

Cumulative impacts: A tool to address pollution in a community



For many neighborhoods and communities in Minnesota, decades-old permitting and zoning decisions by local, state, and federal governments have allowed heavily polluting industrial and manufacturing facilities to exist near homes, schools, and parks. These decisions have left too many Minnesotans disproportionately exposed to harmful pollutants.

To address this problem, the Minnesota Legislature in 2023 asked the MPCA to address the cumulative impacts of air pollution in the permitting process for some new and existing facilities. The new law only applies to facilities in or within one mile of environmental justice areas in the Twin Cities seven-county metro area and the cities of Rochester and Duluth.

Cumulative impacts analysis is a comprehensive look at pollution.

During the permitting process for a facility, the MPCA will be responsible for determining whether a cumulative impact analysis is required.

A cumulative impacts analysis is intended to be a comprehensive look at past and current pollution burdens that affect a community or neighborhood. While the cumulative impacts law is new to many in Minnesota, facilities located in parts of South Minneapolis have been required to conduct similar analyses since 2008, and other states have also recently required them.

If the cumulative impacts analysis determines that the facility would have a substantial adverse impact on the environment or the health of residents in an environmental justice area, then the facility must enter into a community benefit agreement before it can obtain a permit.



Environmental justice areas identify those most vulnerable to pollution.

For the first time, the Legislature defined an environmental justice area in Minnesota law. An environmental justice area is one or more census tracts – small, permanent subdivisions of a county or city – meeting any of the following criteria:

- 40% or more of the population is nonwhite.
- 35% or more of the households have an income at or below 200% of the federal poverty level (\$60,000 for a family of four).
- 40% or more of the population over the age of five has limited English proficiency.
- Located within Indian Country, generally meaning within the boundaries of a federally recognized tribal nation. (18 U.S. Code § 1151)

Community benefit agreements are created with the community for the community.

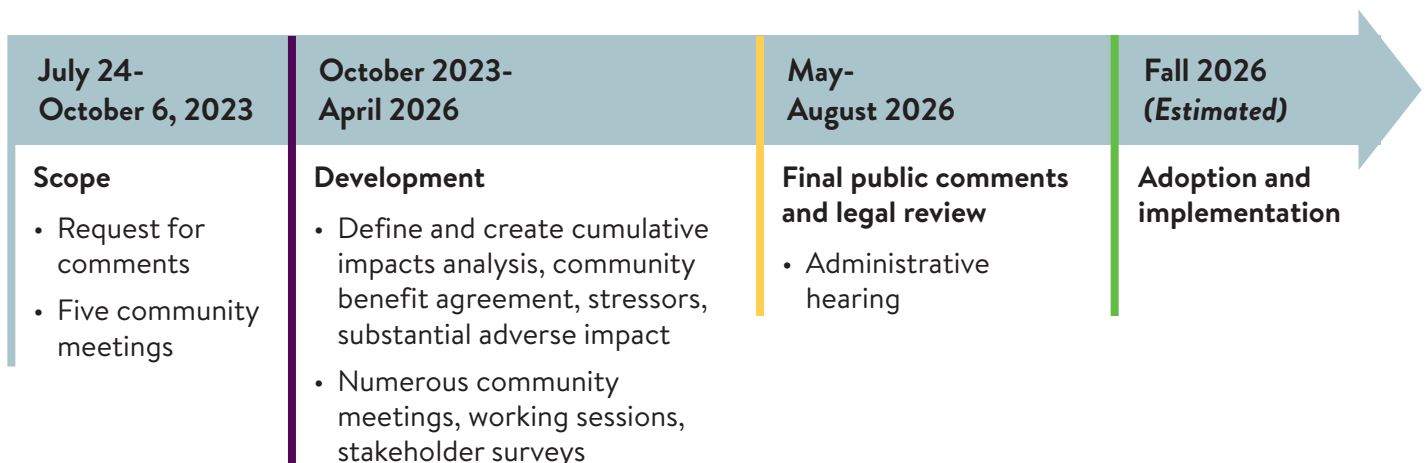
A community benefit agreement - developed with active community input and participation - is a legal and enforceable contract between the MPCA and the company. The MPCA will be working with Minnesotans to develop a community benefit agreement process that actively engages and encourages affected residents to participate in developing an agreement unique to each neighborhood and community.

Historically used in redevelopment projects, community benefit agreements typically require the company to agree to specific defined benefits for the residents of the affected neighborhood.

Every community benefit agreement is unique to that neighborhood and its needs.

Work on cumulative impacts starts now.

Between now and April 2026, the MPCA needs your help to develop the process and criteria to implement the new cumulative impacts law. This work will happen over several phases: scope, development, final review, and implementation.



Your voice can help create the cumulative impacts criteria and process.

Numerous items need to be developed before April 2026. The MPCA wants your input on how to:

- Create benchmarks to determine when a cumulative impacts analysis is required.
- Establish the required content of a cumulative impacts analysis.
- Provide public data sources for environmental stressors in environmental justice areas.
- Define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact.
- Establish the content and process for entering into a community benefit agreement.
- Develop a public petition process for requiring a cumulative impact analysis.

