

Air Toxics Regulations Rulemaking FAQ's

The MPCA was directed by the state legislature to do this rulemaking, where the main purpose is to regulate emissions of air toxics pollution from permitted facilities. The Air Toxics Regulation rule is a rule under revisor number: R-04807.

Below are some frequently asked questions about this rule. No final decisions have been made about this rule. All rule concepts, presented below or elsewhere, are draft and still currently under development. The MPCA continues to welcome input on rule concepts. For more information, visit: <https://www.pca.state.mn.us/get-engaged/air-toxics-regulations>

General Questions

1. When will this rule go into effect?

The Minnesota State Legislature gave the MPCA a deadline to propose these rules. The notice of the proposed rules (called the “notice of intent to adopt”) and reasoning behind the proposed rules (called the “statement of need and reasonableness”) will be published in the State Register no later than May 18, 2026. The proposed rules must then go through administrative steps that can take various amounts of time. The rules therefore would go into effect sometime after they are proposed in May 2026. While the timeline is not yet set, the anticipated effective date is sometime in 2027.

2. What facilities are subject to this rule?

Facilities within the 7-county metropolitan area, Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, are subject to the rule. Per the statute language, at a minimum all facilities with an air quality permit, other than Option B registration permit, will be subject to these rules. Some other permit types may be excluded, but we do not have a final answer at this time.

3. Is this rule tied to the Air Toxics Reporting rule?

This rule is separate from the Air Toxics Reporting rule.

4. Has the Minnesota Department of Health (MDH) been informed of this rulemaking?

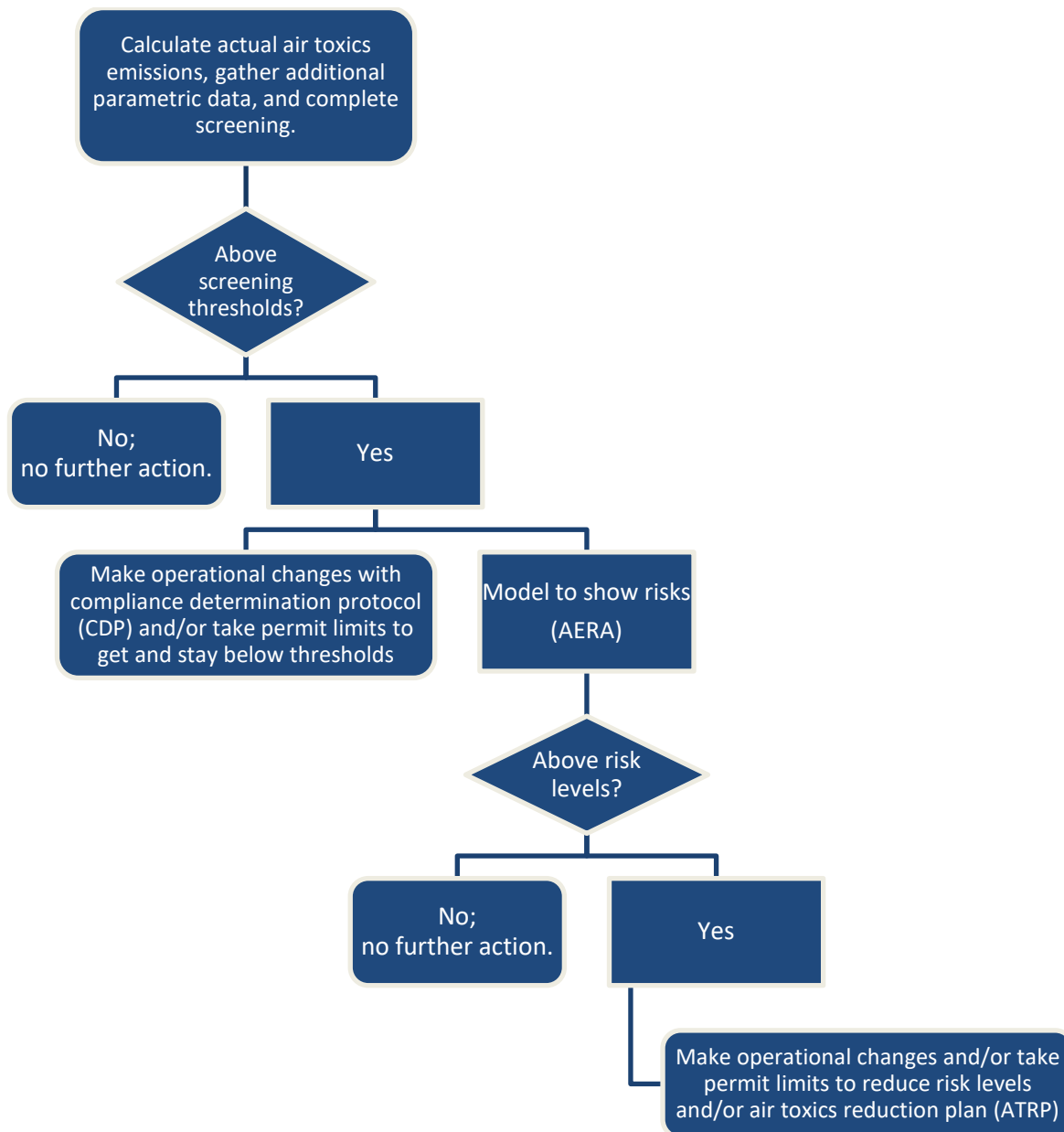
Yes, the Minnesota Department of Health (MDH) has been informed that we are doing this rulemaking. The MDH staff are part of the project team and have been helping to develop these rules.

