definition of environmental justice includes "consideration [for] the history of the area's and its residents' cumulative exposure to pollutants cumulative impacts" and further defines cumulative impacts as "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," highlighting how legacy pollution is critical to addressing cumulative impacts.¹⁸ Shortly before the passage of Minnesota's cumulative impacts law, MPCA Commissioner Katrina Kessler wrote, "I am confident we are close to finding a collaborative solution that will accomplish the goal of reducing pollution impacts in environmental justice areas..."¹⁹ Her comment reflects the intent of the law, which is not just preventing but actively *reducing* pollution in EJ communities, requiring the rejection of the status quo of existing facilities and incorporating cumulative impacts requirements into permit reissuance applications.

A. Permit Reissuances

The threshold for requiring a permit reissuance applicant to conduct a CIA should not rely only on a stationary source's history of enforcement actions. The proposed rules currently require applications for a reissuance of a permit to conduct a mandatory CIA 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 any environmental media within the three years before the date the application for reissuance is received..."²⁰ However, research has

¹⁸ Minnesota Statutes § 116.065, subd. 1.

¹⁹ Sarah Strommen, "State Agency Letters to Conference Committee," April 28, 2023, https://assets.senate.mn/conference_committee/2023-2024/1526_Conference_Committee_on_H.F._2310/State%20Agency%20Letters%20to%20Conference%20Committee.pdf.

²⁰ Proposed Rules, part 7007.6050, subpart 4(C).

shown that the enforcement of environmental regulations is weaker in EJ communities.²¹ Additionally, using a history of enforcement actions to determine the need for a CIA means that communities must experience the harm from previous violations before qualifying for a CIA that could lead to a permit denial. Using recent enforcement actions as the lone benchmark for permit reissuances contradicts the intent of the law, which is not merely to prevent new sources of pollution, but to *reduce* pollution and *remedy* disproportionate exposures, as quoted earlier.²²

In their response to comments, the MPCA wrote “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 [CIA]... As described under part 7007.6070, subpart 1 and 2, a [CIA] can be required on a mandatory or discretionary basis.”²³ However, under both the mandatory and discretionary bases, the only other conditions (in addition to the enforcement action provision) that require a permit reissuance application to conduct a CIA include: 1) the commissioner determines that a CIA is necessary, 2) the owner/operator of the stationary source requests a CIA, or 3) the commissioner determines that the permit “may substantially impact the environment or the health of the residents of the impacted environmental justice area,” (part 7007.6070, subpart 2(B)). The definition of “substantial impact” is nearly identical to the definition of “substantial adverse impact” discussed above, with the same lack of cumulative impacts methodology. Since the other requirements for mandating a CIA for permit reissuances are the commissioner’s discretion or the request of the owner/operator, the rules effectively rely on the enforcement action provision as the strongest process for requiring a CIA. This provides nowhere near enough scrutiny of legacy sources of pollution, the importance of which was encapsulated by the very ways “cumulative impacts” and “environmental justice” are defined in the law, as quoted earlier.

Rather than relying solely on a facility’s history of enforcement actions, we support the recommendation made by the Minnesota Environmental Justice Table that would require all facilities to conduct a CIA for their first permit reissuance application after the rules take effect.²⁴ Adding this requirement would ensure that all existing facilities undergo at least one evaluation of their emissions contributions to the existing stressors and burdens present in the EJ community. Additionally, if the MPCA chooses to keep history of enforcement actions as a benchmark, we strongly recommend that the agency consult with EJ areas to develop and implement a strategy to bolster enforcement in EJ areas.

B. Permits for Expansions

The proposed rules further describe how expansion permit applicants would only be required to develop a CIA if “the facility expansion has the potential to emit... one or more of the following pollutants at a rate

²¹ David M. Konisky et al., “Environmental Injustice in Clean Water Act Enforcement: Racial and Income Disparities in Inspection Time,” Environmental Research Letters 16, no. 8 (2021): 084020, <https://doi.org/10.1088/1748-9326/ac1225>; Kristi Pullen Fedinick et al., Watered Down Justice (Natural Resources Defense Council, 2019), <https://www.nrdc.org/sites/default/files/watered-down-justice-report.pdf>.

²² Sarah Strommen, “State Agency Letters to Conference Committee,” April 28, 2023, https://assets.senate.mn/conference_committee/2023-2024/1526_Conference_Committee_on_H.F._2310/State%20Agency%20Letters%20to%20Conference%20Committee.pdf; “Notice of Intent to Adopt Rules With a Hearing,” Minnesota Pollution Control Agency, 2026, <https://www.pca.state.mn.us/sites/default/files/aq-rule2-25ad.pdf>.

²³ Pre-Hearing Response to Comments, para. 722.

²⁴ Compiled Comments, pp. 93-94.

equal to or greater than the specified amount, in pounds per hour....”²⁵ These pollutant-specific benchmarks pose the same issues as outlined in the air emissions risk analysis section above; using individual pollutant thresholds to determine whether a CIA is required contradicts the intention of a cumulative impacts law. However, if the MCPA chooses to require CIAs for permit expansions based on the facility’s “potential to emit,” we support FPCP’s recommendation that this benchmark should take into account the total potential emissions from the entire facility, rather than the expansion portion.²⁶ The expansion does not operate in isolation from the rest of the facility, and therefore the rule should mandate the assessment of potential emissions from the entire stationary source when determining CIA requirements.

3. The rules should contain concrete requirements for owners/operators to avoid, minimize, or reduce adverse impacts, found to be substantial or not. At the very least, information on control measures and other actions that could be taken to avoid, minimize, or reduce the impacts should be disclosed and included at key points in the process.

