PUBLIC HEARING - OCTOBER 5, 2026

BEFORE THE COURT OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed New Rules and Amendments to Rules Governing Air Toxics

CAH DOCKET NO. 5-9003-39347

REVISOR ID NO. 04807

Met, pursuant to Notice, at 6:30 p.m. on October 5, 2026, virtually via WebEx.

BEFORE: Judge James Mortenson

REPORTER: Katriina Hendrickson, RPR

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JUDGE MORTENSON: Good evening. My name is Jim Mortenson, and I'm an Administrative Law Judge with the Minnesota Court of Administrative Hearings. I welcome everyone to this public hearing and thank you for taking your time to be here to participate in this public rulemaking process.

Today is Monday, October 5, 2026. It's just after 6:30 p.m. and we're here for a public hearing regarding the Minnesota Pollution Control Agency's Proposed Amendments to Rules Governing Air Toxics Contained in Minnesota Rules Chapter 7007 and its Proposed New Rules on Air Toxics, which, if approved, will be contained in the new Minnesota Rule Chapter 7012. These proposed rules are found with the Revisor at R-4807.

Specifically, these proposed rules are to make -- or, are to address air toxics emissions, reporting enforcement in the seven-county metropolitan area in accordance with Minnesota Statute Section 116.062 and more detailed rules about those toxics at Minnesota Laws 2023 Chapter 60, Article 8, Section 5.

This matter is assigned Docket Number 5-9003 -- I've got the wrong number in front of me. No, I do not -- 39347 by the Court of Administrative

Hearings. Please use this case number when you submit written comments. Next slide, please.

The Court of Administrative Hearings is an executive branch court. It's independent of state agencies such as the MPCA. Our role is to provide hearings that are neutral and fair to all of the participants, including overseeing agency rulemaking such as this. The purpose of this hearing is to allow the MPCA to present its case regarding its proposed rules to the court and to hear from the public regarding the proposal before the rules are finalized. Next slide, please.

Pursuant to state law, rulemaking hearings are conducted so that members of the public can be heard as part of the rulemaking process. I'm here to ensure all procedural fairness, to ensure that we are courteous to each other so that all interested parties can be heard, and to build a record that includes as many perspectives on the proposed rules as possible. An underlying assumption in this process is that we as a self-governing people collectively rely on each other to share wisdom and perspective about particular topics being considered for our collective wellbeing. There is a difference between constructive criticism and questions and

discourteousness, and I'm here to police that. But it's important that the court and agency hear your thoughts, hear about your experience, and hear your expertise in the formation of these proposed rules. Next slide, please.

This hearing is part of a process by which rules are adopted under the Minnesota Administrative Procedures Act. During this hearing, the agency is required to first demonstrate that it has fulfilled all relevant legal and procedural requirements of the law; and second, demonstrate the need for and reasonableness of each portion of the proposed rules, including proposed amendments with affirmative presentation of facts. Those are two of the big three issues I'll be reviewing as part of this proceeding, and I encourage you, the public, to make comments and ask questions about the proposed rules with these issues in mind. The other issue I'll determine is whether the agency has the legislative authority to promulgate the rules. That is primarily a question of law but your comments are welcome on that issue as well.

It is not my job to rewrite the rules based upon the views of participants or my own views or to select one set of proposed rules or policy

priorities over another set. My job is limited to ensure that the agency follow statutory requirements for rulemaking and that this proceeding is conducted fairly. In doing so, I may limit questioning that is repetitive or immaterial and comments that are discourteous or irrelevant.

I will be turning this presentation over to the MPCA's panel, and I'll admit its exhibits in support of the proposed rule into the record. After the agency concludes its presentation, I'll begin taking public questions and comments.

There is a court reporter transcribing this proceeding to create a record. So out of respect for the court reporter, we may need to take a break from time to time. I will rely on the court reporter to inform me when it is appropriate to take a break.

The hearing will conclude after the last person wishing to speak is heard or we reach the time limit set for the hearing. Next slide, please.

When asking questions about the proposed rules or making a comment, consider seeking information about or commenting about their purpose or intended operation proposing a modification or raising other relevant issues related to the

proposed rules. While all questions and comments become part of the record, not all questions can be immediately answered. In those cases, answers will be responded to in write following the hearing in the written comment period. As you prepare, this slide shows you questions I'll be thinking about when preparing my report. So if you frame your questions in light of any of these questions on the slide, I'm much more likely to notice your question as I call on the record in preparing my report. Next slide, please.

Here is a list of tips to consider when making comments and asking questions. And I hope you take note of these and use them to your advantage in this evening's hearing. Next slide, please.

You do not need to comment orally at this hearing to be heard. You may submit a written comment electronically, by mail, or by fax. The instructions for doing so are on this slide. The preferred method for submitting written comments is through the e-Comment website. It allows the agency and others to see your comments as soon as they are submitted. You can also read the comments of others on this website. Comments are not accepted by

email. Email is not a recognized method for commenting in this proceeding because it's not reliable enough for the creation of a formal rulemaking record. Emails can be missed or misdirected or sometimes get caught in a spam filter and are never received. The Court also does not accept comments through social media platforms. Next slide, please.

First, I'm going to have the folks from the agency or who are on the agency panel introduce themselves.

MS. BILLETT: Thank you, Your Honor. My name is Kayla Billett, spelled K-A-Y-L-A, B-I-L-L-E-T-T. I use she/her pronouns. I'm associate general counsel of the Minnesota Pollution Control Agency, referred to as MPCA. Our address is at 520 Lafayette Road North, St. Paul, Minnesota. I am appearing in this rule proceeding on behalf of the MPCA.

So I would like to now introduce the panelists that will be making the presentation about the proposed rule amendments. Cassandra Meyer is an engineering specialist in the Air Policy Unit in MPCA's Environmental Analysis Division and is the program lead for the proposed rules and will provide

the agency summary presentation today. Erica Backstrom is the MPCA rule coordinator for this rulemaking. Ms. Backstrom manages the administrative procedures aspect of this rule and is the point of contact for process-related questions. Annastasia Sienko is the MPCA air toxics risk assessment lead for this rule and may testify on any risk assessment and modeling questions related to this rulemaking project. Brenda Vaness is the MPCA air quality compliance enforcement lead for this rule and may testify on any compliance and enforcement questions related to this rulemaking project. Lastly, Derek Nelson is the MPCA air quality permitting lead for this rule and may testify on any air permitting questions related to this rulemaking project. Thank you, Your Honor.

JUDGE MORTENSON: Thank you very much. These are the folks who will provide testimony about the proposed rules this evening and will be available to answer questions the best they can about the proposed rules.

Next, before we get to that, Ms. Billett, can we address the exhibits at this point.

