

Summary of Benchmarks Working Session

September 19, 2024, at Matthew's Recreation Center

This document includes a summary of the feedback heard from attendees at the Cumulative Impacts Working Session on September 19, 2024, and does not constitute decision(s) by the Minnesota Pollution Control Agency (MPCA) for the final Cumulative Impacts rule.

Participation

On September 19, 2024, the Minnesota Pollution Control Agency (MPCA) hosted a working session for the Cumulative Impacts Rulemaking at the Matthews Recreation Center in Minneapolis. Twenty-two community members attended this event and shared their feedback and ideas with MPCA staff on what benchmarks should be used to help the MPCA determine if a cumulative impacts analysis is required. These attendees included staff from environmental advocacy groups, representatives for regulated facilities, and community members from Minnesota.

MPCA also received four comments on benchmarks through the Smart Comment webpage between September 19, 2024, and October 23, 2024.

Mandatory Cumulative Impacts Analysis

Overall, working session participants found it challenging to weigh in on when to require a mandatory versus discretionary cumulative impacts analysis. Community members emphasized the need for benchmarks that focus on social, economic, community-based, health and environmental factors.

Benchmarks to be considered:

- Demographics.
- Abundance of facilities.
- Hospitalizations/health data that would show if community may be more susceptible to pollution (life expectancies, etc.).
- Food deserts.
- Access to housing and healthcare.
- Access to green spaces and tree canopy coverage.
- Community complaints against facility/enforcement action history.
- Worker safety/facility's indoor air quality.
- Traffic.
- Proximity to locations such as schools and daycares.
- Sources of lead, including the facility and other sources in the community.
- Emissions on Toxic Release Inventory (TRI) mandatory reporting list.
- Number of existing polluters/environmental stressors (highways, facilities, construction areas, etc.).
- Housing make-up (rentals vs owned) and poverty rates.
- Climate change impacts on community.
- Type of facility.

- Fossil fuel power plants, incinerators, foundries were suggested as types of facilities that should always have to complete an analysis.
- Brownfields.
- Emission levels close to the NAAQS.
- PM2.5 monitoring information.
- Comparison of actual emission rates to potential to emit (PTE).
- Air emissions risk analysis (AERA).

Community members recommended standards for regularly scheduled and/or clear expectations for mandatory requirements:

1. A regular rotating schedule for facilities to do a mandatory analysis. (i.e. 5-10 years).
2. The age of facility.
3. The length of time since their last permit.
4. A certain number of permit renewals allowed in an area during before a mandatory analysis is required.

Consideration for both standalone benchmarks and the cumulative impact of many benchmarks. Suggestion to weight by mode or transmission of pollutants (air, water, ground) and type of permit action (for example, a new facility or new source of pollution at an existing facility should be weighted higher). Participants discussed whether a facility installing equipment that will reduce pollution should be required to do a cumulative impact analysis, or not.

Questions

How to account for unregulated pollutants?

Is a “0-mark threshold” possible? For example, a facility has already been emitting pollutants, but they are not increasing those emissions.

Other

Participants mentioned the need for putting finances and time into lowering pollution emissions before requiring a cumulative impact analysis.

Some participants suggested that every facility in an environmental justice area should be required to do a mandatory cumulative impact analysis. Or a facility in an environmental justice area with two or more qualifiers for being an EJ area.

Compare benchmark standards to non-environmental justice area/s on the county or state level.

CalEnviroScreen and MNRISCKS were mentioned as examples of a tools to use or replicate. Community members also discussed the New Jersey rule example at length.

Discretionary Cumulative Impacts Analysis

Overall, working session participants found it challenging to weigh in on when to require a discretionary cumulative impacts analysis without understanding when a mandatory cumulative impact analysis would be required.

Benchmarks to be considered:

- Responsiveness to community concerns and lived experiences.
- Community complaints against facility/enforcement action history.
- Multiple modes or source of pollution (air, ground, and water).
- Abundance of facilities.
- Type of facility (fossil fuel power plants, incinerators, foundries were suggested as types of facilities that should always have to complete an analysis).
- Data provided by facility is incomplete or inaccurate.

- Emerging pollutants.
- Quality of life concerns.
- Proximity to locations such as schools and daycares.
- Number of existing polluters/environmental stressors (highways, facilities, construction areas, etc.).

Material evidence:

- Complaints.
- Lived experiences.
- MNRISKS.
- Objective criteria to protect from lawsuits.
- Improvements to pollution emission levels/environmental benefits.

Can the MPCA or the facility provide transcription of oral comments as material evidence?

Other

Community members suggested a discretionary cumulative impact analysis could be triggered by a specific concern as compared to a mandatory analysis and be more narrowly focused.

Cumulative look at multiple benchmarks rather than each benchmark individually. For example, are they close to the standard for most of the benchmarks?

Petition process

Collecting signatures:

- What is the process for collecting signatures? Can they be collected digitally?
- How will the MPCA define “impacted area”? Is it specific to one environmental justice (EJ) area, or can it include the buffer area and/or other EJ areas? Participants suggested that population density during the day should be considered as well as the residential population.
- Can the petition signatures come from folks outside the census tract where the EJ area is located?
- What about people who spend a lot of time near a facility but do not live there (e.g. schools, workplaces, daycares, etc.)? Many people may spend eight plus hours a day in that area but not live there.
- Should the Environmental Justice Advisory Group (EJAG) be involved in advising the MPCA on whether or not to move forward with a petition?
- Concerns were raised that collecting signatures may be difficult in environmental justice communities. For example, undocumented people may not want to sign a petition.

Material evidence

Participants suggested that the MPCA should do additional fact finding based on the material evidence provided by community with a petition. Participants also mentioned the inclusion of testimonials and visuals as evidence for a petition. They also wanted educational materials for community (glossary of terms, etc.) and access to data and tools that could assist community in pulling together material evidence for a petition.

Petition decision:

- What happens with the material evidence provided with a petition if the decision is not to do a cumulative impact analysis?

Participants mentioned that the petition could lead to other results than a yes or no for a cumulative impacts analysis, including a working group, community meeting, or communication between the facility and the community. There was also a suggestion that the Environmental Justice Advisory Group (EJAG) be involved in advising the MPCA on whether or not to move forward with a petition.

Other

Participants also discussed the need for resources to remove barriers to participation such as meals, transportation and translation, and partnerships with local organizations to reach community members and gather material evidence.