MINNESOTA POLLUTION CONTROL AGENCY

VIA EMAIL
May 15, 2026

Legislative Reference Library
sonars@lrl.leg.mn

In the Matter of the Proposed Permanent Rules Relating to Cumulative Impacts Analysis for Permit Decisions in Environmental Justice Areas, *Minnesota Rules* chapter 7007; Revisor's ID Number R-04805

Dear Legislative Reference Library:

The Minnesota Pollution Control Agency (MPCA) intends to adopt rules relating to cumulative impacts analysis for permit decisions in environmental justice areas, also known as the Cumulative Impacts rule. We plan to publish a Notice of Intent to Adopt Rules With a Public Hearing in the May 18, 2026, *State Register*.

The MPCA has prepared a Statement of Need and Reasonableness (SONAR). As required under Minnesota Statutes, § 14.131 and 14.23, we are sending the library an electronic copy of the SONAR at the same time that we mail the notice to anyone who has requested a paper copy; electronic copies will go to email subscribers on May 18.

If you have any questions, please contact me at katie.izzo@state.mn.us or 651-757-2595.

Sincerely,

Katie Izzo
MPCA Rule Coordinator

Enclosure: Statement of Need and Reasonableness

MINNESOTA POLLUTION CONTROL AGENCY

STATEMENT OF NEED AND REASONABLENESS

In the Matter of Proposed Revisions to Minnesota Rules, Chapter 7007, Adopting Cumulative Impacts Analysis Rules
(Cumulative Impacts Rule)
Revisor ID No. R-04805

May 2026

General information:

1) Availability: The *State Register* notice, this Statement of Need and Reasonableness (SONAR), and the proposed rule will be available during the public comment period on the Agency's Proposed Rules website: https://www.pca.state.mn.us/get-engaged/proposed-rules.
2) View older rule records at: https://www.revisor.mn.gov/rules/status/.
3) Agency contact for information, documents, or alternative formats: Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, braille, or audio. To make a request, contact Katie Izzo—Rule Coordinator, Minnesota Pollution Control Agency, 520 Lafayette Road North, St. Paul, MN 55155-4194; telephone 651-757-2595 or 1-800-657-3864; email katie.izzo@state.mn.us; or use your preferred telecommunications relay service.
4) How to read a sample Minnesota Statutes citation: Minn. Stat. § 116.07, subd. 2(f)(2)(ii)(A) is read as Minnesota Statutes section 116.07, subdivision 2, paragraph (f), clause (2), item (ii), subitem (A).
5) How to read a sample Minnesota Rules citation: Minn. R. § 7150.0205, subp. 3(B)(3)(b)(i) is read as Minnesota Rules, chapter 7150, part 0205, subpart 3, item B, subitem (3), unit (b), subunit (i).

Contents

Acronyms, Abbreviations and Definitions 6
List of Tables 8
List of Figures 8
Introduction and Overview 9
Introduction 9
Statement of General Need 10
Legislative Directive 10
Environmental Justice and Disproportionate Exposure 11
Environmental Stressors and MPCA's Cumulative Impacts Mapping And Analysis Platform 13
Environmental Justice Areas and Unequal Vulnerability 15
Cumulative Impacts 16
Scope of the Proposed Amendments 18
Statutory Authority 21
Background 22
Life and Breath Reports 23
Air We Breathe Report 23
Cumulative Levels and Effects Process 24
Public Participation and Stakeholder Involvement 26
Webpage 28
Social Media 28
GovDelivery and Other Email Announcements 29
Newsletters 35
Discussions and Public Meetings 36
Tabling Events 36
Community Conversations 39
Interviews 42
Focus Groups 43
Guest Workshops, Presentations, and Events Attended 44
MPCA Events (Webinars, Working Sessions, Open Houses) 48
Environmental Justice Advisory Group 50
Community Benefit Agreement Input Panel 50
Reasonableness of the Amendments 51
General Reasonableness 51
Specific Reasonableness 52
PART 7007.0050 -- SCOPE 52

PART 7007.0100 – DEFINITIONS 52
PART 7007.0150 – PERMIT REQUIRED 53
PART 7007.0500 – CONTENT OF PERMIT APPLICATION 53
PART 7007.0750 – APPLICATION PRIORITY AND ISSUANCE TIMELINES 54
PART 7007.0850 – PERMIT APPLICATION NOTICE AND COMMENT 54
PART 7007.1000 – ISSUING AND DENYING PERMITS 56
PART 7007.1300 – INSIGNIFCANT ACTIVITY LIST 56
PART 7007.1450 – MINOR AND MODERATE PERMITS AMENDMENTS 57
PART 7007.6000 – SCOPE 57
PART 7007.6010 – DEFINITIONS 58
PART 7007.6020 – APPLICABILITY AND PROCEDURES 71
PART 7007.6030 – TRIBAL CONSIDERATIONS 75
PART 7007.6040 – GENERAL REQUIREMENTS 78
PART 7007.6050 – INITIAL ASSESSMENT 82
PART 7007.6060 – PETITION PROCESS 90
PART 7007.6070 – DETERMINATION OF NEED 97
PART 7007.6080 – PUBLIC PARTICIPATION 101
PART 7007.6090 – CUMULATIVE IMPACTS ANALYSIS 128
PART 7007.6100 – SUBSTANTIAL ADVERSE IMPACTS 137
PART 7007.6110 – COMMUNITY BENEFIT AGREEMENTS 143
PART 7007.6115 – MODIFYING COMMUNITY BENEFIT AGREEMENTS 158
PART 7007.6120 – PERMIT DECISIONS 163
Regulatory Analysis 166
Classes Affected 166
Facilities in the Twin Cities Seven-County Metropolitan Area or in Minnesota Cities of the First Class Subject to Rule Compliance 167
Minnesota State Agencies 168
Residents of the Twin Cities Seven-County Metropolitan Area, Duluth, and Rochester Living in Environmental Justice Areas 168
Consulting Businesses That May Help Regulated Businesses Comply With the Proposed Rule 168
Other Classes of Persons Receiving Indirect Benefits or Bearing Indirect Costs 169
Department/Agency Costs 169
Less Costly or Intrusive Methods 171
Alternative Methods 172
Costs to Comply 173
Costs of Non-Adoption 178
Improvements in Human Health 179

Improved Amenities 180
Differences From Federal Regulations 180
Cumulative Effect 181
Environmental Justice Policy 181
Equity Analysis 183
Meaningful Involvement 185
Tribal Policy 186
Climate Action 187
Hazards, Risks, and Vulnerability Related to Climate Change 187
Mitigation, Adaptation, and Resilience 188
Notice Plan 188
Required Notice 189
Request for Comments 189
Notice of Intent to Adopt and Other Required Notifications 189
Additional Notice Plan 190
Performance-Based Rules 193
Consideration of MPCA-Specific Statutory Requirements 194
Consideration of Economic Factors 194
Differences From Federal and Other State Standards 194
Massachusetts 195
New Jersey 195
New York 195
Washington 195
Consultation With MMB on Local Government Impact 195
Impact on Local Government Ordinances and Rules 196
Costs of Complying for Small Business or City 196
Agency Determination of Cost 196
Authors, Witnesses and SONAR Exhibits 197
Authors 197
Witnesses and Other Staff 197
Exhibits 198
Conclusion 198

Acronyms, Abbreviations and Definitions

Acronym/Abbreviation	Description
ACS	American Community Survey
AERA	air emissions risk analysis
APA	Administrative Procedures Act
CAH	Court of Administrative Hearings
CBA	community benefit agreement
CFR	Code of Federal Regulations
CI-MAP	Cumulative Impacts Mapping and Analysis Platform
CL&E	cumulative levels and effects
CO_2e	carbon dioxide equivalent
COBRA	Co-Benefits Risk Assessment Health Impacts Screening and Mapping Tool
DEP	Department of Environmental Protection
EPA	United States Environmental Protection Agency
EJ	environmental justice
EJAG	Environmental Justice Advisory Group
FTEs	full-time-equivalent staff positions
HAP	hazardous air pollutant
H_2S	hydrogen sulfide
IHB	inhalation health benchmark
lb/hr	pounds per hour
MAAQS	Minnesota ambient air quality standards
MDH	Minnesota Department of Health
MEPA	Minnesota Environmental Policy Act
Minn. R.	Minnesota Rules
Minn. Stat.	Minnesota Statutes
MMB	Minnesota Management and Budget
MNTEC	Minnesota Tribal Environmental Committee
MPCA or Agency	Minnesota Pollution Control Agency
NAAQS	national ambient air quality standard
NEPA	National Environmental Policy Act
NO_X	nitrogen oxides
PM_{10}	particulate matter with an aerodynamic diameter less than or equal to 10 micrometers
$PM_{2.5}$	particulate matter with an aerodynamic diameter less than or equal to 2.5 micrometers
PSD	Prevention of Significant Deterioration

Acronym/Abbreviation	Description
RFC	Request for Comments
RGU	responsible governmental unit
§	Section
SIP	State Implementation Plan
SO_2	sulfur dioxide
SONAR	Statement of Need and Reasonableness
Twin Cities seven-county metropolitan area	Counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington
VOCs	volatile organic compounds

List of Tables

Table 1. MPCA tabling events 37
Table 2. MPCA-hosted informal community conversations 39
Table 3. Summary of MPCA-hosted interviews 42
Table 4. Summary of MPCA-hosted focus groups 44
Table 5. Summary of externally hosted guest workshops, presentations, and events attended 44
Table 6. Summary of MPCA-hosted events 48
Table 7. Summary of Environmental Justice Advisory Group (EJAG) meetings 50
Table 8. Summary of MPCA-hosted Community benefit agreement input panel meetings 50
Table 9. MPCA-anticipated staffing needs 169
Table 10. Economic survey response summary 175

List of Figures

Figure 1. Percentage of Minnesota communities who live with air pollution over risk guidelines 24

Introduction and Overview

Introduction

The Minnesota Pollution Control Agency (MPCA or Agency) is proposing new Minnesota Rules governing cumulative impacts analyses for air permit decisions in environmental justice (EJ) areas as directed by Minn. Stat. § 116.065. This statute defines EJ areas and requires the MPCA to adopt rules to address the cumulative impacts of pollution during the air permitting process. An EJ area is defined in statute as one or more census tracts—small, relatively permanent subdivisions of a county or city—meeting any of the following criteria:

- 40 percent or more of the population is nonwhite.
- 35 percent or more of the households have an income at or below 200 percent of the federal poverty level.
- 40 percent or more of the population over the age of five has limited English proficiency.
- Located within Indian Country.

The main purpose of this rule is to establish the conditions that implement and govern cumulative impacts analyses and permit decisions in EJ areas. This rule applies to facilities located in or within one mile of an EJ area in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington (Twin Cities seven-county metropolitan area) or in a city of the first class (currently only Duluth and Rochester outside the Twin Cities seven-county metropolitan area). This rule only applies to facilities that have, or are seeking, certain air permits when that permit includes new construction, facility expansion, or the reissuance of an expiring permit. Minn. Stat. § 116.065, subd. 1(h) defines the type of air permit that will be subject to the Cumulative Impacts rule. This rule will not apply to air permit types that are not listed in Minn. Stat. § 116.065, subd. 1(h), such as registration permits, capped permits, and general permits.

During the permitting process for a facility, the MPCA will be responsible for determining whether issuing a permit for the facility may substantially impact the environment or health of the residents of an EJ area and whether a cumulative impacts analysis is required. A cumulative impacts analysis is intended to be a comprehensive look at the aggregate levels of past and current air, water, and land pollution that affect an EJ area. If the cumulative impact analysis determines that the facility would have a substantial adverse impact on the environment or health of the EJ area and its residents, then the owners and operators of the facility must enter into a community benefit agreement before they can obtain a permit.

A community benefit agreement (CBA)—developed with active community input and participation—is an agreement between the MPCA and the owners and operators of a facility to provide certain benefits to the impacted EJ area. The community benefit agreement process is intended to be a process that actively engages affected residents and encourage their participation, in order to solicit community benefit suggestions and gain community feedback on the draft CBA. In every CBA the owners and operators of a facility agree to specific defined benefits that are unique to that neighborhood and its needs.