MS. BILLETT: Yes. I would like to submit the following exhibits into the record. These

exhibits are also posted on the agency's website. The purpose of these documents is to document MPCA's legal authority to adopt proposed rules to demonstrate that the agency has fulfilled all the relevant legal and procedural requirements for promulgating a rule and to demonstrate that each portion of the proposed rule is needed and reasonable.

Now I will review each exhibit as they relate to one of these three purposes that I just mentioned. There is an index of the exhibits at the front of the hearing exhibits.

JUDGE MORTENSON: Does the agency --

MS. BILLETT: The -- oh, go ahead.

JUDGE MORTENSON: I didn't mean to cut you off.

MS. BILLETT: -- which contain --

THE COURT REPORTER: Is she cutting out for anyone else? Judge, can you hear me?

(Technical issue.)

MS. BILLETT: I can start at the beginning of the exhibit list, if that sounds okay?

THE COURT REPORTER: Yep, that's where I ended, yep, thank you.

MS. BILLETT: The exhibits that document

MPCA's legal authority include Exhibit C, which contains text of the proposed rule amendments. Exhibit D contains the Statement of Need and Reasonableness, the SONAR, that was published with the rule. The SONAR documents the agency's statutory authority to adopt the proposed rule. The MPCA has legal authority to promulgate and revise air quality rules under Minnesota Statutes 116.07, Subdivision 4, and the Minnesota Session Law 2023 Chapter 60, Article 8, Section 5, House File Number 2310. The SONAR in Exhibit D also demonstrates that each portion of the proposed rule is prudent and reasonable, and the SONAR includes both general descriptions of why the proposed rule is needed and detailed description of why each rule part is needed and reasonable.

Exhibit D also includes four subexhibits: D-2, SONAR Exhibit S1, other states' air toxics regulations; D-3, SONAR Exhibit S2, screening threshold value development; Exhibit D-4, which is SONAR Exhibit S3, includes inhalation benchmarks; and Exhibit D-5, SONAR Exhibit S4 is the STRATA spreadsheet available on the website and filed with the CHS separately. Lastly, Exhibit D-6 contains the SONAR Addendum, which describes clarifying

corrections to the SONAR.

Several other exhibits demonstrate that the agency has filled all relevant legal and procedural requirements. These include exhibit A, the initial Request for Comments that initiated the formal rulemaking process; Exhibit C, the Revisor's approval of the proposed rule; Exhibit E, the certificate verifying submission of the SONAR to the Legislative Reference Library; Exhibit S -- excuse me, Exhibit F, the Notice of Hearing as mailed and posted electronically on the MPCA website and published in the State Register on May 18, 2026; Exhibit G-1, the Certificate of Mailing of the Notice and Certificate of the Accuracy of the Mailing List; Exhibit G-2, the GovDelivery bulletin with recipient count; Exhibit H, the Certificate of Additional Notice; Exhibit K-1, Certificates of Notice to Legislators and the Legislative Coordinating Commission; Exhibit K-2, the letter showing the agency sent the notice to the legislators; Exhibit K-3, the letter to Minnesota Management and Budget and MMB's approval of the agency's fiscal analysis of the impact of the rules.

Exhibit I includes copies of the comments on the proposed rule that the MPCA received during

the precomment period -- excuse me, prehearing comment period and the MPCA's responses to the comments.

At this time, the MPCA will also introduce Exhibit L-1, which is now added to the hearing record materials. This exhibit is the copy of the slides from today's presentation that the MPCA will be making.

Your Honor, I now request that you receive Exhibits A through L into the record.

JUDGE MORTENSON: The proposed exhibits as offered are entered into the record at this time. Thank you very much, counsel.

(Exhibits A through L received.)

JUDGE MORTENSON: With that, I'm going to turn things over to -- back to MPCA staff who will make their presentation, after which I'll take comments and questions from the public.

MS. BILLETT: Thank you, Your Honor. Cassandra Meyer will make a presentation outlining the proposed rule and summarizing the need for and the reasonableness of the proposed rule. The presentation will take approximately 20 minutes.

MS. MEYER: Thank you. I am Cassandra Meyer. I use she/her pronouns, and I'm an engineer

in the Air Policy Unit at the Minnesota Pollution Control Agency.

The agenda for this presentation incudes rulemaking resources and the proposed air toxics regulations rule, for which I will cover statutory authority and directives, rule applicability, proposed rule overview, and Session Law requirements.

Today's presentation does not go into all of the technical details of the proposed rules so I want to remind everyone of the air toxics regulations rulemaking webpage. You may navigate to the webpage either through the web address listed on the slide or through the QR code in the upper right corner. While the full address is listed there, there is also a shortened url under the QR code, and that is: mnpca.info/94. On this webpage is where we post rulemaking documents and other related information, links to recordings of previous public meetings and webinars, and links to where interested parties can submit written comments. In particular, if it would be helpful to see a more technically detailed presentation than what is included today, please visit our webpage and look for the webinar from June 8 of this year, recorded during the Notice

of Intent to Adopt. There are also other resources available, including a Frequently Asked Questions document, as well as, of course, the proposed rules and SONAR documents.

In addition to this Session Law directing this rulemaking, we are adopting these rules under Statute 116.07. Minnesota Session Law 2023, Chapter 60, Article 8, Section 5 provides a framework for these rules and identifies obligations. Outlined on this slide are the contents of that Session Law. Subdivision 1 provides definitions. Subdivision 2 provides the application. Subdivision 3 directs the MPCA and the rulemaking required. Subdivision 4 outlines the minimum content of the rules, including Subdivision 4(a), which outlines specifics of what the rules require under Subdivision 3 must address at a minimum, and under Subdivision 4, this outlines the considerations that the rules requirements must reflect, which includes the different risks to human health and the environment proposed by the specific air toxics and amounts emitted by a facility, a facility's record of compliance with air toxics emission limits and other permit conditions, and they must reflect any exposure of residents of an environmental justice area to the facility's air

toxic submissions. Subdivision 5 sets a timeline for the MPCA commissioner to modify permits, and lastly, Subdivision 6 directs the MPCA commissioner to collect the agency's costs needed to develop the rulemaking and to conduct regulatory activities.

The Session Law identifies specific directives regarding the adoption of these rules. The Session Law requires the Commissioner to adopt rules to implement and govern regulation of facilities that emit air toxics, publish the Notice of Intent to Adopt within 36 months of May 25, 2023, which was accomplished on May 18 of this year. And the Session Law provides directives regarding what the adopted rules must address at a minimum. The SONAR and today's presentation establish that we have met these directives.

The proposed rules, as directed by the Session Law, apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington. The Session Law defines but does not limit rule requirements to environmental justice areas. The proposed rules apply to facilities that emit air toxics, including at a minimum facilities that have been issued an air quality permit, other than an Option B registration permit, and that emit air

toxics, whether the emissions are limited in a permit or not; or purchase or use materials containing volatile organic compounds.