The proposed rules are extremely weak in terms of obligations imposed on the owner or operator to avoid, minimize or reduce adverse impacts caused by the proposed permit action, or to even share information about possibilities for avoiding, minimizing or reducing adverse impacts. There are no requirements to adopt such measures, merely some suggestive language that applies only after a determination of substantial adverse impact is made: “A. If issuing the requested permit action would have a substantial adverse impact on the environment or the health of the residents of the impacted environmental justice area under subpart 1, the owner or operator *may* identify and analyze additional emission limits, operational conditions, control measures, or other measures to avoid, minimize, or reduce the negative impacts of the stationary source.... B. The owner or operator *may* incorporate the measures identified in item A into the requested permit action and revise the cumulative impacts analysis to include the measures identified.”²⁷

This level of discretion afforded to owners and operators undermines the intent of the law, which, as noted above, is to reduce pollution and remedy disproportionate exposures. Owners and operators should be required to avoid, minimize, or reduce adverse impacts on EJ areas, whether or not such impacts are found to be substantial and certainly if they are determined to be substantial. There should be a hierarchy of mitigation measures required, with a preference for avoidance, followed by minimization, then reduction, as noted by residents in pre-hearing comments.²⁸

The MPCA responds to commenters by stating that the obligatory nature of the proposed rules lies in the fact that “[i]f 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.”²⁹ With respect to mitigation, this constitutes no requirement at all. As written, owners/operators can choose

²⁵ Proposed Rules, part 7007.6050, subpart 4(B).

²⁶ Compiled Comments, pp. 108-109.

²⁷ Proposed Rules, part 7007.6100, subparts 5(A) and 5(B). (Emphasis added.)

²⁸ Compiled Comments, pp. 267-268.

²⁹ Pre-Hearing Response to Comments, para. 1222.

to bypass any discussion or incorporation of avoidance, minimization, and reduction measures, and move straight ahead to the CBA process; the MPCA hands them the option to prioritize negotiating benefits over designing less harmful operations.

In this regard, the MPCA gives the impression that it does not think that the law confers authority for the agency to impose obligations on owners/operators to avoid, minimize, and reduce adverse impacts to EJ areas. In its response to comments, the MPCA speaks of “ensur[ing] 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.”³⁰ We disagree with this interpretation in light of the broader purpose of the cumulative impacts law, which we amply quoted above.

Even if the MPCA does not exercise its authority to impose mitigation measures on owners/operators, the agency should at least require them to disclose any and all possible measures to avoid, minimize, and reduce their impacts, regardless of how substantial they are or not. This is fully within the agency’s authority to do as part of its work to define the contents and processes of the initial assessment, CIA, and potential CBA. However, the proposed rules are currently weak and/or unclear in terms of obligations imposed on owners/operators to even share such information. For example, according to part 7007.6050, subpart 3(I), the content of an initial assessment must include “a description of any current or proposed emission or operating limits, operational conditions, control measures, or other measures to: (1) avoid, minimize, or reduce negative impacts of the stationary source on the environment or the health of residents of the impacted environmental justice area.” In other words, it would appear that owners/operators only need to include information in the initial assessment on mitigation measures that are currently in effect or that they choose to propose. Even for the CIA, the proposed rules are not very clear, with language from part 7007.6090, subpart 3(G) requiring applicants to include: “An analysis and proposal of emission limits, operational conditions, control measures, or other measures necessary to: (1) avoid the negative impacts of the stationary source to the environment or the health of residents of the impacted environmental justice area; and (2) minimize or reduce the negative impacts of the stationary source to the environment or the health of residents of the impacted environmental justice area.” To avoid confusion in interpretation, MPCA should clarify and potentially reword subpart 3(G) so that it is clear that applicants must disclose any conditions and measures that could potentially avoid negative impacts, as well as those that could minimize or reduce negative impacts.

We believe these are important changes because information about the existence of mitigation measures should not be discretionary. *All options* should be disclosed to residents of the impacted EJ area so that they can fully understand what they are facing and meaningfully engage in the permitting process at its various stages, including during a potential petition process, the public meetings held before and after the CIA, and the public meetings held before and after preparation of the draft CBA. If there are measures that can help avoid, minimize, or reduce the adverse impacts of the proposed permit beyond those that the owner/operator is willing to adopt upfront, communities should have a right to know about them. This information could influence whether a community decides to undertake a petition process or how they show up to a public hearing. If the owner/operator does not want to undertake mitigation measures even though they are available, a community should be able to ask them why. This information could influence

³⁰ Pre-Hearing Response to Comments, para. 1221.

how community members might view a proposed CBA, for example, hence showing how crucial it is for their meaningful participation in the process.³¹

4. There should be criteria for rejecting the scenario of a Community Benefit Agreement (CBA), that include the impacted community's perspective. CBA negotiation should not be undertaken automatically upon a finding of substantial adverse impact, nor should CBAs be accepted simply because they have met process requirements.

In general, the proposed rules frame CBAs in a way that appears to be contrary to the law. Minnesota Statute § 116.065 is very clear in how it frames CBA – as the exception, not the default. The MPCA is required to deny a permit after a finding of substantial adverse impact *unless* the owner/operator enters into a CBA with the commissioner. Yet the proposed rules at various points appear to imply that a CBA would be expected or even “required.”³² Under the law, the CBA is never “required.”