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 under Minn. Stat. § 116.07, subd. 4a(c), since 2008, and other states have also recently required them. Similarly, the concept of a CBA has been used in redevelopment projects for some time.

Finally, this rule makes several small housekeeping changes to clarify where the cumulative impacts rules intersect with existing permitting rules.

Where applicable, the new and revised rules will be submitted to the United States Environmental Protection Agency (EPA) for inclusion in the Minnesota State Implementation Plan (SIP). The SIP is the vehicle for states to demonstrate compliance with the air quality standards of the Clean Air Act. The SIP contains state rules and statutes, as well as site- and area-specific plans, permits, and orders that ensure that Minnesota has the needed authorities to maintain its attainment with the National Ambient Air Quality Standards as required in the Clean Air Act. Any revisions to the rules or statutes must be submitted to EPA to be approved and incorporated into the SIP. All the contents of Minnesota's SIP can be found in 40 CFR Part 52, Subpart Y, and are federally enforceable.

A Request for Comments (RFC) on planned new rules governing cumulative impacts analyses for permit decisions in EJ areas was published in the *State Register* on July 24, 2023, and a second RFC on April 21, 2025. In addition, as described in the Public Participation and Stakeholder Involvement section, the MPCA conducted extensive outreach and public participation activities while developing these rules. The MPCA considered comments received during these comment periods and all comments received during this rulemaking in developing this rule.

This document fulfills the requirements of the Minnesota Administrative Procedures Act (APA) in Minn. Stat. chapter 14, which requires a statement of need and reasonableness (SONAR) justifying and explaining the need for the proposed rule amendments.

Statement of General Need

Legislative Directive

The proposed rules are needed to fulfill the requirements set forth by Minn. Stat. § 116.065, which directs the Agency to establish the conditions that implement and govern cumulative impacts analyses and permit decisions in EJ areas in the Twin Cities seven-county metropolitan area and cities of the first class.

As part of Minn. Stat. § 116.065, the Minnesota Legislature requires the MPCA to develop rules that:

- Establish benchmarks to assist the commissioner's determination regarding the need for a cumulative impacts analysis;
- Establish the required content of a cumulative impacts analysis and sources of public information that an applicant can access regarding environmental stressors that are present in an EJ area;
- Define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact;
- Establish the content of a community benefits agreement and the process to enter into one, which must include:
    - Active outreach to residents of the impacted EJ area designed to achieve significant community participation;
    - Considerations other than or in addition to economic considerations, but with priority given to considerations that directly impact the residents of the EJ area; and
    - At least one public meeting held within the EJ area;
- Establish a petition process and form to be submitted to the MPCA by EJ area residents to support the need for a cumulative impact analysis;

- Establish a process by which Tribal governments can elect to apply Minn. Stat. § 116.065 to a permit application, as provided under Minn. Stat. § 116.065, subd. 2; and
- Establish methods for holding public meetings and handling public comments as required under Minn. Stat. § 116.065, subd. 4.

The intended outcome of the proposed rules is to regulate certain facilities that may impact the environment or health of residents of EJ areas in the Twin Cities seven-county metropolitan area and cities of the first class. The regulatory structure provided by the proposed rule will serve multiple purposes. The proposed rule is needed to establish a clear and transparent methodology to evaluate the cumulative impacts of a range of projects that are required to obtain an air permit from the MPCA. The proposed rules will provide a consistent methodology to analyze and understand the potential environmental and health impacts of issuing a permit to a facility located in or within one mile of an EJ area. When an environmental or health impact is a substantial adverse impact, the proposed rules will enable the MPCA to require action by owners and operators of facilities to eliminate, minimize, or mitigate the potential environmental and health impacts from a facility or to provide benefits to residents of impacted EJ areas. The proposed rules will also provide Minnesotans the ability to meaningfully participate in the permitting process for those air permits subject to the rule.

By proposing these new rules, the MPCA can provide clarity to both regulated parties and Minnesotans regarding the obligations and compliance expectations for cumulative impacts analyses and permit decisions in EJ areas in the Twin Cities seven-county metropolitan area and cities of the first class. Overall, the proposed rules provide greater environmental and health protections for Minnesotans while meeting the obligations set forth in Minn. Stat. § 116.065.

Environmental Justice and Disproportionate Exposure

For many neighborhoods and communities in Minnesota, decades-old permitting and zoning decisions by local, state, and federal governments have resulted in heavily polluting industrial and manufacturing facilities located near homes, schools, and parks. People living in these areas often have more exposure to pollution than those who live, work, and gather in less-polluted areas. This unequal pollution burden, together with other factors that can make people more susceptible to the harms of pollution, can lead to disparate health outcomes. The areas where people are experiencing these disproportionate burdens and unequal outcomes are the focus of Minn. Stat. § 116.065 and the proposed Cumulative Impacts rule. The concept of environmental justice is the work to address these inequalities.

Minn. Stat. § 116.065 also recognizes the importance of environmental justice. It defines environmental justice as, "*the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies; and in all decisions that have the potential to affect the environment of an environmental justice area or the public health of its residents, due consideration is given to the history of the area's and its residents' cumulative exposure to pollutants and to any current socioeconomic conditions that could increase harm to those residents from additional exposure to pollutants.*"

The Agency recognizes the importance of environmental justice across all of its work. The proposed rule is needed to help advance this work by providing information that is necessary to inform MPCA's permitting decisions and whether permit actions may create or worsen any disproportionate impacts, and to provide MPCA with tools, such as the CBA, to require certain actions be taken to reduce or eliminate the environmental inequalities experienced by some Minnesota communities.

While all Minnesotans are susceptible to the environmental and health impacts of pollution, these impacts do not affect all Minnesotans equally. It is critical that all Minnesotans have a chance to lead healthy and fulfilling lives. Achieving this requires equitable access to opportunities and conditions

where everyone can thrive. One important condition is living in an environment with clean air, water, and land. The proposed rules are needed to provide a better understanding of the health and environmental impacts of aggregated levels of past and current air, water, and land pollution that affect Minnesotans and to ensure permitting decisions do not exacerbate these impacts.

Good health and well-being are created by many things. For example, while air quality across Minnesota currently meets federal standards, even low and moderate levels of air pollution can contribute to serious illnesses and premature death. Understanding how pollution affects health and the environment across the state helps identify actions that improve the health of all residents and the environment where they live, work, and gather. Improving air, water, and land quality can provide significant public health and environmental benefits. However, it is critical that Minnesota continue to adopt programs and policies to further reduce pollution and increase health resilience as air, water, and land quality threats from events like wildfires and climate change are forecast to get worse in Minnesota. There is growing evidence, including outcomes from the 2015 and 2022 Life and Breath reports for the Twin Cities seven-county metropolitan area, that there are disparate health impacts of air pollution on communities with higher populations of people of color, so improving air quality is important for reducing health inequities.

Reducing pollution is important, but not the whole picture. Public health resilience also depends on advancing health equity. For example, seniors, people with pre-existing heart or lung conditions, and children with uncontrolled asthma experience more severe health impacts when there are subtle changes in air quality. Likewise, structural inequities, including lack of access to quality health care, economic and social opportunities, cumulative impacts from other exposures, and social stressors, all take a toll on health resilience and quality of life.

As discussed in the 2022 Life and Breath report, gaps in the health impacts of air pollution based on race and other marginalizing factors persist in the state. Populations in areas with higher disease and death rates generally have aging residents and structural inequities, such as the impacts of past and present policies including racial covenants in residential deeds, redlining, zoning and permitting decisions, roadway placement as well as facing housing insecurity, discrimination in health care, and other social and economic stressors, sometimes called social determinants of health. These factors all contribute to unequal health burdens of air pollution.

While permits that the MPCA issues to regulated parties in Minnesota do protect the environment and the health of Minnesotans, the proposed rules are needed to better understand and consider these inequities as part of the air permitting process.

Furthermore, the MPCA already uses a voluntary process involving EJ principles as part of the decision-making process when reviewing and writing new, modified, or reissuance permits for regulated parties in or near EJ areas in Minnesota. In some instances, that results in increased monitoring and provides for additional review of emission sources. To most effectively reduce pollution risks and impacts on Minnesotans, people must have the opportunity to participate in decisions that may affect their environment and health. Additionally, the existing air permitting process already provides opportunity for the public to provide feedback and concerns and for the regulated parties to engage in open and authentic dialogue with their communities, both of which can influence the regulatory process and the Agency's decisions. While these efforts have led to some successes, the proposed rules are needed to provide a transparent and consistent methodology to use EJ principles as part of the decision-making process for regulated parties subject to the rules. With the proposed rules, the MPCA can ensure that Minnesotans receive fair treatment and have a clear opportunity for meaningful involvement in the development, implementation, and enforcement of environmental laws, regulations, and policies.

Environmental Stressors and MPCA's Cumulative Impacts Mapping And Analysis Platform

Minn. Stat. § 116.065 also recognizes that Minnesotans in EJ areas may experience factors that make them more vulnerable and defines environmental stressors as, "*Factors that may make residents of an environmental justice area susceptible to harm from exposure to pollutants. Environmental stressors include: environmental effects on health from exposure to past and current pollutants in the environmental justice area, including any biomonitoring data from residents reported through the Centers for Disease Control, the Department of Health, or peer-reviewed scientific or medical articles; and social and environmental factors, including but not limited to poverty, substandard housing, food insecurity, elevated rates of disease, and poor access to health insurance and medical care*."

However, existing environmental regulations do not provide a specific directive to consider environmental stressors or the impact that multiple pollutants from multiple sources may have on the environment and human health, and how those pollutants and sources may interact. Bringing together different factors including environmental effects on health, social and environmental factors, demographic information, and environmental information will help, in part, to better understand the cumulative impacts experienced by people across different geographic areas. The proposed rules are needed to help bring together this information and provide a consistent methodology for the MPCA, regulated parties, and Minnesotans to better understand the potential impacts to the environment and health of a requested permit action.

As part of the proposed rules, the MPCA engaged in robust public engagement, including public meetings, webinars, co-learning sessions, working sessions, and more as described in the Public Participation and Stakeholder Involvement section. During this public engagement, the MPCA specifically shared initial thoughts and information regarding environmental stressors that could be included to help contextualize the health and environmental impacts of a facility. These efforts resulted in the creation of the MPCA's Cumulative Impacts Mapping and Analysis Platform (CI-MAP) that brings together multiple environmental stressors to help visualize and understand the different environmental stressors experienced by Minnesotans that may make residents of an EJ area susceptible to the harm from exposure to pollution. The MPCA's CI-MAP displays 26 environmental stressors across the state and specifically in the Twin Cities seven-county metropolitan area and cities of the first class.

The creation of CI-MAP serves multiple purposes. Under Minn. Stat. § 116.065, subd. 5(f), the MPCA must maintain an updated database of identified environmental stressors in specific census tracts and make this database accessible to the public. Under Minn. Stat. § 116.065, subd. 6(c)(2), the MPCA must provide sources of public information permit applicants can access regarding environmental stressors that are present in an environmental justice area. Under Minn. Stat. § 116.065, subd. 5(b), the MPCA must consider environmental stressors as part of making a decision to issue or deny a permit. However, Minn. Stat. § 116.065 does not prescribe how this information must be presented nor how the MPCA must consider environmental stressors as part of making a decision to issue or deny a permit.

The MPCA provides information on environmental stressors through CI-MAP, which measures and displays data for 26 environmental stressors across the state and specifically in the Twin Cities seven-county metropolitan area and cities of the first class. This information is provided by census tract in Minnesota and the proposed rules include definitions for several terms that are used to present information on each environmental stressor. Those terms include geographic point of comparison, reference value, adverse environmental stressors, combined stressor total, and adverse cumulative stressors. These terms are needed to:

- Provide a consistent methodology that the MPCA uses to provide information on environmental stressors in CI-MAP;

- Enable a methodology for considering environmental stressors as part of determining whether a cumulative impacts analysis is needed; and
- Enable a methodology for considering environmental stressors as part of determining whether issuing a permit would have a substantial adverse impact on the environment of the health of residents of an EJ area.