Subdivision 4A of the Session Law outlines the minimum content of the rules listed here on this slide. That includes specific air toxics, types of facilities, performance tests, required monitoring of emissions, requirements for reporting information, record-keeping, and frequency of facility inspections and inspection activities. We believe that the proposed rules address all of these items.

To provide a base of understanding before going through the overview of the proposed rules, I have a few terms and their definitions. Rulemaking is the process used by government agencies to create, modify, or repeal rules and regulations. These rules and regulations are a form of administrative law that governs the conduct of individuals, businesses, and other entities within the jurisdiction of the relevant government agency. We are going through the rulemaking for the air toxics regulations.

Air toxics are pollutants, except for criteria pollutants, that are known or suspected to

cause cancer or other serious health effects or adverse environmental effects and ecological effects. This definition of air toxics was adopted into rule last fall through another rulemaking, and it is included in Chapter 7005.

There are a specific set of air toxics that are regulated through federal regulations known as our next definition. Hazardous air pollutants, or HAPs, are 188 air toxics defined in the federal Clean Air Act.

In the proposed rules, the MPCA has values called inhalation health benchmarks. An inhalation health benchmark, also known as an air guidance value, these are concentrations of a chemical that is likely to pose little or no risk to human health. These values are used in analyses to determine human health risks from exposure to chemicals in the air.

And then lastly, we have criteria pollutants, which is referenced in our definition of air toxics. Criteria pollutants are six commonly found pollutants that have ambient air standards as required in the Clean Air Act. They include carbon monoxide, lead, nitrogen dioxide, ozone, particulates, and sulfur dioxide. And there is an asterisk by lead because lead is also an air toxic

regulated as a HAP, or a hazardous air pollutant.

For more context around air toxics and what they are, we have examples that may be more familiar on this slide. Air toxics can include: metal, dioxins/furans, benzene, PFAS, sometimes referred to as forever chemicals, and more. Sources of air toxics can include combustion, and that can be from boilers at industrial facilities, hospitals, schools, etcetera. They can also be from transportation. Other sources of air toxics include wildfires and recreational fires, manufacturing, chemical storage and use, and other industry such as mines, grain mills, foundries, and other sources not listed here. The asterisk in this column indicates sources that are not addressed in this rulemaking. So we do not address transportation, nor wildfires and recreational fires in the proposed rules.

Impacts from air toxics can include cancer, but that is dependent on the toxic. Not all air toxics have a health end point or can contribute to the development of cancer. Other impacts can include respiratory issues, cardiovascular issues, and other health effects.

This flow chart outlines the general structure of the proposed rules process. It does

not include all of the details like where there may be exemptions, monitoring, record-keeping, and reporting requirements. Again, for more technical details, please see the rulemaking webpage for the full proposed rules and other resources available there.

In the upper right-hand corner of the slide, there are some key terms. A CDP is a compliance determination protocol. An AERA, pronounced "air-a," is an air emissions risk analysis. An ATRP is air toxics reduction plan.

Informally, we've broken the rule into three stages. I describe it as informal because you won't see the word "stage" in the proposed rules, but it is to help us walk through the process.

Stage 1 is a screening stage. Stage 2 provides the options when it's above the screening threshold values for one or more air toxic. And Stage 3 are the requirements when an AERA, or an air emissions risk analysis, results in potential risks above acceptable risk levels.

Again, Stage 1 is the screening analysis. This is where facilities would calculate their actual air toxics emissions. They gather STACK data, and they use this information to complete the

screening analysis. The actual air toxics emissions data used in the screening analysis mostly includes emissions data the facilities have already calculated and reported to the MPCA for annual emissions inventory purposes. This includes more air toxics than the HAPs, or hazardous air pollutants, defined at the federal level. The screening analysis, however, will only include air toxics that have inhalation health benchmarks. So there will likely be air toxics that are reported to the MPCA for other reasons outside of this rule but do not have inhalation health benchmarks, and so are not included in the screening analysis.

The screening analysis compared to those emissions and that STACK data to screening threshold values. If the results are below the screening threshold values, there is no further action needed at this time. If air toxics are above thresholds, there are two options that facilities may choose. Informally, we refer to this as part of Stage 2. At this stage, facilities can make operational equipment or material changes to get and stay below thresholds. This would be using what is a proposed new tool called a compliance determination protocol, or CDP. Or they can model to show risks. This is

also called an AERA, or air emissions risk analysis.

If a facility does an AERA, it's more involved. They use potential emissions, sometimes referred to as a potential to emit, or PTE. This is opposed to using actual emissions that they would use in the screening analysis of Stage 1. But they compared modeled potential emissions impacts to acceptable risk levels. If potential emissions impacts result in risks that are below acceptable risk levels, no further action is needed. If they are above risk levels, they would need to take action.

The option to develop a CDP is still available if that is possible or realistic for a facility to address only the specific pollutants above screening thresholds. Otherwise, they will move on to what is included in Stage 3.

Stage 3 requires completing an air toxics reduction plan, which is also a new proposed tool. The ATRP from most facilities at this stage likely involves making operational equipment or material changes and/or taking permit limits to reduce potential risk. In addition to the ATRP, facilities will have to send notifications at two different points in time to potentially impacted residents.

They will send notifications once when they have an approved ATRP and once when they have completed all actions outlined within the ATRP.

And that is the high-level overview of the proposed rules process. Again, there are more technical details available on the MPCA's rulemaking webpage, as well as resources to walk through the proposed rules.

This slide provides an overview of the rules parts. The rules were crafted to align with the statutory and legal obligations and directives. There are new air toxics regulations rules in Chapter 7012, which is a new chapter. There are also updates and edits made to align and incorporate these new rules within existing rules in Chapter 7007, specifically the parts listed here.

The new proposed Chapter 7012 contains all of the rule parts listed on this slide. There are many new rule parts and they all serve a purpose in fulfilling the directives laid out in the Session Law.

Again, Subdivision 4 of the Session Law outlines the contents of rules, with 4(a) identifying the items the rules must address at a minimum. In the following slides, we provide

proposed rules parts and which subitem within Subdivision 4(a) those rule parts fulfill.

This slide shows rule parts that fulfill the requirements of subitem 1, 2, and 3, addressing specific air toxics, types of facilities to be regulated, and performance tests.

This slide shows rules parts that fulfill the requirements of Subitem 4, addressing required monitoring of air emissions, including using continuous emissions monitoring systems, and the monitoring of production inputs for other production parameters.

This slide shows the rules parts that fulfill the requirements of subitem 5, addressing reporting of information to the agency to assist the agency in determining the amount of the facility's air toxics emissions and the facility's compliance with emission limits in a facility's permit.

This slide shows rules parts that fulfill the requirements of subitems 6 and 7, addressing recordkeeping and inspections and inspection-related activities.