Unfortunately, this is not just an issue of semantics. This bias towards the CBA appears to have resulted in there being no clear criteria for when a CBA should be rejected or when negotiation of a CBA should cease or be avoided altogether. Critically, while public comments are considered in the commissioner's decision whether to enter into a CBA (under part 7007.6110, subpart 9(B)) and the owner/operator needs to “address issues raised” by the public (under part 7007.6110, subpart 9(A)), these are extremely vague provisions that provide no real assurance that the community can alter the course of a CBA – especially if it does not want one. Many commenters expressed their concern that CBAs are framed as inevitable in the proposed rules and that there are no clear criteria for rejecting a CBA, both in situations where the community does not want one and when the owner/operator fails to put forth a viable CBA.³³

In response to such concerns, which had been expressed throughout the rule-making process, the MPCA states that it does not allow a process for the community to approve or deny a CBA because this would constitute impermissible delegation of the agency's permitting authority which it legally cannot delegate.³⁴ We do not agree with this interpretation. Minnesota Statute § 116.065 has already circumscribed the MPCA's permitting authority – permits must be denied as a matter of course upon a finding of substantial adverse impact. This is precisely the point of the cumulative impacts policy, and the MPCA cannot delegate an authority it does not have.

³¹ Note, in this regard, that the law in subd. 6(c)(4) specifies that the MPCA should define the content and process 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.” Although mitigation measures that reduce impacts should not be considered a “benefit” to the community, they are considerations that have a direct impact on the residents of the EJ area and should absolutely be disclosed in the CBA discussions.

³² The proposed rules say, for example, in part 7007.6020, subpart 6(D): “If the commissioner determines that issuing the requested permit action would have a substantial adverse impact according to part 7007.6100, the owner or operator must...(2) prepare and submit a community benefit agreement according to part 7007.6110...”

³³ See, e.g., Compiled Comments, pp. 116-117.

³⁴ Pre-Hearing Response to Comments, para. 1298.

Moreover, to interpret the community's say on a CBA as 'permitting,' is a harmful mischaracterization. The CBA process only comes into play, if at all, after the agency has made a finding of substantial adverse impact. The community is doing nothing more than voicing their position on the CBA. Even if the rules were to establish a strong presumption for the commissioner to accept the recommendation of the community, this would still not constitute permitting. It would still be MPCA's responsibility to oversee the permitting process, take the official action of denying or granting the permit, and detail and enforce the permit if granted. To MPCA's argument that the law expressly states that a CBA is between the MPCA and an owner/operator, there is nothing in the law that would contradict establishing a strong presumption in favor of the community's recommendation on the CBA. The Frontline Communities Protection Coalition offered detailed, constructive recommendations to better center impacted communities during the CBA negotiation while recognizing that the CBA is between the MPCA and the owner/operator.³⁵ We strongly urge MPCA to adopt these recommendations, which should more than assuage any real fears about non-delegation while also fulfilling the law's requirement of "active outreach...designed to achieve significant community participation" in the CBA process.³⁶ This is indispensable when the history of CBAs has shown that procedural justice is absolutely crucial to their ability to achieve meaningful community outcomes.³⁷ Historically marginalized communities can easily be disadvantaged in these contractual agreements due to unequal bargaining power, access to information, and resources.³⁸ As one legal scholar put it, "[t]hat CBAs may, in practice, fail to adhere to the objective ideals of transparency, inclusiveness of participation, and representativeness in negotiations, has been one of the instrument's most well documented criticisms."³⁹

Last but not least of all, it is important not to lose sight of the purpose of this law – to address cumulative impacts, reduce pollution burdens and remedy disproportionate exposures that have long affected Minnesota's EJ communities. If it becomes the norm that permits that cause substantial adverse impacts are allowed to go forward simply because a CBA is reached between the facility and the MPCA commissioner, then these goals will be completely undermined. If the so-called CBAs are made against the will of impacted communities, then this will be a double injustice.

³⁵ Compiled Comments, pp. 115-118.

³⁶ Minnesota Statutes § 116.065, subd. 6(c)(4)(i).

³⁷ Salkin, Patricia E., and Amy Lavine. 2008. "Understanding Community Benefits Agreements: Equitable Development, Social Justice and Other Considerations for Developers, Municipalities and Community Organizations." *UCLA Journal of Environmental Law and Policy* 26 (2): 291–332.

³⁸ Recent examples of harmful CBA practices in the context of energy infrastructure siting were highlighted by the former White House Environmental Justice Advisory (WHEJAC) in its second report on carbon management. Amongst other bad faith practices, the WHEJAC found that developers of the so-called "hydrogen hubs" did not adhere to standard public participation and engagement practices with the affected communities, such as providing appropriate notifications or access to meetings hosted by project applicants, ensuring transparency regarding meeting records, questions, or follow up, presenting technical information in accessible formats, or providing clarity about the role that public participation would have in shaping or informing the project proposal. The WHEJAC report also highlighted a troubling lack of information detailing how public funds were used to leverage support for the projects. White House Environmental Justice Advisory Council. (2024). Recommendation report 2: White House Environmental Justice Advisory Council recommendations: Carbon Management Workgroup. <https://www.epa.gov/system/files/documents/2024-10/whejac-carbon-management-recommendations-october-2024.pdf>.

³⁹ Seigel, Steven M. 2014. "Community Benefits Agreements in a Union City: How the Structure of CBAs May Result in Inefficient, Unfair Land Use Decisions." *The Urban Lawyer* 46 (3), 481, <https://www.jstor.org/stable/24392991>. (Citation removed.)

We thank the MPCA for considering our feedback and welcome the opportunity to discuss any of the ideas contained in these comments.