The specific reasonableness for each of these terms is provided later in this SONAR. Generally, these terms work together to present the information available in CI-MAP to meet the purposes described above. The methodology described next provides a simple understanding of whether residents of a census tract experience a disproportionate burden compared to other Minnesotans in the same county and other Minnesotans statewide.

First, each environmental stressor is analyzed by comparing data available for the stressor to a reference value (i.e., a standard or benchmark used to compare and assess the value for an environmental stressor) where available, or geographic point of comparison (i.e., a county and/or statewide comparison point and its corresponding value) if a reference value was not available. If an environmental stressor in a census tract exceeds the reference value or geographic point of comparison, then that stressor is considered an adverse environmental stressor. This information will help the MPCA consider individual stressors, how they may make residents of an EJ area susceptible to harm from exposure to pollutants, and whether those residents experience a disproportionate burden for any individual environmental stressor.

Second, the number of adverse environmental stressors in each census tract are summed to identify the combined stressor total for that census tract. For example, if 13 out of 26 environmental stressors in a census tract are considered adverse environmental stressors, then the combined stressor total for that census tract is 13. The combined stressor total for each census tract is analyzed by comparing to the geographic point of comparison again, this time comparing the combined stressor total for the census tract to a county and/or statewide value, to determine whether a census tract has adverse cumulative stressors. If the combined stressor total for a census tract exceeds the geographic point of comparison, then that census tract has adverse cumulative stressors. For example, if the combined stressor total for that census tract is 13 and the combined stressor total for the county or statewide geographic point of comparison is 12, then that census tract has adverse cumulative stressors. This information will help the MPCA consider multiple stressors in aggregate, how they may make residents of an EJ area susceptible to harm from exposure to pollutants, and whether those residents experience a disproportionate burden for the combination of environmental stressors present.

This comparative methodology helps contextualize the environmental and health impacts of a requested permit action. The term cumulative impacts is defined under Minn. Stat. § 116.065, subd. 1(c) and refers to the aggregated levels of different kinds of pollution. As different kinds of pollution may have individual and/or aggregated impacts on people, environmental stressors may have individual and/or aggregated effects in making people susceptible to the harms of pollution. For example, an area may have multiple stressors that are considered adverse environmental stressors. The combination of those adverse environmental stressors may make residents of an EJ area more susceptible to the harms of pollution just as any individual environmental stressor may do so.

The types of impacts associated with a requested permit action, the location and people impacted, and the environmental stressors present in an EJ area provide countless possible scenarios to evaluate. However, the MPCA cannot provide an exhaustive list of all possible impacts, locations/people impacted, environmental stressors present, and the considerations for all potential scenarios in rule. Instead, this comparative methodology provides the foundation to consider environmental stressors as part of the determinations the MPCA is required to make under these rules.

Environmental Justice Areas and Unequal Vulnerability

The MPCA analyzed the environmental stressors used in CI-MAP, and found that combined they demonstrate that certain groups of people and locations may be more susceptible to the harms of exposure to pollution. The MPCA analyzed the 26 environmental stressors included by comparing the stressors present in a census tract to a reference value (i.e., a standard or benchmark used to compare and assess the value for an environmental stressor) where available, or geographic point of comparison (i.e., a county and/or statewide comparison point and its corresponding value) if a reference value was not available. This is an analysis that parallels the methodology that the state of New Jersey uses in their Environmental Justice Rule (found in New Jersey Administrative Code, Title 7, Chapter 1C - Environmental Justice). Throughout the public outreach and engagement conducted during this rulemaking, the MPCA discussed the similarities between the New Jersey Environmental Justice Rule and the statutory obligations in Minn. Stat. § 116.065 including potentially using a similar analysis to determine when a cumulative impacts analysis is required and whether a health or environmental impact is considered a substantial adverse impact.

New Jersey uses a comparative method to evaluate environmental and public health stressors and to determine whether residents of census block groups are subject to adverse cumulative stressors, when facilities subject to their rules need to provide information, and whether a facility can avoid either creating or contributing to a disproportionate burden on a census block group. The New Jersey methodology also uses a geographic point of comparison to compare stressors present in census block groups to a county and/or statewide comparison point. The New Jersey methodology sets the comparison point as the lower value of the State or county's 50th percentile (i.e., a median). This geographic point of comparison is used for comparing both whether an individual stressor was over the county/State median for that stressor (referred to as an adverse stressor) and whether the total number of adverse stressors present in a census block group was over the county/State median for the total number of adverse stressors.

The MPCA performed an analysis, similar to the New Jersey methodology, using the reference values and geographic points of comparison described previously, to provide a simple understanding of whether residents of a census tract experience a disproportionate burden compared to other Minnesotans in the same county and other Minnesotans statewide. This analysis demonstrated that residents in EJ areas near facilities potentially subject to this rule experience a disproportionate number of environmental stressors that may make residents of those areas susceptible to the harm from exposure to pollutants.

What the MPCA found was that EJ areas within 1 mile of facilities potentially subject to this rule often had multiple individual environmental stressors that were over the reference value or geographic point of comparison. The total number of environmental stressors over the reference value or geographic point of comparison, referred to as the combined stressor total in the proposed rules, was often over the geographic point of comparison as well. This indicated that these facilities were often located in or near EJ areas that had multiple environmental stressors that may make residents of those areas susceptible to the harm from exposure to pollution and residents experienced those environmental stressors more often than Minnesotans located elsewhere.

In this analysis, MPCA found that 86 out of 89 facilities potentially subject to the proposed rules were located in, or within 1 mile of, an EJ area that has adverse cumulative stressors above the 50th percentile. This demonstrates that residents in EJ areas around these facilities experience a disproportionate number of environmental stressors that may make them susceptible to the harms of exposure to pollution. The proposed rules are needed to help address this disproportionate burden experienced by people who reside in EJ areas located in the Twin Cities seven-county metropolitan area and cities of the first class.

Cumulative Impacts

The MPCA is charged with implementing environmental regulations related to the Clean Water Act, Clean Air Act, Minnesota Environmental Response and Liability Act, Resource Conservation and Recovery Act, and other federal and state laws and rules written to protect human health and the environment. Many of these regulations were written with an environmental media-specific focus and do not adequately address indirect pollution; combined pollution; or pollution traveling between air, water, and land (cross-media pollution); or non-chemical (e.g., noise exposure) and socioeconomic stressors. Furthermore, many of these regulations were not developed with goals focused on alleviating disproportionate impacts on lower income residents, people of color, and other vulnerable Minnesotans. Cumulative impacts incorporates a whole system approach that includes quantitative and qualitative elements related to environmental, social, and economic inequities. Cumulative impacts, as a system, is complex and not yet fully realized at the federal and state levels; however, further application of cumulative impacts is critical to protecting human health and the environment and fulfilling the legislature's directive.

The MPCA also has a separate statutory requirement to analyze and consider the cumulative levels and effects (CL&E) of past and current pollution for air permits in South Minneapolis found in Minn. Stat. § 116.07, subd. 4a(c). The CL&E process is discussed in more detail in the Background section. While the MPCA's current cumulative impacts efforts are fragmented across various agency programs, the MPCA is developing a plan to better coordinate cumulative impacts work across MPCA programs. Establishing a process regarding cumulative impacts analyses in this rule helps address this fragmentation by providing the structure to develop appropriate methods to conduct and evaluate cumulative impacts.

The issue of cumulative impacts is inherently tied to EJ efforts because cumulative impacts requires understanding complex interactions between demographic, socioeconomic, environmental, and public health factors that impact the environment and health of people. As discussed in the previous sections, people living in EJ areas are both more likely to experience higher pollution burdens and more likely to be more susceptible to the impacts of pollution.

Cumulative impacts can be positive, negative, or neutral, with no measurable impact. The focus of cumulative impacts analyses in a regulatory context is typically on adverse or negative impacts in order to prevent, limit, or otherwise control negative environmental and human health outcomes that may result from various activities such as facility emissions and discharges, site cleanups, and other permitting or assessment actions. Additionally, non-regulatory MPCA programs can also inform the development of cumulative impacts analyses, and vice versa. For example, grant money appropriations, environmental assessments, etc. could be informed by cumulative impacts analyses, and environmental assessments could help inform cumulative impacts analyses.

Cumulative impact has been discussed in various forms in the regulatory and academic spheres for several decades. However, due to its complexity and often broad and not well-defined boundaries, it has been difficult to incorporate into the routine work of regulatory agencies. Its application is also often hindered by statutory authority, which is typically narrow in scope and more problematic to advance in the legislative sphere due to real and perceived complexities that cumulative impacts analyses may pose. However, these complexities are often more related to capacity to develop appropriate methods than feasibility to create the analysis. For example, regarding Environmental Review of proposed projects, the federal Council on Environmental Quality described this phenomenon concisely but fittingly in its 1997 handbook written for considering cumulative effects under the National Environmental Policy Act (NEPA) by identifying the analysis of cumulative effects under NEPA as "conceptually straightforward

but practically difficult."[1] Cumulative impact type assessments have been required for several decades as part of environmental review under NEPA and its Minnesota equivalent, the Minnesota Environmental Policy Act (MEPA).

Under NEPA, cumulative effects are defined as, *"the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions (40 CFR § 1508.7)."* Similar cumulative impact type assessments prepared under NEPA for federal projects are reviewed by EPA. Federal projects can cause or are affected by cumulative impacts and this type of impact must be assessed in documents prepared under NEPA. The EPA provides guidance regarding the consideration of cumulative impacts in EPA review of NEPA documents for the purpose of assisting EPA reviewers of NEPA documents in providing accurate, realistic, and consistent comments on the assessment of cumulative impacts.[2] In this guidance, EPA describes in general EPA's review of cumulative impact analysis in NEPA documents as not substantially different from the assessment of direct or indirect impacts, with one possible difference that an assessment of cumulative impact entails a more extensive and broader review of possible effects. EPA continues by describing that reviewers should recognize that while no "cookbook" approach to cumulative impacts analysis exists, there are general approaches and strategies available to make reviews most effective such as beginning review of impacts early in the process and determining how and the extent to which cumulative impacts are assessed in NEPA documents.

The EPA recently release a draft version of their Interim Framework for Advancing the Consideration of Cumulative Impacts that is intended to provide the EPA's programs with a foundation of information and resources that can support developing and implementing approaches to incorporate analysis and consideration of cumulative impacts into their work, with the goal of achieving results that improve health and quality of life in America's communities.[3] EPA also provides resources regarding cumulative impacts research, cumulative impacts analyses, and as well as guidance for the consideration of cumulative impacts in EPA review of NEPA documents mentioned previously.[4]

The definition of cumulative impact, in Minn. R. 4410.0200, subp. 11, under MEPA is nearly identical with a separate and more detailed definition also provided for cumulative potential effects in Minn. R. 4410.0200, subp. 11a. Similar cumulative impact type assessments prepared under MEPA for projects requiring environmental review involves different governmental units in Minnesota. The Minnesota Environmental Quality Board provides an overview of environmental review and how cumulative impacts are considered in general during environmental review.[5]

In Minnesota's environmental review process, the main responsibilities fall to a designated unit of government, known as the responsible governmental unit (RGU). An RGU evaluates petitions, oversees the preparation and analysis of environmental review documents, makes decisions on the environmental review documents, and can comment on projects from other RGUs during the comment period. The RGU can be any state agency or any local (e.g., county, city, township) or special-purpose

---

[1] Council on Environmental Quality. 1997. Considering Cumulative Effects under the National Environmental Policy Act. Council on Environmental Quality, Executive Office of the President, January 1997. https://www.energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/G-CEQ-ConsidCumulEffects.pdf.