5. What is the proposed process regulated parties will follow when this rule is implemented?

The conceptual framework for the implementation of the rule is shown in the flowchart below. This is a preliminary idea for the structure, as final decisions have yet to be made.

6. Which pollutants are included in this rule?

At this time, we are considering pollutants that will both be required to be reported under the Air Toxics Reporting Rule and also have inhalation health benchmarks. Inhalation health benchmarks (IHBs) are developed through scientific review of toxicity and exposure data. The IHBs are set at levels where concentrations of the pollutant in the air are not likely to have significant risk of harmful effects on sensitive humans.



Screening Threshold Questions

7. Will the Risk Assessment Screening Spreadsheet (RASS) be used at the screening step?

No, at this time we have not decided to use the RASS for the screening step. However, if an Air Emissions Risk Analysis (AERA) is required then the RASS would be used at that time. The RASS is a spreadsheet used for facilities to determine if their facility's impacts are above risk levels. This screening threshold step is to determine if facilities are above screening thresholds. We are looking at developing a different spreadsheet that may be used for this screening threshold step.

8. Where are you getting the information for the Inhalation Health Benchmarks?

Inhalation Health Benchmarks (IHBs) come from a variety of sources. The values we use in this screening step will be similar, if not the same, to the values used in the RASS. The sources of these IHBs are the Integrated Risk Information System (IRIS), Agency for Toxic Substances and Disease Registry (ATSDR), California Office of Environmental Health Hazard Assessment (CALEPA), Provisional Peer-Reviewed Toxicity Value (PPRTV), and the Minnesota Department of Health (MDH).

9. What information does the facility need to complete the screening step?

At this time, we are considering requiring facilities to use the following information with each stack individually evaluated during the screening step:

- Height,
- Distance to property line,
- Facility operating hours, and
- The actual air toxics emissions (hourly and annual).

10. If a facility is above screening thresholds, will this affect the type of permit the facility is eligible for?

It depends. We are considering that if a facility could make changes to ensure its actual emissions stay below screening thresholds, no further action is needed and the facility could maintain their current type of permit, no matter the type. If a facility chooses to or has to model risk through an air emissions risk assessment (AERA), and they determine they need individual limits to ensure its potential emissions stay below risk levels, that facility would require an individual permit to incorporate those limits.

11. What is a compliance determination protocol (CDP)?

This is a potential new compliance tool facilities could submit to outline restrictions and monitoring of operations needed to remain below screening thresholds. A CDP is particularly necessary for permit types which are never amended to include such requirements. If created and used for this rule, the CDP could allow facilities to maintain the type of permit they have while providing enforceable restrictions to remain below thresholds.

12. Would a facility be required to make changes or take limits through a CDP or permit amendment to get and stay below screening thresholds if they are able to do so?

Under the current concept being considered, a facility would not have to complete a CDP. Instead, they could choose to complete an AERA and model their risks to show impacts are below risk levels. If completing an AERA shows impacts are above risk levels, they may need to make operational changes and/or take permit limits to reduce risk levels and/or complete an enforceable air toxics reduction plan.

13. Would a facility have to do both an Air Emissions Risk Analysis (AERA) and a Compliance Determination Protocol (CDP)?

No, if a facility is above screening thresholds, the facility may choose to either complete an AERA or a CDP. We are considering having the same timeline for either option, but details of this timeline are still being discussed.

14. How will the results of the air toxics screening be made available to the public?

We do not have these details yet, but we are open to suggestions.

15. What about facilities outside the 7-county area?

The legislature only gave the MPCA the authority to do rulemaking for the 7-county metro area. So at this time, the rules will not apply outside these seven counties.

Air Emissions Risk Analysis Questions

16. What is an air emissions risk analysis (AERA)?

An AERA is a process that uses spreadsheets, computer models, and health benchmarks to estimate the potential human health risks from air pollution emitted by a facility. An AERA describes the potential risks posed to communities closest to the facility, which have the highest level of exposure to its emissions.

17. If a facility is above risk levels, will this affect the type of permit that the facility is eligible for?

It depends. We are considering letting facilities go back and use a CDP to get and keep their actual emissions below screening thresholds, in which case no further action would be needed and the facility could maintain their current type of permit, no matter the type. But if they need site-specific requirements to stay below risk levels, and can't use a CDO to get and stay below screening values with their actual emissions, that facility would require an individual permit to incorporate those requirements.

18. Would a facility have to make operational or physical changes or take limits to stay below risk levels?

It depends. With the preliminary rule concepts, a facility may be able to refine their modeling to show they are below risk levels. But if they can't, they would have to make operational and/or physical changes and/or take limits. These actions could possibly require an air toxics reduction plan.

19. What is an air toxics reduction plan?

An air toxics reduction plan is a potential new compliance and enforcement tool for facilities that cannot show their impacts are below risk levels after completing an AERA. We are considering this type of tool for facilities to outline all restrictions, measurements, justifications for methods chosen, and timeline for implementation which will allow for these conditions to be actionable and enforceable prior to incorporation into an air permit. This plan would need formal MPCA approval.