Prepared and respectfully submitted by:
The Tishman Environment & Design Center at The New School



**Comments from LIUNA Minnesota and North Dakota on Proposed New Rules Governing
Cumulative Impacts Analysis for Permit Decisions in Environmental Justice Areas,**

Minnesota Rules Chapter 7007; Revisor's ID Number R-4805

CAH Docket 21-9003-39398

September 21, 2026

Hon. Judge Kimberly J. Middendorf
Minnesota Court of Administrative Hearings
Submitted via Granicus

Dear Judge Middendorf,

LIUNA Minnesota and North Dakota ("LIUNA") appreciates the opportunity to submit comments on the Cumulative Impacts Analysis Rule proposed by the Minnesota Pollution Control Agency ("MPCA").

LIUNA is a construction union that represents roughly 14,000 skilled construction laborers across the state of Minnesota, including thousands that live and work in environmental justice areas as defined in Minn. Stat. 116.065 Subd. 1(e). This fact gives LIUNA a relatively unique perspective among stakeholders: we want to ensure that our members, their families and all Minnesotans can enjoy a healthy environment, but we also recognize that many of our members, along with other blue-collar families, rely on economic opportunities associated with industrial and other activities that have potential environmental impacts.

During the 2023 legislative session, LIUNA was directly involved in negotiating the legislative compromises that created Minn. Stat. 116.065, because we agreed with the authors' goal of protecting socioeconomically and environmentally overburdened communities from incremental industrial development that does not produce net benefits for residents. At the same time, we wanted to ensure that the law did not unnecessarily deprive our members of work opportunities or inadvertently intensify the socioeconomic facing environmental justice communities by blocking beneficial development.

The keys to our support for the final bill were language requiring that adverse impacts be "substantial" in order to justify denial of a permit or requirement of a community benefits agreement; and the establishment of "benchmarks" designed to ensure that the process advanced environmental justice by targeting communities that are *both* socioeconomically burdened – as defined in statute – and environmentally burdened. Unfortunately, despite the best efforts of agency staff, we do not believe the proposed benchmarks meet the letter or spirit of the law.

LIUNA agrees broadly with comments filed on July 16, 2026 by the Minnesota State Building and Construction Trades Council concerning the flaws in the benchmark framework and definitions. These flaws include:

- Use of benchmark categories that correlated strongly with the socioeconomic factors that define an environmental justice area under the statute, effectively diluting the “environmental” half of environmental justice (cost burden, inequality, education, unemployment, health coverage, food insecurity, and potentially disability)
- Setting benchmarks based on the lower of the state and county medians, effectively defining levels of pollution or other factors that are entirely normal for an area as excessive burdens requiring special protections.
- Use of benchmarks for which census tracts are not an appropriate unit of analysis (e.g. lack of recreational open space which may be present at very short distances immediately across a census tract line).
- Use of environmental benchmarks that are of dubious value in assessing the actual environmental quality and health of residents (e.g. using impervious surfaces based on the putative connection to water quality even though water quality is being separately measured).

We are concerned that use of the proposed benchmarks will lead to arbitrary decisions that do not align with the needs of communities. And we are even more concerned that the scheme risks punishing low-income communities whose burdens are largely if not entirely socioeconomic by delaying and driving away investments that could enhance the incomes, health coverage, food security, and overall economic security of residents.

LIUNA has extensive experience working on development proposals with the types of firms and institutions whose projects are most likely to require covered air permits, and to be impacted by cumulative impact review requirements, including manufacturers, hospitals and universities. It is widely understood among these firms and institutions that completing environmental review and obtaining permits is already more difficult in Minnesota than in neighboring states, and more difficult in urban areas than in the state as a whole.

We recognize efforts made by MPCA to develop a reasonable process for evaluating applications from existing facilities for permit reissuances and modifications. It is possible that applicants for those permits will navigate the process because they have no choice if they want to continue operating. On the other hand, we fear based on our experience and recent conversations that firms and institutions considering new investments are extraordinarily unlikely to subject themselves to a new, unknown and potentially arduous process when they could simply pursue better-off locations where that investment is less needed. This would be the definition of a perverse outcome, yet it is an almost certain outcome based on the current benchmark framework.

We appreciate the careful work done by project proposers to prepare a Certificate of Need application that meets all of the requirements set out in statute and rule. We recommend that the Commission accept the application as complete and order an informal review process as recommended by the Department of Commerce and MISO.

Our concern that results could be arbitrary and even perverse are not just theoretical. We have attached three examples of Environmental Justice Areas where the benchmarks would apparently require cumulative impacts review in places where underlying levels of pollution are modest to minimal, and where the requirement for analysis would be driven by socioeconomic factors that could be *helped* by investment, by double-counting of co-related factors, and by setting benchmarks that allow an area that is the same or better than its county or state to be treated as burdened because it equals or exceeds a single median.

We do not see any simple means to correct these fundamental flaws which threaten to harm our members and many communities the rule is supposed to protect without a full redraft of the benchmarks to meet their original purpose – targeting the rule to communities that are socioeconomically *and* environmentally overburdened.

We thank your honor for your consideration.

Respectfully Submitted,
LIUNA Minnesota & North Dakota

By: Kevin Pranis
Marketing Manager
81 Little Canada Road
St. Paul, MN 55117

Published date: April 23, 2026

Cumulative impacts mapping and analysis platform

Census tract stressor summary (draft 2026)

Cumulative impacts are the combined effects of current and past pollution and other stressors and how they impact the health, well-being, and quality of life of residents in those communities. This summary displays the number of adverse stressors affecting the population of a census tract, a small area of land used for statistics. An adverse stressor is any identified stressor that exceeds a reference value, or if a reference value is not specified, the state or county median (50th percentile) for that given stressor. The median statistic provides a geographic point of comparison when there isn't a standard or benchmark available to assess an environmental stressor. This comparison point is used to help determine if an environmental justice area is experiencing disparities across the stressors provided in this tool. For more information on environmental justice initiatives, including cumulative impacts or further assistance interacting with this online tool, visit the MPCA's [Cumulative impacts web page](#).