[2] EPA. Consideration Of Cumulative Impacts in EPA Review of NEPA Documents, May 1999. https://www.epa.gov/sites/default/files/2014-08/documents/cumulative.pdf

[3] EPA. Interim Framework for Advancing Consideration of Cumulative Impacts, November 2024. https://www.epa.gov/cumulative-impacts/interim-framework-advancing-consideration-cumulative-impacts

[4] EPA. Cumulative Impacts Tools and Resources. https://www.epa.gov/cumulative-impacts/tools-and-resources *(last accessed February 12, 2026)*

[5] Minnesota Environmental Quality Board. About Environmental Review. https://www.eqb.state.mn.us/environmental-review/about *(last accessed February 12, 2026)*

(e.g., watershed district, soil and water conservation district) unit of government in the state. Rules specify that the RGU is generally the governmental unit with the greatest expertise or the greatest responsibility to manage a project. Rules do not prohibit government entities from working together on environmental review, but one would be listed as the RGU. RGUs are required to assess cumulative potential effects as part of the Minnesota Environmental Review process. Cumulative potential effects are the impacts of projects in the environmentally relevant area on the environment and the accumulation of those projects result in incremental effects. Cumulative potential effects are analyzed for a project undergoing environmental review and the RGU considers this when making the determination for an environmental impact statement.

There are few cumulative impacts analyses outside of NEPA and MEPA and they are often hampered by shortcomings in statutory authority. Not until amendments to the statutory language in Minn. Stat. § 116.07 in 2008 was Minnesota able to develop a CL&E air permitting analysis for an area in South Minneapolis. Minnesota's authorities to conduct cumulative impacts analyses were expanded during the 2023 legislative session with the adoption of new laws in Minn. Stat. § 116.065 as discussed previously.

This rule serves dual purposes in both addressing the need to develop a suitable set of cumulative impacts tools and analyses to integrate cumulative impacts into MPCA's work, and specifically creating rules to govern when cumulative impacts analyses are needed, and how they are conducted, for air permits in or near EJ areas in the Twin Cities seven-county metropolitan area, Rochester, and Duluth.

Scope of the Proposed Amendments

The following parts of Minnesota Rules (Minn. R.) chapter 7007 are affected by the proposed changes:

- Minn. R. 7007.0050 (Scope) establishes the scope of the existing air permitting rules in parts 7007.0100 to 7007.1850. The amendments to this part clarify that the cumulative impacts rules may also apply to permits issued under these parts, in addition to the requirements of 7007.0100 to 7007.1850.
- Minn. R. 7007.0100 (Definitions) establishes definitions for terms that are used in chapter 7007. The amendments to this part update definitions of terms used in the cumulative impacts rules.
- Minn. R. 7007.0150 (Permit required) establishes requirements for when permits are required under chapter 7007. The amendments to this part clarify that the cumulative impacts rules may apply before a permit can be issued.
- Minn. R. 7007.0500 (Content of permit application) establishes the required content of permit applications. The amendments to this part require the applicant to state whether the application is subject to the cumulative impacts rules and, if so, what information an applicant must include in a permit application.
- Minn. R. 7007.0750 (Application priority and issuance timelines) establishes processing an issuance timelines for multiple types of permit applications, deadlines for the Agency to take final action on applications, and the circumstances when deadlines for agency action under this part may be extended. The amendments to this part identify when the deadlines for agency action may be extended for permitting actions subject to the cumulative impacts rules.
- Minn. R. 7007.0850 (Permit application notice and comment) establishes the public notice and comment procedures that the MPCA must follow before issuing permits under chapter 7007. The amendments to this part identify when the public notice and comment procedures under this part apply for permitting actions that require a cumulative impacts analysis, or CBA, is required under the cumulative impacts rules.

- Minn. R. 7007.1000 (Issuing and denying permits) establishes the preconditions for issuing permit and the grounds for denying a permit. The amendments to this part identify how the applicable provisions of Minn. Stat. § 116.065, and the Cumulative Impacts rule, factor into the decision to issue or deny a permit under chapter 7007.
- Minn. R. 7007.1300 (Insignificant activity list) establishes the requirements associated with emission units that may qualify as an insignificant activity. The amendments to this part identify that the threshold table for hazardous air pollutants listed in subpart 5 is referenced within part 7007.6050 (Initial assessment) as part of the benchmarks the MPCA is establishing in this rule as part of determining when a cumulative impacts analysis is required.
- Minn. R. 7007.1450 (Minor and moderate amendments) establishes the process for amending a permit issued under chapter 7007 through the minor and moderate amendment types. The amendments to this part identify when a permittee may make the modification or change proposed in a moderate permit amendment when that permit application is subject to the cumulative impacts rules.

The following new parts of Minn. R. chapter 7007 are proposed:

- Minn. R. 7007.6000 (Scope) establishes the authority for, and the scope of, the new cumulative impacts rules contained in parts 7007.6000 to 7007.6120.
- Minn. R. 7007.6010 (Definitions) establishes definitions for terms that are used in parts 7007.6000 to 7007.6120.
- Minn. R. 7007.6020 (Applicability and procedures) establishes when the cumulative impacts rules contained in parts 7007.6000 to 7007.6120 apply to owners and operators, including exemptions to the applicability of parts 7007.6000 to 7007.6120, and how owners and operators must determine applicability of parts 7007.6000 to 7007.6120 when there are changes in information used to determine applicability. This part also identifies how often information on EJ areas are updated, what information the Agency will provide regarding environmental stressors, and a procedural overview of parts 7007.6000 to 7007.6120.
- Minn. R. 7007.6030 (Tribal considerations) establishes the process for Tribal governments in Minnesota to both consult and coordinate with the Agency as part of the Cumulative Impacts rules. This part identifies the process that Tribal governments can use to apply the Cumulative Impacts rules to a permit application for a stationary source located in Indian Country. This part also identifies additional information that must be included in a cumulative impacts analysis if a Tribal government identifies impacts, as a result of the source, to areas and resources relevant to the Tribal government. This part includes how the Agency will provide the information regarding Tribal concerns to the owners and operators for inclusion in a cumulative impacts analysis.
- Minn. R. 7007.6040 (General requirements) establishes general requirements for sources subject to parts 7007.6000 to 7007.6120. This part identifies requirements for owners and operators regarding submittal certifications, information requests, record keeping, accuracy, and duties to supplement or correct information. This part also identifies the process for owners and operators to request to consolidate public meeting requirements specified in part 7007.6080, requirements to incorporate permit conditions for any measures assumed for the purposes of parts 7007.6000 to 7007.6120, and additional details regarding in-person meetings that the Agency may require the owners and operators to hold.
- Minn. R. 7007.6050 (Initial assessment) establishes the information that owners and operators must provide to the MPCA to aid in determining if a cumulative impacts analysis is necessary. This part identifies when it applies to owners and operators, when owners and operators must submit the initial assessment, and what information owners and operators must include in the

initial assessment submittal. This part also establishes the benchmarks the Agency will use as part of determining when a cumulative impacts analysis is required.

- Minn. R. 7007.6060 (Petition process) establishes the petition process that can be used by EJ area residents to support the need for a cumulative impacts analysis. This part identifies the information that a petition must include, the timeline for petitioners to submit a petition, how petitioners must file the petition, and how the MPCA will review and decide whether to grant or deny the petition. This part also identifies when the Agency must post documents related to the petition process.
- Minn. R. 7007.6070 (Determination of need) establishes the requirements for the MPCA's determination of need for a cumulative impacts analysis. This part identifies the circumstances when the Agency must require owners and operators to conduct a cumulative impacts analysis, circumstances when the MPCA may require owners and operators to conduct a cumulative impact analysis, the standards and criteria or information the Agency will use to determine whether issuing a permit may substantially impact the environment or health of the residents of an EJ area. This part also identifies the process for addressing when there is insufficient information to decide on the need for a cumulative impacts analysis, and when the Agency must post documents related to the determination of need.
- Minn. R. 7007.6080 (Public participation) establishes the requirements surrounding public participation broadly including methods for outreach to, and engagement with, residents of EJ areas, methods for holding public meetings, and methods for handling public comments. This part identifies the requirements for public participation plans, when public meetings are required, requirements for those public meetings, and how to provide notice of those public meetings. It also identifies requirements for public comment periods, requirements to accept comments and provide a response to those comments, requirements for when the owners and operators must provide materials relevant to the public participation process and when the Agency must post those documents. This part additionally identifies requirements for record keeping and the ability to conduct additional outreach and engagement not specified in this part.
- Minn. R. 7007.6090 (Cumulative impacts analysis) establishes the required content of a cumulative impacts analysis that owners and operators must provide to the Agency. This part identifies when it applies to owners and operators, when owners and operators must submit the cumulative impacts analysis, and what information and analyses owners and operators must include in the cumulative impacts analysis.
- Minn. R. 7007.6100 (Substantial adverse impacts) establishes the requirements for the MPCA's determination of whether issuing a permit would have a substantial adverse impact on the environment or health of the residents of an EJ area, which will impact the Agency's decision on whether to issue or deny a permit and whether a CBA is required. This part identifies the information, conditions, and criteria the Agency will consider and use to determine if an environmental or health impact qualifies as a substantial adverse impact. This part also identifies the process for addressing when there is insufficient information to make this determination and when the Agency must post documents related to the determination of substantial adverse impacts.
- Minn. R. 7007.6110 (Community benefit agreements) establishes the content of a CBA and the procedures for entering into CBAs. This part identifies the outreach and engagement requirements needed as part of the procedures to enter into a CBA alongside the public participation requirements established in part 7007.6080. This part also identifies when owners and operators must submit a CBA, how the Agency will determine whether to enter into a CBA with the owners and operators of a stationary source, the process for addressing when there is

insufficient information to make this determination, when the Agency must post documents related to the determination of whether to enter into a CBA.

- Minn. R. 7007.6115 (Modifying community benefit agreements) establishes the requirements for an owner or operator to modify their CBA that was entered into pursuant to Minn. R. 7007.6110. This part identifies the procedures for modifying time schedules and other elements of a CBA.
- Minn. R. 7007.6120 (Permit decisions) establishes the requirements for the Agency's determination of whether to issue or deny a permit for a stationary that is subject to review under parts 7007.6000 to 7007.6120. This part identifies the information the Agency must review in determining whether to issue or deny a permit. This part also prohibits the construction and operation of the stationary source or modification until the Agency has determined, or completed, any of the following: whether a cumulative impacts analysis is needed based on the initial determination or a petition, whether issuing the permit would result in substantial adverse impacts, and/or the Agency has signed a CBA, if it is determined that a CBA is required.

Statutory Authority

The Agency's general statutory authority to adopt the rules is stated in Minn. Stat. § 116.07, subd. 4, which provides:

> **Subd. 4. Rules and standards.**
>
> *(a) Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the Pollution Control Agency may adopt, amend and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1967, chapter 882, for the prevention, abatement, or control of air pollution. Any such rule or standard may be of general application throughout the state, or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, rules or standards may relate to sources or emissions of air contamination or air pollution, to the quality or composition of such emissions, or to the quality of or composition of the ambient air or outdoor atmosphere or to any other matter relevant to the prevention, abatement, or control of air pollution.*

In addition, the Agency has statutory authority that directs the adoption of this specific set of rules that is stated in Minn. Stat. § 116.065, subd. 6, which provides:

> **Subd. 6. Rulemaking.**
>
> *(a) The commissioner must adopt rules under chapter 14 to implement and govern the cumulative impacts analysis and issuance or denial of permits for facilities that impact environmental justice areas as provided in this section. Notwithstanding section* 14.125*, the agency must publish the notice of intent to adopt rules within 36 months of May 25, 2023, or the authority for the rules expires.*
>
> *(b) During the rulemaking process, the Pollution Control Agency must engage in robust public engagement, including public meetings, and Tribal consultation.*
>
> *(c) Rules adopted under this section must:*
>
> *(1) establish benchmarks to assist the commissioner's determination regarding the need for a cumulative impacts analysis;*
>
> *(2) establish the required content of a cumulative impacts analysis and must provide sources of public information that an applicant can access regarding environmental stressors that are present in an environmental justice area;*

(3) define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact;

(4) establish the content of a community benefit agreement and procedures for entering into community benefit agreements, which must include:

(i) active outreach to residents of the impacted environmental justice area designed to achieve significant community participation;

(ii) considerations other than or in addition to economic considerations, but with priority given to considerations that directly impact the residents of the environmental justice area; and

(iii) at least one public meeting held within the impacted environmental justice area;

(5) establish a petition process and form to be submitted to the agency by environmental justice area residents to support the need for a cumulative impact analysis;

(6) establish a process by which a Tribal government can elect to apply this section to a permit application, as provided under subdivision 2; and

(7) establish methods for holding public meetings and handling public comments as required under subdivision 4.