Thank you all for your time and interest. We appreciate everyone's contributions to this rulemaking effort. And again, there is the QR code

for the air toxics regulations rulemaking.

MS. BILLETT: Your Honor, this is Kayla Billett speaking. That concludes the MPCA's presentation. The MPCA has nothing further, Your Honor.

JUDGE MORTENSON: All right. Thank you very much. So we're here today to hear from folks orally. If you want to comment at today's hearing -- next slide, please.

If you want to participate, the instructions are on this slide. Please click the chat icon on your screen. This will indicate to the facilitator that you want to speak. And for those of you who are participating by telephone, please enter *3 on your telephone. And as requests to speak come in, the comments will be put into a queue, and then I'll work through the list as provided to me by the moderator. If you're on the phone and want to get out of the queue, you can press *3 a second time to remove yourself but you'll still be able to keep listening to the comments.

For those who wish to speak via WebEx, when I inform you that it's your turn, please turn on your video by clicking on the video icon. That'll allow me to see you. You will be unmuted or

invited to unmute yourself so that you can make your comment or ask your question.

My goal today is to hear from everyone who wishes to make a comment. Please be mindful that there are others who also wish to speak so be as clear and succinct as possible. I'll limit comments to five minutes in order to ensure as many people as possible are heard. If there is time after everyone is heard once, I'll provide you with a chance to finish your comments. If we don't have a whole lot of people on the line at this point, I may do away with the time requirements. I don't have that information in front of me necessarily.

Before you make your comments or ask your question, please identify yourself for the record, spelling your first and last name and identifying any organization you represent if you represent an organization. Please speak slowly, clearly, and loudly so that the court reporter create an accurate record.

Remember that this is a legal proceeding and respect for the process includes respect for each other. That's what I'm in charge of. The court reporter's transcript is the official record of what's said here and will include the comments,

the agency presentation, and question and answers. So the court reporter is empowered to intervene if they can't hear what is being said. I may include quotes in my report which come from the transcript.

Finally, if you're unable to comment today, please remember that you can also file written comments. It doesn't matter whether your questions or comments enter into the record orally or in writing. They're given the same consideration. Next slide, please. Oh, one after this.

So after we're done with the public comments tonight, Minnesota Statute Section 14.15, Subdivision 1 gives me authority to keep the hearing record open for up to 20 working days after the end of public hearing. And I'm issuing an order today on the record to keep that record open, which will ensure that you have until November 3, 2026, to submit commits in writing. Then after the close of the comment period, there will be a five working day rebuttal period. The five day period is meant for comments on the comments, not to introduce new matters into the record. So you'll have until November 10, 2026, to submit rebuttal comments to the comments that have been presented following this

hearing process. Then following the close of the record, I'll prepare a report that contains my conclusions about whether the Department has met its statutory burdens in this matter, specifically whether the agency has documented its authority to enact the rules, whether the agency has fulfilled all the required procedures, and whether the agency has demonstrated the need and reasonableness for each portion of the proposed rules. Then you can expect my report within 30 days after the last comment deadline, unless an extension is necessary. My report will be published on the court website on the day it is issued.

So with that, moderator, do we have folks in the queue ready to comment or ask questions?

MS. BACKSTROM: Judge Mortenson, we don't have any names entered into the chat as of yet.

JUDGE MORTENSON: All right. I understand we do have folks listening. If you have things you want to say or questions you would like to ask, I strongly encourage you to participate. If you prefer to do it in writing, as I've indicated, that's entirely acceptable. But if you want to have a conversation with any of these experts on these proposed rules, now is a good time to take advantage

of it.

I trust the facilitator is monitoring the phone queue as well?

MS. BACKSTROM: Yes, Your Honor.

JUDGE MORTENSON: Do we have any takers for any public comments or questions tonight?

All right. Well, seeing that there is no questions or comments tonight, you folks -- Ms. Backstrom, can you remind me, are we convening another public hearing, is it at 9 or 9:30 tomorrow morning?

MS. BACKSTROM: The hearing is beginning at 9:30 tomorrow morning, Your Honor.

JUDGE MORTENSON: All right. That's what I thought. I didn't want to misspeak. So we will be having another public hearing virtually in this format tomorrow morning starting at 9:30. So if you or someone you know wants to comment or ask questions on the record, you have one more opportunity to do that, as well as the opportunity to submit written comments into the record, or questions. If you do submit written questions, you'll likely get a response in writing from the agency in the rebuttal comment.

Last call. Do you folks see anyone

chiming in to make a comment or?

MS. BACKSTROM: No, Your Honor. No names have been entered into the chat.

JUDGE MORTENSON: All right. Well, given we have no one who wishes to comment this evening, I'll adjourn tonight's hearing and I'll look forward to seeing you folks online again at 9:30 tomorrow morning.

(The hearing adjourned at 7:12 p.m.)

STATE OF MINNESOTA)
)
COUNTY OF SHERBURNE)

I, Katriina Hendrickson, do hereby certify that the above and foregoing transcript consisting of the preceding 30 pages is a true and correct transcript of my steno notes and is a full, true and complete transcript of the proceedings to the best of my ability.

Dated: October 12, 2026.

/s/ Katriina Hendrickson, RPR
Court Reporter

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BEFORE THE COURT OF ADMINISTRATIVE HEARINGS

OF THE STATE OF MINNESOTA

PROPOSED NEW RULES AND AMENDMENTS TO
RULES GOVERNING AIR TOXICS
(MINNESOTA RULES CHAPTERS 7007 AND 7012)

Revisor's ID No. R04807
CAH Docket No. 5-9003-39347

Via WebEx
Tuesday, October 6, 2026

9:30 a.m. - 10:20 a.m.

BEFORE:
JIM MORTENSON, ADMINISTRATIVE LAW JUDGE

REPORTER:
Colleen M. Sichko, Registered Professional Reporter

APPEARANCES:

ON BEHALF OF THE MINNESOTA POLLUTION CONTROL AGENCY:

KAYLA BILLETT, Associate General Counsel

CASSANDRA MEYER, Engineering Specialist, Air Policy Unit, Environmental Analysis and Outcomes Division

ERICA BACKSTROM, Rule Coordinator

ANNASTASIA SIENKO, Air Toxics Risk Assessment lead

BRENDA VANESS, Air Quality Compliance and Enforcement lead

DEREK NELSON, Air Quality Permitting lead

(WHEREUPON, the following proceedings were duly had and entered of record, to-wit:)

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JUDGE MORTENSON: Good morning. My name is Jim Mortenson and I'm an Administrative Law Judge with the Minnesota Court of Administrative Hearings. I welcome everyone to this public hearing and thank you for taking your time to be here to participate in this public rulemaking process.