**Census tract ID:** 27053025302**County:** Hennepin County**Population:** 4,438

Section 1: Environmental justice area details

An environmental justice area is one or more census tracts — small, relatively permanent subdivisions of a county or city — meeting any of the criteria identified below. See Minn. Stat. § 116.065 for the formal definition.

Criteria	Value
Environmental justice area	Yes
40% or more people of color	No (37.0%)
35% or more of households below 200% of the poverty level	Yes (45.2%)
40% or more of people older than 5 have limited English proficiency	No (11.5%)
Located within Indian Country	No

Tribal nation(s): NA

Section 2: Stressor summary

Combined stressor total

Summary statistic	Value
Adverse cumulative stressors	Yes
Census tract value: Combined stressor total	18 (out of 26)
County median adverse stressor count	14
State median adverse stressor count	13

Air pollution

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Cancer risk estimates based on air pollution emissions ¹ (Estimated cancer risk score)	1.33	NA	NA	Yes
Fine particulate matter measurements (Number of days with PM 2.5 concentration measurements above air quality index of 100)	26	23	23	Yes
Ground-level ozone measurements (Number of days with ozone concentration measurements above air quality index of 100)	7	7	7	No
Non-cancer risk estimates based on air pollution emissions ² (Estimated non-cancer risk score)	1.08	NA	NA	Yes

¹ Cancer risk estimates use an air pollution score of 1 as the reference value to determine status as an adverse stressor.

² Non-cancer risk estimates use an air pollution score of 1 as the reference value to determine status as an adverse stressor.

Land pollution

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Cleanup sites (Pollution cleanup sites percentile)	53.4	NA	50	Yes
Solid waste (Solid waste percentile)	0	NA	50	No

Water pollution

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Impaired waters (<i>Impaired waters percentile</i>)	0	NA	50	No
Industrial stormwater runoff (<i>Industrial stormwater runoff exceedances</i>)	0	0	0	No
Groundwater threats (<i>Groundwater threats percentile</i>)	48.1	NA	50	No

Traffic factors

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Percent of population living near busy roads (<i>Percent of residents near busy roads</i>)	39.7	44.9	19.6	Yes
Traffic density (<i>Census tract annual average daily traffic (AADT) volume</i>)	269,000	181,000	110,000	Yes

Social factors

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Age of residents (<i>Percent of people that are either 5 years and younger or 65 years and older</i>)	19.2	20.8	23.4	No
Cost-burdened households (<i>Percent of households that are cost-burdened</i>)	37.9	22.8	20.6	Yes
Income inequality (<i>Income inequality percentile</i>)	90.8	NA	50	Yes
Lack of educational attainment (<i>Percent of people 25 years and older without a high school diploma</i>)	11	3.86	5.06	Yes
People with disabilities (<i>Percent of people with a disability</i>)	17.2	9.96	11.4	Yes
Unemployment (<i>Percent of adults who are unemployed</i>)	5.18	3.71	3.41	Yes

Public health factors

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Asthma prevalence (<i>Estimated percent of people with asthma</i>)	10.8	10.1	10.1	Yes
Childhood lead exposure ³ (<i>Census tract percent elevated blood lead levels compared to statewide</i>)	No significant difference	NA	NA	No
Heart disease prevalence (<i>Estimated percent of people with heart disease</i>)	7.6	5.1	6.3	Yes
Lack of health care coverage (<i>Percent of people without health care coverage</i>)	5.02	3.33	3.94	Yes

³ Childhood lead exposure uses the statewide percent elevated blood lead level 95% confidence interval as the reference value to determine status as an adverse stressor.

Neighborhood factors

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Food insecurity (<i>Estimated percent of people with food insecurity</i>)	13.7	7.5	8.7	Yes
Impervious surfaces (<i>Estimated percent of tract with impervious surfaces</i>)	40.8	43	22.4	Yes
Lack of recreational open space (<i>Estimated percent of tract with lack of recreation space</i>)	94.4	95	96.1	No
Lack of tree canopy (<i>Estimated percent of tract with lack of tree canopy</i>)	85.7	84.9	83.3	Yes
Permitted sites and other agency interests (<i>MPCA regulated activities, sites, and permits per square mile</i>)	20.7	27.7	10	Yes

Data source: Cumulative impacts mapping and analysis platform (draft 2026)

Published date: April 23, 2026

Cumulative impacts mapping and analysis platform

Census tract stressor summary (draft 2026)

Cumulative impacts are the combined effects of current and past pollution and other stressors and how they impact the health, well-being, and quality of life of residents in those communities. This summary displays the number of adverse stressors affecting the population of a census tract, a small area of land used for statistics. An adverse stressor is any identified stressor that exceeds a reference value, or if a reference value is not specified, the state or county median (50th percentile) for that given stressor. The median statistic provides a geographic point of comparison when there isn't a standard or benchmark available to assess an environmental stressor. This comparison point is used to help determine if an environmental justice area is experiencing disparities across the stressors provided in this tool. For more information on environmental justice initiatives, including cumulative impacts or further assistance interacting with this online tool, visit the MPCA's [Cumulative impacts web page](#).

**Census tract ID:** 27137003700**County:** St. Louis County**Population:** 2,002

Section 1: Environmental justice area details

An environmental justice area is one or more census tracts — small, relatively permanent subdivisions of a county or city — meeting any of the criteria identified below. See Minn. Stat. § 116.065 for the formal definition.