(d) The agency must provide translation services and translated materials upon request during rulemaking meetings.

(e) The agency must provide public notice on the agency website at least 30 days before public meetings held on the rulemaking. The notice must include the date, time, and location of the meeting. The agency must use multiple communication methods to inform residents of environmental justice areas in the public meetings held for the rulemaking.

Additionally, the statutory authority to adopt the proposed rules includes an exception to the 18-month time limit on authority to adopt, amend, or repeal rules identified in Minn. Stat. § 14.125. The time limit to adopt the proposed rules is specified in Minn. Stat. § 116.065, subd. 6(a), which provides statutory authority to adopt the proposed rules within 36 months of May 25, 2023. The MPCA has published the notice of intent to adopt the proposed rules prior to May 25, 2026, which is within the 36-month amended time limit on statutory authority as provided in Minn. Stat. § 116.065, subd. 6(a).

Under these statutes, the Agency has the necessary statutory authority to adopt the proposed rules.

Background

Clean air, water, and land is critical for everyone across Minnesota. It affects our health and the environment around us. More and more, Minnesotans want to know about their local air quality, water quality, and land quality, how it impacts their health, and how it got that way. Many studies demonstrate that low-income neighborhoods and communities of color have higher potential exposures to outdoor air pollutants and have more sources of pollution. In addition, the social, economic, and health inequities these populations face can make them more vulnerable to the effects of pollution.

This section provides background on some of the key concepts related to this rulemaking, including studies that examine the disproportionate burden experienced by different groups of people and Minnesota's Cumulative Levels and Effects process.

Life and Breath Reports

Scientists from the MPCA and the Minnesota Department of Health (MDH) previously collaborated on research regarding air quality and health outcomes in the Twin Cities seven-county metropolitan area as well as Duluth, Rochester, and St. Cloud. The research is available in a two-part report titled Life and Breath that is the result of work done jointly by MPCA and MDH as part of the Urban Air Quality and Respiratory Health Initiative.[6]

To estimate health impacts related to air pollution, the agencies used mathematical modeling software that estimates what portion of disease is due to pollution. The software was developed by the EPA and is used for estimating the health impacts and economic value of changes in air quality. It uses published estimates of the relationship between air pollution and health from peer-reviewed scientific studies. Like all scientific estimates, the estimates used in this report carry some uncertainties and should not be taken as exact measures of impacts. However, they are useful for demonstrating the general size and scope of the problem and confirm that air pollution poses a serious health threat.

The Life and Breath studies by MPCA and the MDH found that in 2015 air pollution played a role in:

- 10% of all deaths in the Twin Cities seven-county metropolitan area and in nearly 500 hospitalizations and emergency room visits for heart and lung problems;
- 8% of all deaths in Duluth;
- 10% of all deaths in Rochester; and
- 8% of all deaths in St. Cloud.

The same studies found that rates of air-pollution related death and disease were higher in areas where more residents are Indigenous, people of color, low-income, uninsured, or living with a disability. Residents in these areas are more likely to be exposed to a heavier air pollution burden from high-traffic roads, residential wood smoke, and nearby industrial facilities in addition to impacts from long-standing social, economic, and health inequities. Furthermore, other studies have shown that people of color and low-income residents are more likely to be exposed to air pollution from vehicles and manufacturing even though they contribute less to those sources of air pollution.[7,8]

Air We Breathe Report

The MPCA is required to provide the Minnesota Legislature with a biennial status report on emissions of toxic air pollutants and mercury in Minnesota and MPCA's strategies to reduce them. This report is titled The Air We Breathe. The Air We Breathe report discuss the trends in air quality in Minnesota, which have generally improved over time, enough to meet federal standards, but there is still a long way to go.

As previously discussed for the Life and Breath report, the Air We Breathe report also highlights the fact that some groups of people are historically and statistically exposed to more pollution and/or multiple kinds of pollution. These groups may also be more vulnerable to the health impacts of exposure due to historic and systemic disenfranchisement. Enduring environmental injustices were created in Minnesota when freeways were built through Black neighborhoods and redlining and zoning decisions

---

[6] *Life and Breath studies: https://data.web.health.state.mn.us/life_and_breath.*

[7] *International Journal of Environmental Research and Public Health, "Traffic, Air Pollution, Minority and Socio-Economic Status: Addressing Inequities in Exposure and Risk;" Pratt, Vidali, Kvale, and Ellickson; 19 May 2015. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4454972/*

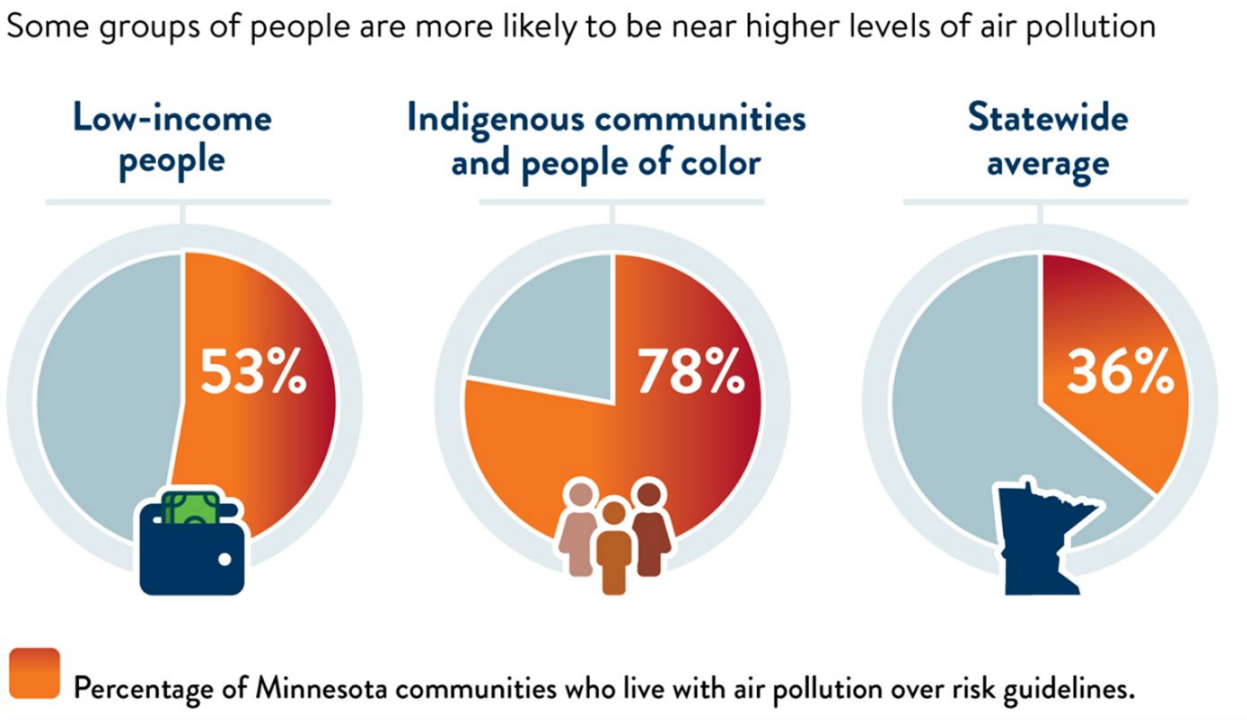
[8] *Proceedings of the National Academy of Sciences (PNAS), "Inequity in consumption of goods and services adds to racial–ethnic disparities in air pollution exposure;" Tessum et al; 11 March 2019. https://www.pnas.org/doi/10.1073/pnas.1818859116*

concentrated people of color together with industrial pollution sources. The MPCA's EJ initiatives aim to reduce the elevated pollution burdens Indigenous, people of color, and low-income residents often face.

People are exposed to a myriad of pollutants at varying concentrations every day and some pollutants have greater potential for health effects than others or can cause health effects at a lower exposure. Demographics such as race, ethnicity, and income are consistent indicators of how much pollution people are exposed to from various sources. Due to the relationships between pollution exposure rates and demographics, environmental justice is an increasing focus of the MPCA's air quality work and a priority for MPCA and the State of Minnesota to ensure all Minnesotans have clean air to breathe.

The most important change in our air quality work today is understanding where pollution is most concentrated and who is most impacted by it. This means prioritizing EJ communities, where people are disproportionately burdened by emissions that affect their daily lives. Structural inequities contribute to these communities having higher existing rates of heart and lung conditions. The impacts of past and present policies—such as racial covenants, redlining, and roadway placement—combined with the fact that individuals living in EJ areas face increased risks of housing insecurity, discrimination in health care, and other social and economic challenges, make these communities more susceptible to the effects of poor air quality. The MPCA's 2025 Air We Breathe report highlights these inequities and vulnerabilities by presenting the percentage of census block groups that are exposed to air pollution over health risk guidelines in the figure below.[9]

Figure 1. Percentage of Minnesota communities who live with air pollution over risk guidelines



Cumulative Levels and Effects Process

The 2008 Minnesota Legislature passed a law that affects how the MPCA evaluates air permit

[9] *The air we breathe: The State of Minnesota's air quality - 2025. MPCA. https://www.pca.state.mn.us/air-water-land-climate/the-air-we-breathe-report.*

applications for a very specific part of South Minneapolis. This law, found in Minn. Stat. § 116.07, subd. 4a, requires the MPCA to analyze and consider "cumulative levels and effects of past and current pollution" before a permit may be issued for a facility located in the area described by the statute.

Minn. Stat. § 116.07, subd. 4a states that a permit may not be issued:

> *"…without analyzing and considering the cumulative levels and effects of past and current environmental pollution from all sources on the environment and residents of the geographic area within which the facility's emissions are likely to be deposited, provided that the facility is located in a community in a city of the first class in Hennepin County that meets all of the following conditions:*
>
> > *(1) is within a half mile of a site designated by the federal government as an EPA superfund site due to residential arsenic contamination;*
> >
> > *(2) a majority of the population are low-income persons of color and American Indians;*
> >
> > *(3) a disproportionate percent of the children have childhood lead poisoning, asthma, or other environmentally related health problems;*
> >
> > *(4) is located in a city that has experienced numerous air quality alert days of dangerous air quality for sensitive populations between February 2007 and February 2008; and*
> >
> > *(5) is located near the junctions of several heavily trafficked state and county highways and two one-way streets which carry both truck and auto traffic..."*

The MPCA developed guidance, consistent with Minn. Stat. § 1116.07, subd. 4a, for considering CL&E in the applicable areas, as determined by statute. This includes steps for conducting a CL&E analysis, potential sources of information for the analysis, public participation, and notifications, announcements and updates about air permit applications, community information sessions during permit application review, and public information meetings.

While not exactly a cumulative impacts analysis as contemplated by Minn. Stat. § 116.065, the CL&E process provides an example of how an analysis could examine the health and environmental impacts of issuing a permit. The CL&E process, which includes technical analysis and outreach, provides an example of how the MPCA has conducted analyses similar to the cumulative impacts analysis process the MPCA is creating in this rule. The technical analysis includes air dispersion modeling to determine the study area and identify the pollutants and health endpoints (e.g., respiratory system, cardiovascular system, cancer, eyes, kidneys) to analyze. The study area is based on the modeling results and helps determine when a CL&E analysis is needed. The owners and operators have to submit the modeling results, the pollutants that require further study, the human health endpoints to evaluate, and other environmental health data for MPCA to review. Once approved, the owners and operators provide additional information including summaries of modeling, discussion of pollutants and impacts related to each pollutant, socioeconomic data, information related to other facilities that have the potential to contribute to the same impacts, and discussion of how the current or proposed activities regarding community engagement, mitigation of potential impacts, beneficial environmental efforts, amongst other information.