Today is Tuesday, October 6th, 2026. It's just after 9:30 a.m. and we're here for a public hearing regarding the Minnesota Pollution Control Agency's Proposed Amendments to Rules Governing Air Toxics contained in Minnesota Rules Chapter 7007 and its proposed new rules on air toxics, which, if approved, will be contained in new Minnesota Rule Chapter 7012. These proposed rules are found with the Revisor at R-4807.

These rules -- these proposed rules are to address air toxics emissions reporting enforcement and the air toxics themselves in the seven-county metropolitan area in accordance with Minnesota Statutes Section 116.062 and Minnesota Session Laws 2023, Chapter 60, Article 8, Section 5. This matter is assigned Docket Number 5-9003-39347 by the Court of Administrative Hearings, so please use this case number when you submit written comments. Next slide, please.

The Court of Administrative Hearings is an executive branch court independent of State agencies such as the MPCA, and our role is to provide hearings that are neutral and fair to all of the participants, including overseeing agency rulemaking such as this. The purpose of this hearing is to allow the MPCA to present its case regarding its proposed rules to the Court and to hear from the public regarding the proposal before the rules are finalized. Next slide, please.

Public participation is important and, pursuant to state law, rulemaking hearings are conducted so that members of the public can be heard as part of the rulemaking process. I'm here to ensure procedural fairness, to ensure that we're courteous to each other so that everyone can be heard, and to build a record that includes as many perspectives on the proposed rules as possible.

An underlying assumption of this process is that we, as a self-governing people, collectively rely on each other to share wisdom and perspective about particular topics being considered for our collective well-being. There is a difference between constructive criticism and questions and discourteousness, and I'm here to

police that, but it's important that the Court and the agency hear your thoughts, hear about your experience and hear your expertise in the formation of these proposed rules. Next slide, please.

This hearing is part of a process by which rules are adopted under the Minnesota Administrative Procedures Act and during this hearing the agency is required to demonstrate that it has fulfilled all relevant legal and procedural requirements of the law; second, to demonstrate the need for reasonableness of each portion of the proposed rules, including proposed amendments with an affirmative presentation of the facts. These are two of the three big issues that I'll be reviewing as part of this proceeding and I encourage you, the public, to make comments and ask questions about the proposed rules with these issues in mind.

The other issue I'll determine is whether the agency has legislative authority to promulgate the rules. That's primarily a question of law, but your comments are welcome on that, as well. It is not my job to rewrite the rules based upon the views of participants, my own views or to select one set of proposed rule or policy priorities over another set. My job is limited to ensure that

the agency followed the statutory requirements for rulemaking and that this proceeding is conducted fairly and, in doing so, I may limit questioning that is repetitive or immaterial and comments that are discourteous or irrelevant.

I will be turning this presentation over to the PCA's panel and I'll admit -- I've already admitted its exhibits in support of the proposed rules into the record at the hearing we conducted last night. However, after the agency concludes its presentation this morning, I'll begin taking public questions and comments.

We also have a court reporter transcribing this proceeding to create a record, so out of respect for the court reporter, we may need to take a break from time to time depending on how long this hearing goes. I will rely on the court reporter to inform me when it's appropriate to take a break. The hearing will conclude after the last person wishing to speak is heard or we reach the time limit set for the hearing this afternoon. Next slide, please.

So when asking questions about the proposed rules or making a comment, consider seeking information about or commenting about their purpose

or intended operation, proposing a modification or raising other relevant issues related to the proposed rules. While all questions and comments become part of the record, not all questions can be immediately answered. In those cases, answers will be responded to -- answers will be provided in writing following the hearing and the written comment period.

As you prepare, this slide shows you questions I'll be thinking about when preparing my report, so if you frame your questions in light of any of these questions that are presented on the slide, I'm much more likely to notice your question as I comb through the record. Next slide, please.

Here's the list of tips on this slide to consider when making comments and asking questions. Like the prior slide, take note of these and use them to your advantage. Next slide, please.

So we have different ways to provide comments for the rulemaking process. You do not need to comment orally at this hearing in order to be heard. You may submit a written comment electronically, by mail or by fax. The instructions for doing so are on this slide. The preferred method for submitting written comments is through

the eComments website. It allows the agency and others to see your comments as soon as they are submitted. You can also read the comments of others on this website.

Comments are not accepted by email. Email is not a recognized method for commenting in this proceeding because it's not reliable enough for creation of a formal rulemaking record. Emails can be missed or misdirected. Sometimes they get caught in a spam filter or are never received. In addition, the Court does not accept comments through social media platforms. Next panel -- next slide, please.

If the agency will have its panel introduce themselves, please.

MS. BILLETT: Thank you, Your Honor. My name is Kayla Billett, spelled K-a-y-l-a B-i-l-l-e-t-t. I use she/her pronouns. I am an Associate General Counsel with the MPCA and I'm appearing in this rule proceeding on behalf of the MPCA.

The MPCA staff here today include Cassandra Meyer, who is an engineering specialist in the Air Policy Unit in MPCA's Environmental Analysis and Outcomes Division. Ms. Meyer is the program

lead for the proposed rules and will provide the agency's summary presentation today.

Erica Backstrom is the MPCA rule coordinator for this rulemaking. Ms. Backstrom manages administrative procedures aspects of this rule and is the point of contact for process-related questions.

Annastasia Sienko is the MPCA air toxics risk assessment lead for this rule and may testify on any risk assessment and modeling questions related to this rulemaking project.

Brenda Vaness is the MPCA Air Quality Compliance and Enforcement lead for this rule and may testify on any compliance and enforcement questions related to this rulemaking project.

Lastly, Derek Nelson is the MPCA Air Quality Permitting lead for this rule and may testify on any air quality permitting questions related to this rulemaking project.

Thank you, Your Honor.

JUDGE MORTENSON: Thank you. These panelists are the folks that will provide some testimony and be available to answer questions during this proceeding.

Before we get to public comments and

questions, though, as I indicated earlier, the exhibits have been admitted to the record, but for the benefit of the public, the agency will describe what the exhibits are at this point.

Ms. Billett?

MS. BILLETT: Thank you, Your Honor. These exhibits are also posted on the agency's website. Can you go to the next slide, please? Sorry, the next exhibit slide. Okay, perfect.

The purpose of these documents are to document the MPCA's legal authority to adopt the proposed rules, demonstrate that the agency has fulfilled all relevant legal and procedural requirements for promulgating the rule, and to demonstrate that each portion of the proposed rule is needed and reasonable.

Now I will review the exhibits as they relate to one of these three purposes that I just mentioned. There is an index of the exhibits at the front of the hearing exhibits.

The exhibits that document the MPCA's legal authority include Exhibit C, which contains the text of the proposed rule amendments.