For more information, visit:

www.pca.state.mn.us/ci

Cumulative impacts analysis: A comprehensive look at pollution



A cumulative impacts analysis is intended to be a comprehensive look at past and current pollution burdens that affect a community or neighborhood.

While the cumulative impacts law is new to many in Minnesota, facilities located in parts of South Minneapolis have been required to conduct similar analyses since 2008. New Jersey, New York, and Massachusetts have also recently required cumulative impacts analysis for some facilities and projects.

Additional environmental analysis to inform permitting decisions

During the permitting process for a facility, the MPCA will be responsible for determining whether a cumulative impacts analysis is required for a facility to obtain a permit, and if so, whether the facility may substantially impact the environment or health of nearby residents.

There are several ways a cumulative impacts analysis may be required, and each of them requires relevant and important evidence to support the need for analysis.

First, if the facility exceeds any benchmark, or criteria, for requiring a cumulative impacts analysis, additional environmental analysis is required. Those benchmarks have not been defined or determined.

Second, the MPCA commissioner can require a cumulative impacts analysis if the facility may substantially impact the environment or health of residents. The definition of a substantial impact will also need to be developed during this process.

Lastly, the commissioner could also require an analysis if at least 100 residents in the affected environmental justice area petition and supply relevant information. This too has not been defined and requires your active participation to develop it.

If a cumulative impacts analysis is required, the company must complete the additional environmental analysis before the air permit is approved or denied.



Better engagement with communities

Minnesotans must have a voice in the cumulative impacts process. If a cumulative impacts analysis is required during the permitting process, the company must conduct at least two public meetings in that environmental justice area.

The first public meeting must be held before the company conducts the cumulative impacts analysis, and the second meeting must be held after the analysis is complete. The company must inform the public at least 30 days before each meeting.

We need your voice to create the cumulative impacts analysis process.

Between now and April 2026, the MPCA needs your help to develop the process and criteria to implement the new cumulative impacts law. We need your help answering some important questions.



What criteria or benchmarks should be used when the MPCA decides whether to require a cumulative impacts analysis. Should some be more important than others? What public sources of information should the MPCA consider?



What defines a substantial adverse health and environmental impact?
How is it measured or assessed?



In addition to housing, poverty, access to health care and food insecurity, what other social and environmental factors should be considered as environmental stressors? Are some stressors more important than others? What types of information should be considered for a stressor?



Should the commissioner be able to ask for additional analysis if the cumulative impacts analysis is deemed incomplete?

Community benefit agreements: Created with the community for the community



A community benefit agreement - developed with active community input and participation - is a legal and enforceable contract between the MPCA and the company. Every community benefit agreement is unique and considers the needs of each neighborhood and community.

Community benefit agreements have been historically used in economic development projects, including the development of the Central Corridor light rail project in St. Paul, the redevelopment plan in the Harrison neighborhood in Minneapolis, and the development of the Target Corporation campus in Brooklyn Park.

A tool to address the cumulative impacts of pollution in a community

A community benefit agreement may be required if the facility imposes a substantial adverse impact on the environment or health of residents in an environment justice area in the Twin Cities seven-county metro area and the cities of Rochester and Duluth.

If required, a company cannot receive a permit to construct and/or operate its facility until it signs a community benefit agreement with the MPCA commissioner. The MPCA then enforces each community benefit agreement.

Help us build a community benefit agreement that's right for Minnesotans.

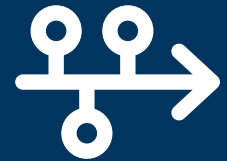
Between now and April 2026, the MPCA is working with Minnesotans to develop a community benefit agreement process that actively engages and encourages affected residents to participate in developing an agreement unique to each neighborhood and community.



We need your help answering some important questions.

- 1. Do you know of examples of successful community benefit agreements and processes that the MPCA should consider?
- 2. What should be the process for developing a community benefit agreement?
- 3. Which types of organizations should be actively engaged during the development of a community benefit agreement?
- 4. What should be included in an agreement? Should the agreement only address environmental improvements, or should it also include items like housing, community services, and job creation?
- 5. How long should the agreement last? Can the agreement be amended and how?
- 6. What should happen if a facility violates an agreement? What are the consequences?

Implementing the cumulative impacts law



During the 2023 Legislative Session, the Legislature asked the MPCA to develop regulations to implement the cumulative impacts law. These regulations will define criteria and processes for numerous portions of the new law, including a cumulative impacts analysis, community benefit agreement, and a substantial adverse impact.

Developing the required regulations to implement the new cumulative impacts law will require significant participation from Minnesotans and other stakeholder groups. The MPCA has approximately 30 months to complete its process, which will be divided into several phases.



Scope phase (July 24-October 6, 2023)

The scope phase is the first opportunity for Minnesotans to provide comments and feedback on what the regulations or rule should include, how specific terms should be defined, or other aspects of MPCA's implementation of the new law.