The CL&E process is also meant to be transparent with a goal of doing significant outreach and engagement to meet the statutory requirement to consider the residents of the geographic area. These outreach and engagement activities include a variety of actions such as GovDelivery or other email notifications, project webpages, various informal meetings and discussions, creating fact sheets, providing translated materials as needed, and formal public meetings. The cumulative impacts analysis process in this rule and the CL&E process are similar in that both identify the importance of significant outreach and engagement. The cumulative impacts analysis process contemplated by Minn. Stat. § 116.065 includes specific requirements for public notices, public meetings, and public comments.

Minn. Stat. § 116.065 also identifies that this rule should establish methods for holding public meetings, handling public comments, and procedures including active outreach to residents of an impacted EJ area designed to achieve significant community participation.

Building on the CL&E work from Minn. Stat. § 116.07, subd. 4a, this rule considers the portions that work well and carries those forward. Broadly, the CL&E process works and owners and operators who need to go through this process are able to do so, it fits into the existing air permitting regulatory framework and it is manageable within the permitting process, while also providing transparency to the public.

Additionally, there are also opportunities to understand where portions of this process could be improved and incorporated into the process for conducting a cumulative impacts analysis established in this rule. Topics like ensuring information is provided in a complete package to facilitate an easier review by having all relevant materials available together, additional outreach and engagement such as every door direct mailers, and requiring the owners and operators to participate in continued engagement with communities before and after going through the analysis process.

Public Participation and Stakeholder Involvement

The MPCA conducted extensive outreach and public participation activities while developing this rule—in part to comply with the requirements of Minnesota's rule making process and specific direction in Minn. Stat. § 116.065, subd. 6(b), but also to notify, engage, and inform stakeholders about this rulemaking, and solicit the public's input on the MPCA's proposed rule concepts for developing and amending the rules. The MPCA also worked to engage lower-income Minnesotans, people of color, and tribal communities by accessible, community-oriented methods. This section describes the MPCA's public outreach efforts and the steps it took to develop and solicit input on the proposed rule.

During the rule development, the MPCA heard from thousands of Minnesotans. To increase accessibility and opportunity for feedback, the Agency created a webpage that displayed relevant information on this rulemaking process and provided the opportunity to make comments outside of the formal public comment periods required by the APA process. The Agency held multiple public meetings around the state, tabled multiple times at various locations, hosted one-on-one conversations, interviewed residents of EJ areas, facilitated focus groups, spoke at MPCA-organized discussions, presented at community events and heard from Minnesota residents at public events such as the Minnesota State Fair. The MPCA also hosted and recorded webinars, collected written RFC comments on the Court of Administrative Hearings' (CAH's) eComments site, and distributed surveys for each conceptual area of this rule that the MPCA shared during the rule development. The MPCA also convened five technical stakeholder meetings that were recorded and open to the public, coordinated a Community Benefit Agreement Panel, and discussed the Cumulative Impacts rule with the MPCA's Environmental Justice Advisory Group (EJAG) seven times.

These meetings and opportunities to discuss the Cumulative Impacts rule with community members were made more accessible by offering translated materials and translation services at some of the events and meeting opportunities. The MPCA also hosted the meetings and conducted outreach for the at a variety of locations and times. When possible, the MPCA also posted recordings of the meetings on its YouTube channel so people can access the materials on their own time.

The MPCA also met with interested parties, as listed below, to discuss the proposed rule concepts and solicit input on the anticipated effects. In its communications, the MPCA offered to meet with any interested party to discuss their questions, concerns, and comments in a format that best met their needs. In addition to these meetings, the MPCA participated in numerous phone and email conversations to keep stakeholders informed of the rulemaking and answer related questions.

- March 7, 2024, meeting with the Environmental Justice Coordinating Council to speak at their community event to provide an overview of the rulemaking in general.
- March 21, 2024, meeting with the Board of the Society of Mining, Metallurgy, and Exploration–Southern Minnesota to provide an overview of the rulemaking and the proposed concepts for amending the rules.
- April 5, 2024, meeting with Constellation to provide an overview of the rulemaking and cumulative impacts in general.
- May 6, 2024, presentation at the National Association of Environmental Professionals' annual convention in Minneapolis to provide an overview of the cumulative impacts law and associated rulemaking.
- June 7, 2024, meeting with Clean Air Minnesota to speak at their core team meeting regarding the work sessions that were upcoming at the time, including the format and topics to be covered.
- September 16, 2024, meeting with multiple ferrous and non-ferrous mining companies to provide an overview of the cumulative impacts working sessions and overall status of the rulemaking.
- November 7, 2024, presentation at the Air and Waste Management Association's Conference on the Environment to provide an overview of the Cumulative Impacts rulemaking alongside other air program updates.
- December 4, 2024, presentation at the Aggregate and Ready Mix Association of Minnesota's annual convention for producers of rock, stone, sand, and concrete to present on the Cumulative Impacts rulemaking (legislation driving the rules, input received, current status, how the rules potentially effect production of construction materials).
- December 6, 2024, meeting with Clean Air Minnesota to speak at their core team meeting regarding the overall rulemaking process and feedback the MPCA had received through working sessions about CBAs.
- February 10, 2025, meeting with the Metropolitan Council regarding EJ efforts, environmental stressors, and a discussion of the Cumulative Impacts rulemaking.
- March 7, 2025, meeting with staff from the Cities of Burnsville and Eagan to discuss the Cumulative Impacts rulemaking in general and specifically CBAs.
- March 13, 2025, meeting with a Representative from the Minnesota Legislature to discuss the MPCA's previous and future planned outreach and engagement efforts, concepts regarding CBAs, and the creation of a community input panel during the rulemaking for CBAs.
- August 1, 2025, meeting with Clean Air Minnesota to speak at their core team meeting regarding the regarding the draft rule concepts.
- August 11, 2025, meeting with CURE Minnesota regarding CBAs and the intersection of these rules with other regulatory programs.
- August 20, 2025, meeting with Minnesota Center for Environmental Advocacy regarding benchmarks and substantial adverse impacts.
- September 23, 2025, meeting with Sierra Club regarding the comments they submitted during previous rounds of informal comment periods.
- October 10, 2025, meeting with the American Petroleum Institute regarding the Cumulative Impacts rulemaking in general.
- October 28, 2025, meeting with Conservation Minnesota as part of their round robin style moderated panel discussion to talk about the Cumulative Impacts rulemaking in general

alongside other two other panelists (one who is part of community advocacy groups and one who is a Representative in the Minnesota Legislature).

- November 6, 2025, presentation at the Air and Waste Management Association's Conference on the Environment to provide an overview of the Cumulative Impacts rulemaking alongside other air program updates.
- January 9, 2026, meeting with the University of Minnesota–Twin Cities Department of Health, Safety, and Risk Management to discuss the general applicability of the rule and other topics of interest to the University.
- January 29, 2026, meeting with the Lower Minnesota River Watershed District to discuss the Cumulative Impacts rulemaking in general and how the Lower Minnesota River Watershed District might address cumulative impacts and sustainable economic development in their next watershed plan.
- March 3, 2026, meeting with the Hamline Midway Coalition Environmental Committee to present on the Cumulative Impacts rulemaking in general (intent of the rule, timing of implementation and comment periods, potential impacts for the neighborhood, and implications for existing facilities in the neighborhood).

These specific meetings, alongside phone and email conversations, provided interested parties with information about the rule, provided opportunities for interested parties to share their thoughts, opinions, and suggestions on specific rule topics for MPCA to consider. The MPCA also encouraged interested parties to provide specific input, including on more technical details or specific issues of interest, through more detailed suggestions for the MPCA consider for the rule. The MPCA also regularly offered to have additional conversations or meetings to discuss the rule, suggestions, questions, or comments with any interested parties if they expressed interest.

The public and stakeholders will have additional opportunities for input during the Notice of Hearing on the proposed rule amendments comment period, rule hearings, and post-hearing comment period. See the Notice Plan section of this SONAR for details of the MPCA's notice plan.

Webpage

Consistent with the APA, the Agency published an RFC in the *State Register* on July 24, 2023, as well as a second RFC on April 21, 2025. The Agency created a webpage, at https://www.pca.state.mn.us/get-engaged/cumulative-impacts-rulemaking, that displayed relevant information on this rulemaking process and provided information on how to make comments. The webpage increased the accessibility to knowledge and opportunities for people to leave their feedback on the rule. The webpage is still active as of the date of this SONAR and will remain so until the end of the rulemaking project.

Social Media

The MPCA also let interested parties know about the Cumulative Impacts rulemaking through outreach conducted on a variety of social media platforms, including Facebook, Instagram, and Nextdoor. Impressions indicate the total number of times a piece of content is displayed to users. Views are the number of times the content has been looked at or engaged with by users.

- On August 27, 2024, posted events on Nextdoor and Facebook to amplify the cumulative impacts working session being held on Sept. 13.
- On September 24, 2024, MPCA posted an event on Nextdoor to amplify the cumulative impacts working session being held on Oct. 23.

- On October 17, 2024, MPCA posted a graphic and link for the cumulative impacts working session being held in Rochester on Oct. 23. The post went up on Nextdoor and received 43,211 impressions.
- On October 21, 2024, MPCA posted graphics and links for the cumulative impacts working session being held in Rochester on Oct. 23. The posts went up on Instagram (419 views) and Facebook (379 views).
- On October 31, 2024, MPCA posted events on Facebook and Nextdoor to amplify the cumulative impacts working session being held on Nov. 13, 2024.
- On February. 5, 2025, MPCA posted events on Facebook and Nextdoor to amplify the Cumulative Impacts rulemaking mid-point check-in meetings being held on Feb. 25 and Feb. 26.
- On April 24, 2025, MPCA created events on Facebook and Nextdoor to amplify the cumulative impacts working session being held on May 13, 2025.
- On April 24, 2025, MPCA created events on Facebook and Nextdoor to amplify the cumulative impacts working session being held on May 20, 2025.
- On June 3, 2025, MPCA created events on Facebook and Nextdoor to amplify the cumulative impacts working session being held on June 25, 2025.
- On November 5,2025, MPCA posted a graphic and link for the rulemaking open house held in Duluth. Posts went out on Facebook (1,184 views) and Nextdoor (46,043 impressions).
- On November 13, 2025, MPCA posted a graphic and link for the rulemaking open house in Rochester on Facebook (665 views) and Instagram (416 views).
- On November 20, 2025, MPCA posted a graphic and a link for the rulemaking open house in Rochester on Nextdoor, targeted to neighborhoods in the city. The post received 1,015 impressions.
- On December 4, 2025, the MPCA posted a graphic and link for the rulemaking open house at Midtown Global Market in Minneapolis on Facebook (463 views) and Instagram (379 views). This was also posted on Nextdoor, targeted to neighborhoods in Ramsey, Hennepin, Scott, and Dakota counties, where it received 26,738 impressions.

GovDelivery and Other Email Announcements

The MPCA uses a self-subscription service called GovDelivery to provide updates and public notices electronically (via email) to interested and affected parties on a wide range of topics, including administrative rulemakings. Any person may visit the GovDelivery subscription page at http://public.govdelivery.com/accounts/MNPCA/subscriber/new to subscribe and choose the notifications they want to receive. The MPCA uses GovDelivery to send new rule project alerts to anyone who has signed up to receive notice for all rulemakings, and bulletins about specific rulemaking projects to those who have signed up to receive only notifications about those specific topics. Notification by US Mail is also available, although no one is currently signed up for it.

- On June 30, 2023, the MPCA sent an introductory "Understanding Minnesota's rulemaking to advance environmental priorities" bulletin to 7,339 total subscribers of the New Rulemaking Announcements, Air Toxics Regulations, Air Toxics Emissions Reporting, Cumulative Impacts, Housekeeping Amendments to Air Quality Rules, Incorporating Federal Emission Requirements and Other Air Quality Standards, Land-Related Housekeeping Amendments, PFAS Ban, and Waste-Treated Seeds rulemaking lists.
- On July 10, 2023, the MPCA sent a “New rulemaking project added to notification list” bulletin notifying 3,756 subscribers of the New Rulemaking Announcements list that the Cumulative

Impacts rule project now had an individual project webpage and encouraging sign-up to its GovDelivery list.