Criteria	Value
Environmental justice area	Yes
40% or more people of color	No (9.9%)
35% or more of households below 200% of the poverty level	Yes (35.5%)
40% or more of people older than 5 have limited English proficiency	No (0.4%)
Located within Indian Country	No

Tribal nation(s): NA

Section 2: Stressor summary

Combined stressor total

Summary statistic	Value
Adverse cumulative stressors	Yes
Census tract value: Combined stressor total	14 (out of 26)
County median adverse stressor count	12
State median adverse stressor count	13

Air pollution

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Cancer risk estimates based on air pollution emissions ¹ (<i>Estimated cancer risk score</i>)	0.161	NA	NA	No
Fine particulate matter measurements (<i>Number of days with PM 2.5 concentration measurements above air quality index of 100</i>)	24	24	23	Yes
Ground-level ozone measurements (<i>Number of days with ozone concentration measurements above air quality index of 100</i>)	0	0	7	No
Non-cancer risk estimates based on air pollution emissions ² (<i>Estimated non-cancer risk score</i>)	0.135	NA	NA	No

¹ Cancer risk estimates use an air pollution score of 1 as the reference value to determine status as an adverse stressor.

² Non-cancer risk estimates use an air pollution score of 1 as the reference value to determine status as an adverse stressor.

Land pollution

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Cleanup sites (<i>Pollution cleanup sites percentile</i>)	80.5	NA	50	Yes
Solid waste (<i>Solid waste percentile</i>)	0	NA	50	No

Water pollution

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Impaired waters (<i>Impaired waters percentile</i>)	91.8	NA	50	Yes
Industrial stormwater runoff (<i>Industrial stormwater runoff exceedances</i>)	0	0	0	No
Groundwater threats (<i>Groundwater threats percentile</i>)	54.5	NA	50	Yes

Traffic factors

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Percent of population living near busy roads (<i>Percent of residents near busy roads</i>)	6.1	6.1	19.6	No
Traffic density (<i>Census tract annual average daily traffic (AADT) volume</i>)	21,700	70,000	110,000	No

Social factors

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Age of residents (<i>Percent of people that are either 5 years and younger or 65 years and older</i>)	21.2	26.1	23.4	No
Cost-burdened households (<i>Percent of households that are cost-burdened</i>)	23	22.7	20.6	Yes
Income inequality (<i>Income inequality percentile</i>)	26.9	NA	50	No
Lack of educational attainment (<i>Percent of people 25 years and older without a high school diploma</i>)	8.71	4.12	5.06	Yes
People with disabilities (<i>Percent of people with a disability</i>)	22.6	15.3	11.4	Yes
Unemployment (<i>Percent of adults who are unemployed</i>)	1.09	3.72	3.41	No

Public health factors

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Asthma prevalence (<i>Estimated percent of people with asthma</i>)	11.1	10.4	10.1	Yes
Childhood lead exposure ³ (<i>Census tract percent elevated blood lead levels compared to statewide</i>)	No significant difference	NA	NA	No
Heart disease prevalence (<i>Estimated percent of people with heart disease</i>)	6.7	7.75	6.3	Yes
Lack of health care coverage (<i>Percent of people without health care coverage</i>)	2.98	3.25	3.94	No

³ Childhood lead exposure uses the statewide percent elevated blood lead level 95% confidence interval as the reference value to determine status as an adverse stressor.

Neighborhood factors

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Food insecurity (<i>Estimated percent of people with food insecurity</i>)	13.1	8.7	8.7	Yes
Impervious surfaces (<i>Estimated percent of tract with impervious surfaces</i>)	23.7	11.6	22.4	Yes
Lack of recreational open space (<i>Estimated percent of tract with lack of recreation space</i>)	97.4	95.8	96.1	Yes
Lack of tree canopy (<i>Estimated percent of tract with lack of tree canopy</i>)	62.2	60.4	83.3	Yes
Permitted sites and other agency interests (<i>MPCA regulated activities, sites, and permits per square mile</i>)	11.8	5.01	10	Yes

Data source: Cumulative impacts mapping and analysis platform (draft 2026)

Published date: April 23, 2026

Cumulative impacts mapping and analysis platform

Census tract stressor summary (draft 2026)

Cumulative impacts are the combined effects of current and past pollution and other stressors and how they impact the health, well-being, and quality of life of residents in those communities. This summary displays the number of adverse stressors affecting the population of a census tract, a small area of land used for statistics. An adverse stressor is any identified stressor that exceeds a reference value, or if a reference value is not specified, the state or county median (50th percentile) for that given stressor. The median statistic provides a geographic point of comparison when there isn't a standard or benchmark available to assess an environmental stressor. This comparison point is used to help determine if an environmental justice area is experiencing disparities across the stressors provided in this tool. For more information on environmental justice initiatives, including cumulative impacts or further assistance interacting with this online tool, visit the MPCA's [Cumulative impacts web page](#).

**Census tract ID:** 27137000301**County:** St. Louis County**Population:** 5,140

Section 1: Environmental justice area details

An environmental justice area is one or more census tracts — small, relatively permanent subdivisions of a county or city — meeting any of the criteria identified below. See Minn. Stat. § 116.065 for the formal definition.