During this phase, the MPCA initiates a request for comments period that gives anyone the opportunity to submit comments through the Office of Administrative Hearings online portal. Commenting will remain open until October 6, 2023.

Development phase (October 2023-April 2026)

The development phase is extremely important as the criteria and processes for the cumulative impacts analysis, the community benefit agreement, environmental stressors, and other items will be developed with active public participation. The MPCA expects to hold numerous work sessions, open houses, community meetings, and other opportunities to develop these items.

Under state law, the MPCA is required to prepare a statement of need and reasonableness (or SONAR) for most types of rulemaking. The statement of need and reasonableness contains a summary of evidence and arguments that support the proposed changes.

The statement of need and reasonableness must also:

- Determine if there are less costly or less intrusive methods for achieving the purpose of the proposed rule.
- Describe alternative methods for achieving the purposes of the proposed rule that were seriously considered and give reasons why these alternatives were rejected.
- Assess the probable costs of complying with the proposed rule.

Public notice and hearing phase (May-August 2026)

The public notice and hearing phase is where the final proposed regulations will go through final public comments, a public hearing, and a legal review by an administrative law judge.

The MPCA publishes a notice of intent to adopt rules in the Minnesota State Register. This notice of intent allows the public to review and comment on the proposed rule, the statement of need and reasonableness, and any technical support documents. The Legislature required the MPCA to publish a notice of intent regarding the cumulative impact rules by May 25, 2026.

After that, the proposed rule and all the rulemaking documents go before an independent administrative law judge with the Office of Administrative Hearings, who will conduct a public hearing at which the public may testify and ask questions of the MPCA.

Implementation phase (Fall 2026 *estimated*)

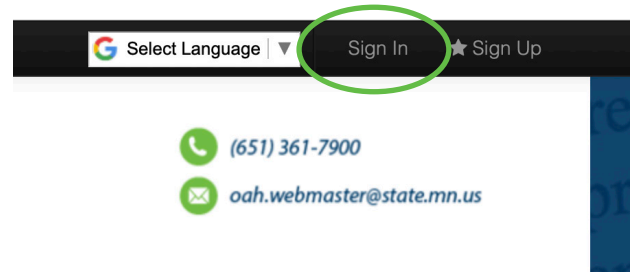
If the judge decides the MPCA's proposed regulations are reasonable and the governor approves the regulations, the regulations will be adopted and the MPCA can start implementing them.

How to submit comments online

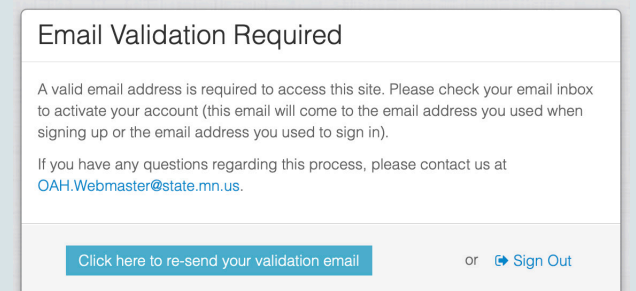


Go to: <https://minnesotaoah.granicusideas.com>

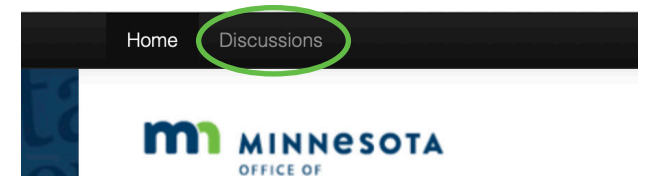
- Click “**Sign Up**” or “**Sign In**” in the upper right corner.
- Enter your information
- Check the “**I’m not a robot**” box. Select the images required, and click the “**Verify**” box.
- Click the blue “**Sign Up**” button at the bottom.



- “Email Validation Required” will appear on the screen.
- Look for an email from speakup@granicus.com that says “Welcome to OAH’s Rulemaking eComments Website.”
- Click on the link in the email that says “**Click here to confirm your account.**” This will take you back to the “Comment on proposed rules” home page.



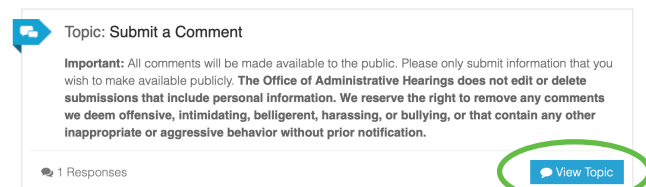
- Click “**Discussions**” in the top navigation bar of the home page.



- Scroll down to: 39398 Minnesota Pollution Control Agency Request for Comments-Cumulative Impacts Rule.
- Click “**View Discussion**” button in lower right corner of Discussion box.



- Click the “**View Topic**” button at the bottom of the Discussion page in “Topic: Submit a Comment” box.



- Scroll to comment box at the bottom of the page.
- Enter your comment.
- Add any attachments.
- Click “**Post**” button.