Exhibit D, which contains the Statement of Need and Reasonableness, the SONAR, that was

published with this rule. The SONAR documents the agency's statutory authority to adopt the proposed rule. The MPCA has legal authority to promulgate and revise air quality rules under Minnesota Statute 116.07, subdivision 4 and directed to adopt these rules under Minnesota Session Laws 2023, Chapter 60, Article 8, Section 5, House File Number 2310. The SONAR in Exhibit D also demonstrates that each portion of the proposed rule is needed and reasonable. The SONAR includes both a general description of why the proposed rule is needed and reasonable and a detailed description of why each rule part is needed and reasonable.

Exhibit D also includes four subpart exhibits. D-2, SONAR Exhibit 1 -- SONAR Exhibit S1, which is other states' air toxics regulations; Exhibit D-3, SONAR Exhibit S2, screening threshold value development; Exhibit D-4, SONAR Exhibit S3, inhalation benchmarks; and Exhibit D-5, SONAR Exhibit S4, the STRATA spreadsheet available on the MPCA's website and filed with the CAH separately. Lastly, Exhibit D-6 contains a SONAR addendum which describes clarifying corrections to the SONAR.

Several other exhibits demonstrate that the agency has fulfilled all relevant legal and

procedural requirements. These include Exhibit A, the initial request for comments that initiated the formal rulemaking process.

Exhibit C, Revisor's approval of the proposed rule.

Exhibit E, the certificate verifying submission of the SONAR to the Legislative Reference Library.

Exhibit F, the Notice of Hearing as mailed and posted electronically on the MPCA webpage and as published in the State Register on May 18th, 2026.

Exhibit G-1, the Certificate of Mailing the Notice of Hearing and a Certificate of Accuracy of the mailing list.

Exhibit G-2, the GovDelivery bulletin with recipient count.

Exhibit H, the Certificate of Additional Notice.

Exhibit K-1, Certificates of Notice to the legislators and the Legislative Coordinating Commission.

Exhibit K-2, the letter showing the agency sent notice to the legislators.

Exhibit K-3, the letter to Minnesota

Management and Budget and MMB's approval of the agency's fiscal analysis of the impact of the rules.

Exhibit I includes copies of the comments on the proposed rule that the MPCA received during the prehearing comment period and the MPCA's responses to comments.

The MPCA also will introduce today's hearing -- excuse me, will introduce today's presentation as Exhibit L-1.

That concludes the presentation of today's exhibits. Thank you, Your Honor.

JUDGE MORTENSON: Thank you very much.

As Ms. Billett indicated, the exhibits are available on the agency's website. We did -- or I did accept these exhibits into the record at yesterday's hearing.

So with that, I'll turn things over to PCA staff, who will make their presentation, after which I will take comments and we'll entertain questions from the public.

MS. BILLETT: Thank you, Your Honor. Cassandra Meyer will make the presentation, outlining the proposed rules and summarizing the need for and reasonableness of the proposed rules. The presentation will take approximately 20 minutes.

MS. MEYER: Hello. I am Cassandra Meyer, I use she/her pronouns, and I am an engineer in the Air Policy Unit at the MPCA.

The agenda for this presentation includes rulemaking resources and the proposed air toxics regulations rule, for which I will cover statutory authority and directives, rule applicability, proposed rule overview, and Session Law requirements.

Today's presentation does not go into all of the technical details of the proposed rules, so I want to remind everyone of the air toxics regulations rulemaking webpage. You may navigate to the webpage either through the web address listed on this slide or through the QR code in the upper right-hand corner. While the full web address is listed there, there is also a shortened URL under the QR code and that is mnpca.info\94. On this webpage is where we post rulemaking documents and other related information, links to recordings of previous public meetings and webinars, and links to where interested parties can submit written comments.

In particular, if it would be helpful to see a more technically detailed presentation than

what is included today, please visit our webpage and look for the webinar from June 8th of this year. It was recorded during the Notice of Intent to Adopt. There is also a Frequently Asked Questions document that may provide information in more of a digestible and shorter reference document format, and there are also the proposed rules and SONAR documents on our webpage, as well.

In addition to the Session Law directing this rulemaking, we are adopting these rules under Statute 116.07. Minnesota Session Law 2023, Chapter 60, Article 8, Section 5 provides a framework for these rules and identifies applications. Outlined on this slide are the contents of that Session Law.

Subdivision 1 provides definitions.

Subdivision 2 provides the application.

Subdivision 3 directs the MPCA in the rulemaking required.

Subdivision 4 outlines the minimum content of rules, including Subdivision 4(a) which outlines specifics of what the rules require, under Subdivision 3, must address at a minimum; and under Subdivision 4(b), this outlines the considerations that the rule requirements must reflect in

developing the rules. That includes the different risks to human health and the environment posed by the specific air toxics and the amounts emitted by a facility, the facility's record of compliance with air toxics emission limits and other permit conditions, and any exposure of residents of an environmental justice area to the facility's air toxics emissions.

Subdivision 5 under the Session Law sets a timeline for the MPCA commissioner to modify permits.

And, lastly, Subdivision 6 directs the MPCA commissioner to collect the agency's costs needed to develop the rulemaking and to conduct regulatory activities.

The Session Law identifies specific directives regarding the adoption of these rules. The Session Law requires the commissioner to adopt rules to implement and govern regulation and facilities that emit air toxics; publish the Notice of Intent to Adopt within 36 months of May 25th, 2023, which was accomplished on May 18th of this year; and the Session Law provides directives regarding what the adopted rules must address at a minimum. The SONAR and today's presentation

establish that we have met these directives.

The proposed rules, as directed by the Session Law, apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington. The Session Law defines, but does not limit the rule requirements to environmental justice areas. The proposed rules apply to facilities that emit air toxics, including at a minimum facilities that have been issued an Air Quality Permit other than an Option B Registration Permit and that emit air toxics whether the emissions are limited in the permit or not or purchase or use materials containing volatile organic compounds.

Subdivision 4(a) of the Session Law outlines the minimum content of the rules listed here on the slide. That includes specific air toxics; types of facilities; performance tests; required monitoring of emissions; requirements for reporting information, recordkeeping and frequency of facility inspections and inspection activities.

We believe that the proposed rules address all of these items.

To provide a base of understanding before going through the overview of the proposed rules, I have a few terms and their definitions.

"Rulemaking" is the process used by government agencies to create, modify or repeal rules and regulations. These rules and regulations are a form of administrative law that governs the conduct of individuals, businesses and other entities within the jurisdiction of the relevant government agency. We are going through the rulemaking process for air toxics regulations.

And "air toxics" are pollutants, except for criteria pollutants, that are known or suspected to cause cancer or other serious health effects or adverse environmental effects and ecological effects. This definition of "air toxics" was adopted into rule last fall through another rulemaking effort and is contained in Chapter 7005.