Criteria	Value
Environmental justice area	Yes
40% or more people of color	No (7.9%)
35% or more of households below 200% of the poverty level	Yes (37.3%)
40% or more of people older than 5 have limited English proficiency	No (1.4%)
Located within Indian Country	No

Tribal nation(s): NA

Section 2: Stressor summary

Combined stressor total

Summary statistic	Value
Adverse cumulative stressors	Yes
Census tract value: Combined stressor total	18 (out of 26)
County median adverse stressor count	12
State median adverse stressor count	13

Air pollution

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Cancer risk estimates based on air pollution emissions ¹ (<i>Estimated cancer risk score</i>)	0.231	NA	NA	No
Fine particulate matter measurements (<i>Number of days with PM 2.5 concentration measurements above air quality index of 100</i>)	22	24	23	No
Ground-level ozone measurements (<i>Number of days with ozone concentration measurements above air quality index of 100</i>)	0	0	7	No
Non-cancer risk estimates based on air pollution emissions ² (<i>Estimated non-cancer risk score</i>)	0.178	NA	NA	No

¹ Cancer risk estimates use an air pollution score of 1 as the reference value to determine status as an adverse stressor.

² Non-cancer risk estimates use an air pollution score of 1 as the reference value to determine status as an adverse stressor.

Land pollution

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Cleanup sites (<i>Pollution cleanup sites percentile</i>)	71.1	NA	50	Yes
Solid waste (<i>Solid waste percentile</i>)	58.9	NA	50	Yes

Water pollution

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Impaired waters (<i>Impaired waters percentile</i>)	86.9	NA	50	Yes
Industrial stormwater runoff (<i>Industrial stormwater runoff exceedances</i>)	0	0	0	No
Groundwater threats (<i>Groundwater threats percentile</i>)	68.6	NA	50	Yes

Traffic factors

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Percent of population living near busy roads (<i>Percent of residents near busy roads</i>)	40.8	6.1	19.6	Yes
Traffic density (<i>Census tract annual average daily traffic (AADT) volume</i>)	321,000	70,000	110,000	Yes

Social factors

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Age of residents (<i>Percent of people that are either 5 years and younger or 65 years and older</i>)	31.9	26.1	23.4	Yes
Cost-burdened households (<i>Percent of households that are cost-burdened</i>)	47	22.7	20.6	Yes
Income inequality (<i>Income inequality percentile</i>)	70.9	NA	50	Yes
Lack of educational attainment (<i>Percent of people 25 years and older without a high school diploma</i>)	3.06	4.12	5.06	No
People with disabilities (<i>Percent of people with a disability</i>)	16.3	15.3	11.4	Yes
Unemployment (<i>Percent of adults who are unemployed</i>)	3.73	3.72	3.41	Yes

Public health factors

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Asthma prevalence (Estimated percent of people with asthma)	11	10.4	10.1	Yes
Childhood lead exposure ³ (Census tract percent elevated blood lead levels compared to statewide)	No significant difference	NA	NA	No
Heart disease prevalence (Estimated percent of people with heart disease)	8.5	7.75	6.3	Yes
Lack of health care coverage (Percent of people without health care coverage)	6.11	3.25	3.94	Yes

³ Childhood lead exposure uses the statewide percent elevated blood lead level 95% confidence interval as the reference value to determine status as an adverse stressor.

Neighborhood factors

Stressor (Unit)	Census tract value	County 50th percentile	State 50th percentile	Adverse stressor
Food insecurity (Estimated percent of people with food insecurity)	12	8.7	8.7	Yes
Impervious surfaces (Estimated percent of tract with impervious surfaces)	23	11.6	22.4	Yes
Lack of recreational open space (Estimated percent of tract with lack of recreation space)	97	95.8	96.1	Yes
Lack of tree canopy (Estimated percent of tract with lack of tree canopy)	59.3	60.4	83.3	No
Permitted sites and other agency interests (MPCA regulated activities, sites, and permits per square mile)	19.6	5.01	10	Yes

Data source: Cumulative impacts mapping and analysis platform (draft 2026)



Metropolitan Airports Commission

6040 - 28th Avenue South, Minneapolis, MN 55450 • 612-726-8100 • metroairports.org

September 21, 2026

Submitted electronically through OAH eComments

Minnesota Office of Administrative Hearings

600 North Robert St.

P.O. Box 64620

St. Paul, MN 55164-0620

Attn: Administrative Law Judge Kimberly Middendorf

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

Dear Judge Middendorf:

The Metropolitan Airports Commission (MAC) appreciates the opportunity to submit post-hearing comments regarding the proposed Cumulative Impacts Analysis (CIA) rules published by the Minnesota Pollution Control Agency (MPCA) on May 18, 2026 (the "Proposed Rules" or "Rules"). MAC submits these comments with appreciation for the thoughtful work the MPCA and the 182 commenters have put into the rulemaking process. MAC's intent in submitting these post-hearing comments 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 region.

MAC, the owner and operator of Minneapolis-St. Paul International Airport ("MSP") and a system of six general aviation airports in the Twin Cities metropolitan area, continues to have strong concerns about the detrimental effects the Rules may have on MAC's statutory mandate to promote air transportation and its associated impact on economic growth and positive community benefits throughout Minnesota. Specifically, MAC has concerns about the following aspects of the Proposed Rules:

- **In its pre-hearing comments, MAC raised concerns that current and future permittees subject to the Proposed Rules may forgo new or facility expansion projects because of the additional time and costs. MPCA's response acknowledges that the Proposed Rules will further delay already slow permitting timelines in Minnesota.**

MAC reiterates its comments encouraging MPCA to review its Proposed Rules to consider efficiencies and time limits that could decrease the uncertainty on regulated parties and help ensure compliance with statutory permitting goals. Permitting delays and uncertainty have the potential to discourage growth of aviation facilities and thereby blunt MAC’s statutory mandate and stunt economic growth in Minnesota, including the associated high-paying jobs.¹