- On July 18, 2023, the MPCA sent a new-schedule announcement to 257 subscribers of the Rulemaking: Cumulative Impacts list, providing advance notice of the upcoming July 24–October 6 RFC comment period with community informational open houses to be scheduled for that September.
- On July 24, 2023, the MPCA sent a notification of the first RFC publication in the *State Register*, including links to the *State Register* edition in which the RFC was published, the MPCA rule-specific webpage, and the eComments page for the Cumulative Impacts RFC, to 257 subscribers of the Rulemaking: Cumulative Impacts list.
- Also on July 24, 2023, the MPCA provided specific notice of the RFC publication by direct email to the 11 federally recognized tribes in Minnesota. The MPCA maintains a list of contact information for the federally recognized tribes and edits the list quarterly. Notification sent to the designated tribal contacts for rulemaking contained all of the information from the GovDelivery bulletin.
- On August 3, 2023, the MPCA sent a direct email to representatives of the following chambers of commerce and business groups to highlight opportunities for the business community to engage with the rulemaking process: Dakota County Regional Chamber of Commerce, Duluth Area Chamber of Commerce, International Union of Operating Engineers Local 49, Latino Chamber of Commerce of Minnesota, Laborers' International Union of North America (LIUNA) Minnesota & North Dakota, LIUNA Great Lakes Regional Organizing Committee, MetroNorth Chamber of Commerce, Minneapolis Regional Chamber of Commerce, Minnesota AgriGrowth Council, Minnesota Black Chamber of Commerce, Minnesota Building and Construction Trades Council, Minnesota Business Partnership, Minnesota Chamber of Commerce, Minnesota Hmong Chamber of Commerce, Minnesota Pipe Trades Association, North Central States Regional Council of Carpenters, Rochester Area Chamber of Commerce, and St. Paul Area Chamber of Commerce.
- On August 11, 2023, the MPCA sent a bulletin with details of upcoming informational Cumulative Impacts open houses in affected communities around the state (occurring September 12, 14, 19, 21 and 26) to 320 subscribers of the Rulemaking: Cumulative Impacts list. The message also included a link to submit a comment on the eComments page for the RFC.
- On September 8, 2023, the MPCA sent a direct email to holders of permits for facilities potentially affected by the proposed rule to share the Agency's newly developed maps showing EJ areas within the Twin Cities seven-county metropolitan area, Rochester, and Duluth, and encourage their engagement in the rulemaking process.
- Also on September 8, 2023, the MPCA sent an update about the Agency's release of a new video and facilities list to better understand cumulative impacts to 408 subscribers of the Rulemaking: Cumulative Impacts list. The message also included a link to submit a comment on the eComments page for the RFC.
- On September 18, 2023, the MPCA sent a reminder about the remaining upcoming informational open houses and a link to the recorded virtual session to 446 subscribers of the Rulemaking: Cumulative Impacts list. The message also included a link to submit a comment on the eComments page for the RFC.
- On October 2, 2023, the MPCA sent a reminder about the upcoming deadline for RFC comments and a save-the-date for a November 14 Zoom meeting to share the feedback received so far to 527 subscribers of the Rulemaking: Cumulative Impacts list.

- On November 7, 2023, the MPCA sent a reminder about the upcoming process-update Zoom meeting to 584 subscribers of the Rulemaking: Cumulative Impacts list.
- On November 21, 2023, the MPCA sent a Cumulative Impacts rule process/projected-2024-schedule update to 632 subscribers of the Rulemaking: Cumulative Impacts list.
- On December 21, 2023, the MPCA sent an announcement regarding several virtual co-learning community conversations on implementing the new Cumulative Impacts law, with the first Zoom session featuring panelists from cumulative impacts programs around the country on January 30, 2024, to 699 subscribers of the Rulemaking: Cumulative Impacts list.
- On January 11, 2024, the MPCA sent a reminder about the upcoming January 30 co-learning session to 766 subscribers of the Rulemaking: Cumulative Impacts list.
- On January 23, 2024, the MPCA sent a reminder about the upcoming January 30 co-learning session to 820 subscribers of the Rulemaking: Cumulative Impacts list.
- On February 5, 2024, the MPCA sent a link to the recorded January 30 co-learning session to 879 subscribers of the Rulemaking: Cumulative Impacts list.
- On February 22, 2024, the MPCA sent an invitation to a March 26 co-learning Zoom session on implementing the new cumulative impacts law, featuring panelists discussing different contents of a cumulative impacts analysis, potential required datasets, criteria/benchmarks to enact them for future permitting projects, and ways to incorporate community feedback, to 899 subscribers of the Rulemaking: Cumulative Impacts list.
- On March 13, 2024, the MPCA sent a reminder about the upcoming co-learning session to 947 subscribers of the Rulemaking: Cumulative Impacts list.
- On March 25, 2024, the MPCA sent a reminder about the upcoming co-learning session to 973 subscribers of the Rulemaking: Cumulative Impacts list.
- On March 28, 2024, the MPCA sent a link to the recorded March 26 co-learning session, as well as an invitation to the next co-learning session on April 30 regarding CBAs, to 987 subscribers of the Rulemaking: Cumulative Impacts list.
- On April 19, 2024, the MPCA sent a reminder about the upcoming co-learning session, as well as an invitation to a May 28 overview of the next steps in the rulemaking process, to 1,009 subscribers of the Rulemaking: Cumulative Impacts list.
- On April 29, 2024, the MPCA sent a reminder about the upcoming co-learning session to 1,023 subscribers of the Rulemaking: Cumulative Impacts list.
- On May 2, 2024, the MPCA sent a link to the recorded April 30 co-learning session, as well as a reminder about the May 28 Zoom overview of the next rulemaking steps, to 1,034 subscribers of the Rulemaking: Cumulative Impacts list.
- On May 21, 2024, the MPCA sent a reminder about the upcoming overview of the next rulemaking steps to 1,092 subscribers of the Rulemaking: Cumulative Impacts list.
- On May 28, 2024, the MPCA sent a reminder about the upcoming overview of the next rulemaking steps to 1,103 subscribers of the Rulemaking: Cumulative Impacts list.
- On May 31, 2024, the MPCA sent a link to the recorded May 28 next-steps overview, as well as an invitation to an in-person Twin Cities seven-county metropolitan area work session July 10, to 1,107 subscribers of the Rulemaking: Cumulative Impacts list.
- On June 10, 2024, the MPCA sent full meeting details for the July 10 in-person St. Paul work session to 1,111 subscribers of the Rulemaking: Cumulative Impacts list.
- On June 24, 2024, the MPCA sent a reminder and agenda for the in-person St. Paul work session to 1,137 subscribers of the Rulemaking: Cumulative Impacts list.

- On July 8, 2024, the MPCA sent a reminder about the in-person St. Paul work session to 1,136 subscribers of the Rulemaking: Cumulative Impacts list.
- On July 10, 2024, the MPCA sent a reminder about the in-person St. Paul work session, as well as a link to the Agency's newly revised and updated EJ-area maps, to 1,143 subscribers of the Rulemaking: Cumulative Impacts list.
- On July 12, 2024, the MPCA sent a link to review the July 10 work-session materials and provide additional feedback, as well as an invitation to the next in-person work session August 14 in Duluth, to 1,152 subscribers of the Rulemaking: Cumulative Impacts list.
- On July 30, 2024, the MPCA sent full meeting details for the in-person Duluth work session to 1,203 subscribers of the Rulemaking: Cumulative Impacts list.
- On August 12, 2024, the MPCA sent a reminder and agenda for the in-person Duluth work session to 1,214 subscribers of the Rulemaking: Cumulative Impacts list.
- On August 14, 2024, the MPCA sent a reminder about the in-person Duluth work session to 1,215 subscribers of the Rulemaking: Cumulative Impacts list.
- On August 20, 2024, the MPCA sent a link to review the August 14 work-session materials and provide additional feedback, as well as invitations to the next in-person work session on September 19 in Minneapolis and to visit the Cumulative Impacts table at the Minnesota State Fair Eco Experience on September 21, to 1,232 subscribers of the Rulemaking: Cumulative Impacts list.
- On September 3, 2024, the MPCA sent a reminder about the in-person Minneapolis work session to 1,241 subscribers of the Rulemaking: Cumulative Impacts list.
- On September 16, 2024, the MPCA sent a reminder and agenda for the in-person Minneapolis work session to 1,286 subscribers of the Rulemaking: Cumulative Impacts list.
- On September 19, 2024, the MPCA sent a reminder about the in-person Minneapolis work session to 1,293 subscribers of the Rulemaking: Cumulative Impacts list.
- On September 20, 2024, the MPCA sent a link to review the September 19 work-session materials and provide additional feedback, as well as an invitation to the next in-person work session October 23 in Rochester, to 1,307 subscribers of the Rulemaking: Cumulative Impacts list.
- On October 10, 2024, the MPCA sent a reminder about the in-person Rochester work session, as well as an invitation to the final in-person work session November 13 in the Twin Cities seven-county metropolitan area, to 1,504 subscribers of the Rulemaking: Cumulative Impacts list.
- On October 11, 2024, the MPCA sent a notification of updates to the EJ maps and potentially impacted facilities list to 1,512 subscribers of the Rulemaking: Cumulative Impacts list.
- On October 21, 2024, the MPCA sent a reminder and agenda for the in-person Rochester work session to 1,560 subscribers of the Rulemaking: Cumulative Impacts list.
- On October 23, 2024, the MPCA sent a reminder about the in-person Rochester work session to 1,567 subscribers of the Rulemaking: Cumulative Impacts list.
- On October 25, 2024, the MPCA sent a link to review the October 23 work-session materials and provide additional feedback, as well as full meeting details for the final in-person work session in St. Paul, to 1,584 subscribers of the Rulemaking: Cumulative Impacts list.
- On November 6, 2024, the MPCA sent a reminder about the in-person St. Paul work session to 1,616 subscribers of the Rulemaking: Cumulative Impacts list.
- On November 11, 2024, the MPCA sent a reminder and agenda for the in-person St. Paul work session to 1,625 subscribers of the Rulemaking: Cumulative Impacts list.

- On November 13, 2024, the MPCA sent a reminder about the in-person St. Paul work session to 1,641 subscribers of the Rulemaking: Cumulative Impacts list.
- On November 15, 2024, the MPCA sent a link to review the November 13 work-session materials and provide additional feedback to 1,653 subscribers of the Rulemaking: Cumulative Impacts list.
- On December 9, 2024, the MPCA sent a reminder about the closing deadline for work-session feedback to 1,757 subscribers of the Rulemaking: Cumulative Impacts list.
- On January 24, 2025, the MPCA sent an invitation to two February rulemaking midpoint check-in webinars (with the first on February 25) to 1,830 subscribers of the Rulemaking: Cumulative Impacts list.
- On February 12, 2025, the MPCA sent a reminder about the upcoming rulemaking midpoint check-in webinars to 1,848 subscribers of the Rulemaking: Cumulative Impacts list.
- On February 24, 2025, the MPCA sent a reminder about the rulemaking midpoint check-in webinars to 1,873 subscribers of the Rulemaking: Cumulative Impacts list.
- On February 27, 2025, the MPCA sent a link to the recorded rulemaking midpoint check-in webinar, as well as a request for input on data sets for inclusion in a data tool under development, to 1,875 subscribers of the Rulemaking: Cumulative Impacts list.
- On March 6, 2025, the MPCA sent a reminder about the still-active request for input on data sets to 1,890 subscribers of the Rulemaking: Cumulative Impacts list.
- On March 28, 2025, the MPCA sent a request for applications to join an input panel for CBAs to 1,916 subscribers of the Rulemaking: Cumulative Impacts list.
- On April 11, 2025, the MPCA sent an invitation to two May working sessions (with the first on May 13) to discuss potential contents of a cumulative impacts analysis and criteria to identify what qualifies as a substantial adverse impact, as well as a reminder about applying to join the input panel on CBAs, to 1,975 subscribers of the Rulemaking: Cumulative Impacts list.
- On April 21, 2025, the MPCA sent a notification of the second RFC publication in the *State Register*, including links to the *State Register* edition in which the RFC was published, the MPCA rule-specific webpage, and the eComments page for the Cumulative Impacts RFC, to 2,001 subscribers of the Rulemaking: Cumulative Impacts list.
- Also on April 21, 2025, the MPCA provided specific notice of the second RFC publication by email to the 11 federally recognized tribes in Minnesota. Notification sent to the designated tribal contacts for rulemaking contained all of the information from the GovDelivery bulletin.
- On April 25, 2025, the MPCA sent a reminder about the upcoming deadline for applications to join the input panel on CBAs, as well as full meeting details for the May 13 and 20 working sessions on cumulative impacts analysis contents and substantial adverse impacts, to 2,021 subscribers of the Rulemaking: Cumulative Impacts list.
- On May 6, 2025, the MPCA sent reminders about the upcoming working sessions and the open comment period for the second RFC to 2,047 subscribers of the Rulemaking: Cumulative Impacts list. The message also included a link to submit a comment on the eComments page for the RFC.
- On May 12, 2025, the MPCA sent a reminder and agenda for the upcoming working sessions to 2,077 subscribers of the Rulemaking: Cumulative Impacts list.
- On May 15, 2025, the MPCA sent a link to review the May 13 work-session materials and provide additional feedback, as well as reminders about the virtual work session May 20 and the still-open second RFC, to 2,083 subscribers of the Rulemaking: Cumulative Impacts list. The message also included a link to submit a comment on the eComments page for the RFC.