And there are a specific set of air toxics that are regulated through a federal regulation and that is our next definition, "hazardous air pollutants," or HAPs. These are 188 air toxics defined in the Federal Clean Air Act.

In the proposed rules, the MPCA has used values called "inhalation health benchmarks" and an inhalation health benchmark is also known as an "air guidance value" and these are concentrations of a chemical that is likely to pose little or no

risk to human health. These are values used in analyses to determine human health risks from exposure to chemicals in the air.

And then we have "criteria pollutants," which is referenced in our definition of "air toxics." Criteria pollutants are six commonly-found air pollutants that have ambient air standards as required in the Clean Air Act. These include carbon monoxide, lead, nitrogen dioxide, ozone, particulates and sulfur dioxide. The asterisk by lead is because lead is also an air toxic regulated as a HAP, or hazardous air pollutant.

For more context around air toxics and what they are, we have a few examples that may be more familiar included on this slide. Air toxics can include metals, dioxins, furans, benzene, PFAS, sometimes referred to as forever chemicals, and more.

Sources of air toxics can include combustion including from boilers at industrial facilities, hospitals, schools, et cetera, or from transportation. Other sources include wildfires and recreational fires; manufacturing; chemical use and storage; other industries such as mines, grain mills and foundries; and other sources not listed here.

The asterisks in this column indicate sources that are not addressed in this rulemaking. So we do not address transportation nor wildfires and recreational fires in the proposed rules.

Impacts from air toxics can include cancer, but this is dependent on the toxic as not all air toxics have a health endpoint that can contribute to the development of cancer. Other impacts include respiratory issues, cardiovascular issues and other health effects.

This flow chart outlines the general structure of the proposed rule process. This does not include all of the details, like where there may be exemptions or other monitoring of recordkeeping and reporting requirements. For more technical details, please see the rulemaking webpage for the full proposed rules and other resources available there.

In the upper right-hand corner of this slide, there are some key terms. A CDP is a compliance determination protocol.

An AERA, pronounced "air-a," is an Air Emissions Risk Analysis.

A ATRP stands for air toxics reduction plan.

Informally, we have broken the rule into three stages, and I describe it as informal because you will not see the word "stage" in the proposed rules, but that is to help us walk through this process. At a high level, Stage 1 is a screening stage, Stage 2 are the options when above the screening threshold values for one or more air toxic, and Stage 3 are the requirements when an AERA, or Air Emissions Risk Analysis, results in potential risks above acceptable risk levels.

Again, Stage 1 is a screening analysis. This is where facilities would calculate their actual air toxics emissions. They gather stack data and they complete the screening analysis. The actual air toxics emissions data used in the screening analysis mostly includes emissions data that facilities have already calculated and reported to the MPCA for annual emissions inventory purposes. This includes more than air toxics that are HAPs, or hazardous air pollutants, defined at a federal level.

The screening analysis, however, will only include air toxics that have inhalation health benchmarks, so there will likely be air toxics that are reported to the MPCA for other reasons outside

of this rule, but do not have inhalation health benchmarks, so those are not included in the screening analysis.

The screening analysis compares those actual emissions and stack data to screening threshold values. If the results are below the screening threshold values, there's no further action needed at this time. If air toxics are above thresholds, there are two options that facilities may choose. Informally, we're referring to this as part of Stage 2. At this stage, facilities can make operational, equipment or material changes to get and stay below thresholds. This would be using what is a proposed new tool called a compliance determination protocol, or CDP.

The other option is that they can model to show risks. This is also called an AERA, or an Air Emissions Risk Analysis. If a facility does an AERA, it is more involved. They use potential air emissions or potential to emit, also called PTE, and this is opposed to actual emissions that they would use in a screening analysis. They compare modeled potential emissions impacts to acceptable risk levels. If potential emissions impacts result in risks that are below acceptable risk levels, no

further action is needed at this time. If they are above risk levels, they would need to take action.

The option to develop a CDP is still available if that is possible or realistic for a facility to address only the specific pollutants above screening thresholds or they will need to move on to what is included in Stage 3.

Stage 3 requires completing an air toxics reduction plan, which is also a new proposed tool. The ATRP, or air toxics reduction plan, for most facilities at this stage likely involves making operational, equipment or material changes and/or taking permit limits to reduce potential risk. In addition to the ATRP, facilities will have to send notifications at two different points in time to potentially impacted residents. They will send notifications once when they have an approved ATRP and once when they have completed all actions outlined within the ATRP.

That is the high level overview of the proposed rules process. Again, there are more technical details on the MPCA's rulemaking webpage and resources to walk through the proposed rules, particularly the June 8th webinar recording from the NOIA (phonetic).

This slide provides an overview of the rules parts. The rules were crafted to align with the statutory and legal obligations and directives. There are new air toxics regulations rules in Chapter 7012, which is a new chapter. There are also updates and edits made to align and incorporate these new rules within existing rules in Chapter 7007, specifically the rule parts listed here.

The new proposed Chapter 7012 contains all of the rule parts listed on this slide. There are many new rule parts and they all serve a purpose in fulfilling the directives laid out in the Session Law. Subdivision 4 of the Session Law outlines the content of rules, with Subdivision 4(a) identifying the items the rules must address at a minimum. In the following slides we provide proposed rules parts and which subitem within Subdivision 4(a) those rules parts fulfill.

This slide shows rule parts that fulfill the requirements of subitems 1, 2 and 3, addressing specific air toxics, types of facilities to be regulated and performance tests.

This slide shows rule parts that fulfill the requirements of subitem 4 addressing

required monitoring of air emissions including using continuous emission monitoring systems and monitoring of production inputs for other production parameters.

This slide shows rule parts that fulfill the requirements of subitem 5 addressing reporting of information to the agency to assist the agency in determining the amount of the facility's air toxics emissions and the facility's compliance with the emission limits in the facility's permit.

This slide shows rule parts that fulfill the requirements of subitems 6 and 7 addressing recordkeeping and inspections and inspection-related activities.

Thank you all for your time and interest. We appreciate everyone's contributions to this rulemaking effort and, again, there is the QR code for the air toxics regulations rulemaking webpage in the upper right-hand corner.

MS. BILLETT: Your Honor, this is Kayla Billett speaking. This concludes the MPCA's presentation and the MPCA has nothing further.

JUDGE MORTENSON: Thank you very much.

So we're here today to hear from folks orally with questions and comments. I want to go

through a few of the rules and procedures we'll be using today. If you want to comment at today's hearing, the instructions are on this slide. Please click the chat icon on your screen. This will indicate to the facilitator that you want to speak.

For those of you participating by telephone, please press *3 on your telephone. As these requests to speak come in, commenters will be put into a queue from both the web and on the phone, and I will then work through the list. If you are on the phone, you can press *3 to remove yourself from the phone queue, but keep listening.