In particular, MAC urges MPCA to provide a way to meet the statutory permitting efficiency goals in Minn. Stat. § 116.03 while implementing Minn. Stat. § 116.065. MAC is concerned by MPCA’s acknowledgment that “permitting efficiency goals would likely not be met for projects that require a cumulative impacts analysis [(CIA)] and [Community Benefit Agreement (CBA)].”² Minn. Stat. § 116.065 does not modify the statutory permitting goal in Minn. Stat. § 116.03, and MAC is concerned by MPCA’s recognition that the Proposed Rules would not comply with the Minnesota Legislature’s permitting efficiency goals.³

This failure to provide a path for a CIA and CBA that meets the statutory goal may lead permittees in Minnesota to forgo expansion opportunities or compel these businesses to undertake expansion outside of Minnesota. This is true for *any* expansion that has the potential to subject a facility to the Proposed Rules—even one that might ultimately result in reduced impacts or emissions through, for example, adopting new control technologies as part of the expansion.

- **In pre-hearing comments, MAC noted that the Proposed Rules give the Commissioner too much discretion at critical points in the process.** In response, MPCA did not explain how the Commissioner might determine a CIA is “necessary and supported by material evidence” even if the results of an Initial Assessment show the requested permit action does not exceed any established pollutant benchmarks. Proposed Rule 7007.6070, subp. 2.A. MAC reiterates its comment that by simply restating the broad statutory language in Minn. Stat. § 116.05, subd. 3(e)(1), the Proposed Rule provides no definition of or parameters for when a CIA would be “necessary” or supported by “material evidence.” The resulting unfettered discretion creates uncertainty in the impacts analysis process and will again make permittees hesitant to invest in

¹ Right now—even without the Proposed Cumulative Impacts Rule being finalized—MPCA meets its statutory permitting efficiency goal of issuing or denying a tier 2 permit within 150 days of submission of a permit application less than 20% of the time. See e.g., *Annual Permitting Efficiency Report* (Nov. 2025); [Streamlining Minnesota’s Environmental Permitting Process: Accessing Timeliness and Certainty](#) (showing that Minnesota already lags peer states in the time it takes to issue or reissue complex air permits).

² MPCA Pre-Hearing Response to Comments ¶ 464.

³ See *State v. Bradley*, 4 N.W.3d 105, 112 (Minn. 2024) (“When ‘construing statutes, we assume that the Legislature enacts statutes ‘with full knowledge of prior legislation on the same subject.’”).

new or expanded facilities.⁴ 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.

- **In its pre-hearing comments, MAC explained that the Proposed Rules define “impacted environmental justice area” too broadly, without consideration of which communities may be most impacted by a proposed permit action.** In response, MPCA concludes that the definition of “impacted environmental justice area” is consistent with the statute. In reaching this conclusion, MPCA conflates the statute’s applicability provisions in Minn. Stat. § 116.065, subd. 2, with the phrase “environmental justice area impacted by the facility” and does not recognize that the Proposed Rules use the phrase “impacted environmental justice area” more broadly than the statute. In doing so, MPCA effectively concludes that any environmental justice area located in or within one mile of the stationary source boundary is “impacted” by a permit action at the facility without regard for the location of the permit action within the facility. As a result, the Proposed Rules would require an applicant to provide information about an entire stationary source as part of the initial assessment, even if the proposed permit action would be well over a mile from the relevant environmental justice area.

MAC offers MSP as an example to provide a sense of scale for some facility boundaries.⁵ 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*.

MAC continues to recommend that 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

⁴ MPCA disagrees with this conclusion, but in doing so, does not identify what standards apply. See MPCA Pre-Hearing Response to Comments ¶ 320. At a minimum, MPCA should clarify what standards it would apply during the rebuttal comment period.

⁵ Because MAC has an Option D Registration Permit, the Proposed Rules would not apply to MAC. However, they could apply to projects by MAC tenants that require Title V permits.

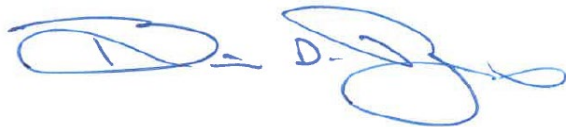
environmental justice area that the proposed permit action stationary source is located in.”.

This change would better align the Proposed Rules with the plain language of the statute, which requires the Commissioner to determine whether a *proposed permit action* may substantially impact the environment or health of the residents of an environmental justice area⁶ and requires the evaluation of whether the *permit action* sought is likely to impact the environment or health of residents.⁷

While MAC believes this definition change would be the clearest way to revise the Proposed Rules to reflect the statutory scope, MPCA could also revise the proposed requirements on providing information as part of the Initial Assessment process to tailor the Initial Assessment to the statutory requirement that MPCA consider the *proposed permit action* rather than the whole stationary source.⁸

MAC appreciates this opportunity to provide post-hearing comments on the Rules. Although MAC supports the overall goals of the Proposed Rules, we remain very concerned that aspects of the Proposed Rules will suppress the development of aviation facilities and related high-paying aviation jobs and blunt MAC’s statutory mandate to develop the full potential of the metropolitan area as an aviation center. We strongly urge MPCA to fashion final rules that advance the goal of environmental justice while at the same time providing sufficient certainty for, and eliminating needless additional regulatory burden upon, permittees seeking to grow aviation facilities and foster the associated economic benefits that will allow our great state to thrive.

Sincerely,



Brian D. Ryks, Executive Director/CEO, Metropolitan Airports Commission

⁶ See Minn. Stat. § 116.065, subd. 3(a)(1).

⁷ See Minn. Stat. § 116.065, subd. 3(b).

⁸ See e.g., Pre-Hearing Comments from University of Minnesota at 7–12.