And for those of you who wish to speak via WebEx, when I inform you that it's your turn, please turn on your video by clicking on the video icon and that will allow me to see you. You will be unmuted or invited to unmute yourself so that you can make your comment or ask your question.

My goal today is to hear from everyone who wishes to make a comment or ask a question. Please be mindful that there are others who also wish to speak, so be as clear and succinct as possible. If there's a long list of people who wish to comment, I will limit the comments to five minutes in order to ensure as many people as

possible are heard. If there's time after everyone is heard once, I will provide you with an additional opportunity to finish your comments.

Before you make comments or ask a question, please identify yourself for the record, spelling your first and last names and identifying any organization you represent if you, in fact, represent an organization of some sort. Please speak slowly, clearly and loudly so that the court reporter can create an accurate record. Please remember that this is a legal proceeding and respect for the process includes respect for each other. The court reporter's transcript is the official record of what's said here and will include the comments, the agency presentation, and questions and answers, so the court reporter is empowered to intervene if they cannot hear what is being said.

If you are unable to comment today, please remember that you can also file written comments. It doesn't matter whether your questions or comments enter the record orally or in writing, they are given the same consideration. Next slide -- the one after this, please. Thank you.

State law, Minnesota Statute Section 1415, Subdivision 1 gives me the authority

to keep the hearing record open for up to 20 working days after the end of the public hearing, so I issued an Order yesterday on the record that the comment period is extended for 20 working days from the close of the hearing. Thus, you have until November 3rd, 2026, to submit written comments.

After the close of that comment period, there will be a five-working-day rebuttal period. That five-day period is meant for comments on the comments that were already received, not to introduce new matters to the record. So you'll have until November 10th, 2026, to submit rebuttal to the comments that have already been presented.

Then following the close of the record, I'll prepare a report that contains my conclusion about whether the department has met its statutory burdens in this matter, specifically whether the agency has documented its authority to enact the rules, whether the agency has fulfilled all the required procedures and whether the agency has demonstrated the need and reasonableness for each portion of the proposed rules. You can expect my report within 30 days after the last comment deadline unless an extension is necessary, and my report will be published on the Court website the

day it is issued.

With that, if you would move us back two slides to the instructions. Thank you.

Our facilitator, do we have anyone lined up to make comments or ask questions?

MS. BACKSTROLM: Yes. Judge Mortenson, our first speaker is Paul Bakken.

JUDGE MORTENSON: Good morning, Mr. Bakken.

Do we have -- is the facilitator in control of his access here?

MS. BACKSTROLM: Yes.

Speaker, you should be able to go ahead and take yourself off mute and turn on your camera. Thank you.

MR. BAKKEN: There we go. Good morning, Your Honor, members of the MPCA. Thank you very much for the opportunity to be heard. I did submit a couple of questions prehearing and I'd like to thank the MPCA for their thoughts and comprehensive answers. I think, for the most part, my questions about the proposed regulations were answered. There were some follow-on nuances that I would like to enter into the record, however.

The first one regards the definition of

environmental justice areas. It's my understanding that the methodology used by the MPCA is to use census blocks to look at that data when defining areas that qualify as an environmental justice area. I would like to propose that, instead, at least for the sole purpose of defining environmental justice areas, that the MPCA use tracts instead of blocks.

My concern about that is that there are areas that would qualify for the additional protection and analysis that aren't being captured. I know of one in the city of Eagan that is right across the street from a point source of air toxics, but it's surrounded by affluent neighbors. So while the tract itself would qualify, the block is sufficiently diluted so it is not.

And I apologize, I should back up. For the benefit of the court reporter, my name is spelled P-a-u-l B-a-k-k-e-n. I am a resident of Eagan. I am also an elected official here, but I am not here today in that capacity, I am just speaking as a private citizen.

So that's the first comment, and then the second is that I did not see anywhere in these proposed regulations, perhaps somewhere else in the rules, but I do feel that there ought to be a sunset

clause for certain types of point source emitters, particularly for toxics such as lead since those substances do not break down in the environment over time and the deposition from air toxics into soil toxics increases over time. So even a point source emitter who is operating within the regulatory limits, over the course of a very long period of time the cumulative deposition of air toxics into the soil can become a concern.

Again, I'm thinking specifically about those air toxic emitters of lead, which gets into the soil; and on a three-year rolling average the air emissions may be fine, but over the course of 99 or a hundred years, the effect on the surrounding soil becomes a concern. So if it isn't already addressed in the regulations, and perhaps it's beyond the scope of the proposed regulations here today, I would encourage and ask that the MPCA look at that concern and find a way to address it.

That concludes my comments. Thank you very much for the opportunity, members of the MPCA and, Your Honor, thank you again so much.

JUDGE MORTENSON: Thank you.

Do we have more folks in the queue?

MS. BACKSTROLM: So if anyone would

like to speak, click the chat button and then write your name into that chat, please and, as names are entered into the chat, we will call them in order for how they are listed.

There are no names entered as of yet, Judge Mortenson.

JUDGE MORTENSON: Okay. And do we have anyone in the phone queue?

For those of you attending, this is the second of two hearings. This will be the last public hearing on these proposed rules under the current rulemaking process, so if you have questions about what's been proposed or would like to make a comment orally, now is your last chance to do so. You will have an opportunity to file written comments or additional written questions over the course of the next 20 working days to early November, but this will be the last oral opportunity to have what amounts to a brief conversation if you have questions and certainly can make comments for the PCA staff and for myself to hear.

Ms. Backstrom, any additional takers for public comments or questions?

MS. BACKSTROLM: At this time, no, Judge Mortenson, and there are no speakers from the

phone queue either.

JUDGE MORTENSON: All right, thank you.

This will be the last call for public comment on this rulemaking, oral public comment that is. If you have comments or questions and want to address it here today on the record, this is your last opportunity. Otherwise, I'll look forward to receiving them in writing pursuant to the instructions already provided.

How's the queue looking, Ms. Backstrom?

MS. BACKSTROLM: Still no speakers are listed, Your Honor.

JUDGE MORTENSON: Okay. Well, I appreciate the panel for your efforts both yesterday and today, and thank you to the public who have attended and listened and have submitted comments already, and those of you who will be making comments in the future, I look forward to taking a look at everything and including it in my record.

With that, this public hearing is adjourned. I hope the rest of you all have a great afternoon. Thank you for your time.

MS. BILLETT: Thank you, Your Honor.

(Proceedings concluded at 10:20 a.m.)

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

REPORTER'S CERTIFICATE

I, Colleen M. Sichko, do hereby certify that the above and foregoing transcript, consisting of the preceding 34 pages is a correct transcript of my stenograph notes, and is a full, true and complete transcript of the proceedings to the best of my ability.

Dated October 9, 2026.

/s/Colleen M. Sichko
COLLEEN M. SICHKO
Registered Professional Reporter

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