- On May 19, 2025, the MPCA sent reminders about the upcoming virtual work session and the still-open second RFC to 2,086 subscribers of the Rulemaking: Cumulative Impacts list. The message also included a link to submit a comment on the eComments page for the RFC.
- On May 22, 2025, the MPCA sent a link to review materials from both May working sessions and provide additional feedback, as well as an invitation to a June 25 virtual meeting to share draft rule concepts, to 2,127 subscribers of the Rulemaking: Cumulative Impacts list.
- On June 5, 2025, the MPCA sent details for air-permitting and air-quality rulemaking public meetings on June 25 and 26 to 15,939 total subscribers of the Environmental Justice Issues, Air Toxics Regulations, and Cumulative Impacts rulemaking lists.
- On June 18, 2025, the MPCA sent a reminder about the upcoming air-rulemaking public meetings to 2,418 total subscribers of the Air Toxics Regulations and Cumulative Impacts rulemaking lists.
- On June 23, 2025, the MPCA sent a reminder about the upcoming virtual meeting on draft rule concepts to 2,188 subscribers of the Rulemaking: Cumulative Impacts list.
- On July 1, 2025, the MPCA sent a link to review materials from the June 25 virtual meeting and provide additional feedback on draft rule concepts to 2,214 subscribers of the Rulemaking: Cumulative Impacts list.
- On July 16, 2025, the MPCA sent a reminder about the Agency's request for feedback on the draft rule concepts to 2,255 subscribers of the Rulemaking: Cumulative Impacts list.
- On July 28, 2025, the MPCA sent a last-call reminder about providing feedback on the draft rule concepts, as well as a request for volunteers to help conduct external testing of the Agency's new cumulative impacts analysis data tool, to 2,261 subscribers of the Rulemaking: Cumulative Impacts list.
- On September 25, 2025, the MPCA sent a request for survey input on economic considerations for the draft rule concepts to 2,380 subscribers of the Rulemaking: Cumulative Impacts list.
- On October 6, 2025, the MPCA sent a reminder about the survey on economic considerations for the draft rule concepts to 2,337 subscribers of the Rulemaking: Cumulative Impacts list.
- On October 13, 2025, the MPCA sent an announcement of upcoming open houses in Duluth, Rochester, and the Twin Cities (with the first on November 12) to discuss engagement practices thus far in the process and answer questions about upcoming rulemaking milestones to 2,351 subscribers of the Rulemaking: Cumulative Impacts list.
- On October 21, 2025, the MPCA sent full meeting details for the November open houses in Duluth and Rochester to 2,345 subscribers of the Rulemaking: Cumulative Impacts list.
- On November 3, 2025, the MPCA sent a reminder about the November open houses in Duluth and Rochester, as well as a December 4 date announcement for the Twin Cities seven-county metropolitan area open house, to 2,342 subscribers of the Rulemaking: Cumulative Impacts list.
- On November 12, 2025, the MPCA sent a reminder and full meeting details for the open houses in Duluth, Rochester and Minneapolis to 2,339 subscribers of the Rulemaking: Cumulative Impacts list.
- On November 20, 2025, the MPCA sent a reminder about the open houses in Rochester and Minneapolis to 2,343 subscribers of the Rulemaking: Cumulative Impacts list.
- On December 4, 2025, the MPCA sent a reminder about the Minneapolis rulemaking engagement open house to 2,338 subscribers of the Rulemaking: Cumulative Impacts list.
- On December 16, 2025, the MPCA announced the release of the first draft of the cumulative impacts mapping and analysis platform (CI-MAP), along with a SmartComments link to provide feedback, to 2,340 subscribers of the Rulemaking: Cumulative Impacts list.

- On December 31, 2025, the MPCA sent an invitation to a January 31 cumulative impacts storytelling event at Sabathani Community Center in Minneapolis to 2326 subscribers of the Rulemaking: Cumulative Impacts list.
- On January 5, 2026, the MPCA sent a reminder about the first draft of the CI-MAP tool and the feedback link to 2,324 subscribers of the Rulemaking: Cumulative Impacts list.
- On January 26, 2026, the MPCA announced the indefinite postponement of the storytelling event in Minneapolis to 2,320 subscribers of the Rulemaking: Cumulative Impacts list.
- On February 20, 2026, the MPCA sent an update on the expected Notice of Intent and hearing dates for the Cumulative Impacts rulemaking, as well as an announcement of public-comment clinics to be scheduled and an approximate release date for CI-MAP version 2, to 2,318 subscribers of the Rulemaking: Cumulative Impacts list.
- On February 27, 2026, the MPCA sent full meeting details for four public-comment clinics (with the first on March 31) to 2,315 subscribers of the Rulemaking: Cumulative Impacts list.
- On March 24, 2026, the MPCA sent updated location details and reminders for upcoming public-comment clinics to 2,326 subscribers of the Rulemaking: Cumulative Impacts list.
- On March 31, 2026, the MPCA sent reminders for upcoming public-comment clinics to 2,327 subscribers of the Rulemaking: Cumulative Impacts list.
- On April 6, 2026, the MPCA sent reminders for upcoming public-comment clinics to 2,316 subscribers of the Rulemaking: Cumulative Impacts list.
- On April 7, 2026, the MPCA sent reminders for upcoming public-comment clinics to 2,316 subscribers of the Rulemaking: Cumulative Impacts list.
- On April 9, 2026, the MPCA sent reminders for upcoming public-comment clinics to 2,318 subscribers of the Rulemaking: Cumulative Impacts list.
- On April 14, 2026, the MPCA sent reminders for upcoming public-comment clinics to 2,321 subscribers of the Rulemaking: Cumulative Impacts list.
- On April 16, 2026, the MPCA sent a reminder for the upcoming virtual public-comment clinic to 2,320 subscribers of the Rulemaking: Cumulative Impacts list.
- On April 21, 2026, the MPCA sent a reminder for the virtual public-comment clinic to 2,327 subscribers of the Rulemaking: Cumulative Impacts list.

The MPCA will continue to send GovDelivery bulletins regarding public notices and other relevant information for this rulemaking as discussed in the Notice Plan section.

Newsletters

The MPCA also uses GovDelivery to send interested parties email newsletters about more general topics of interest (for example, the Air Mail newsletter provides updates on air quality issues) that sometimes include updates on rulemaking in those areas. Any person may visit the GovDelivery subscription page and sign up for MPCA newsletters that they would like to receive. The MPCA published articles about this rulemaking in the following newsletters:

- On August 11, 2023, the Air Mail bulletin to 3,539 subscribers introduced the MPCA's four new air-related rulemaking projects, including Cumulative Impacts, with links to view the rulemaking webpages and submit eComments.
- On November 7, 2023, the Air Mail bulletin to 3,727 subscribers included a progress update on the Cumulative Impacts rulemaking, including an invitation to the November Zoom meeting.

- On February 13, 2024, the Air Mail bulletin to 3,818 subscribers requested help spreading the word about the Cumulative Impacts rule and highlighted the co-learning community conversations.
- On May 16, 2024, the Air Mail bulletin to 3,851 subscribers included an invitation to the May Cumulative Impacts webinar as well as a link to the channel hosting recordings of the co-learning conversations.
- On November 22, 2024, the Air Mail bulletin to 4,206 subscribers included a link to the updated EJ mapping tool as well as a contact for community groups in EJ areas seeking to engage with the MPCA on the Cumulative Impacts rulemaking.
- On February 12, 2025, the Air Mail bulletin to 4,285 subscribers included an invitation to the February Cumulative Impacts midpoint check-in webinars.
- On May 15, 2025, the Air Mail bulletin to 4,261 subscribers included an invitation to the May working session on cumulative impacts analysis and substantial adverse impacts.
- On August 15, 2025, the Air Mail bulletin to 4,349 subscribers included a link to the recorded virtual meeting on draft concepts as well as an invitation to connect with MPCA staff developing the Cumulative Impacts rule at the State Fair Eco Experience.
- On November 17, 2025, the Air Mail bulletin to 4,106 subscribers included an invitation and meeting details on upcoming engagement open houses for the Cumulative Impacts rulemaking.
- On March 11, 2026, the Air Mail bulletin to 3,978 subscribers included an update on the expected Notice of Intent and hearing dates for the Cumulative Impacts rulemaking, as well as information about the release of the draft CI-MAP tool.

The MPCA will continue to publish updates for this rulemaking in the Air Mail newsletter, as discussed in the Notice Plan section.

Discussions and Public Meetings

The MPCA tabled at community events, organized discussions, presented at community events, and hosted informational sessions and webinars to hear from Minnesota residents at public events. The MPCA also hosted interviews and focus groups to gain insight into how stakeholders will be affected. The in-person events, conversations, and informational sessions were hosted in Rochester, Duluth, and the 7-County metropolitan area. After the MPCA hosted webinars, the recordings were posted on YouTube and written comments were collected by MPCA through SmartComments.

The MPCA offered gift card incentives in accordance with Department of Administration policies to reduce barriers to participation for interviews, focus groups, discussions organized by the MPCA, and working sessions.[10] This was done to partially fulfill the requirement in Minn. Stat. § 116.065.6(b) and to encourage participation by community members.

Tabling Events

Tabling refers to the act of setting up a table with resources related to a specific topic in public spaces, events, or other venues to encourage discussion between MPCA staff and the public. A staff member is present at the table to learn from and share information with people who walk by or up to the table.

The MPCA set up information tables at community events, public spaces, and apartment complexes to speak to residents of EJ areas about their daily experiences with air pollution and what they want to see

[10] *Minnesota Department of Administration purchasing policy 27b, accessed at https://mn.gov/admin/assets/Purchasing%20Policy%2027b_tcm36-578425.pdf on February 17, 2026.*

included or removed from air emission regulations. The MPCA also asked residents about their familiarity with the Cumulative Impacts rule. People contacted at the tabling events also had the opportunity to read materials related to the rule and sign up for our GovDelivery list. The MPCA used tabling events to establish relationships and discuss general components of the rule (Table 1).

Table 1. MPCA tabling events

Date	Event or location name	Address
January 16, 2025	39th Annual MLK Statewide Conference at Metro State University	700 7th St E, St. Paul, MN 55106
February 1, 2025	Fruit of the Vine Food Shelf	1533 W Arrowhead Rd, Duluth, MN 55811
February 3, 2025	UMD Climate Futures Conference	1120 Kirby Dr, Duluth, MN 55812
February 4, 2025	Fruit of the Vine Food Shelf	1533 W Arrowhead Rd, Duluth, MN 55811
February 5, 2025	St. Paul Public Library–Rondo	461 N. Dale St. Saint Paul, MN 55103
February 8, 2025	City of Minneapolis Community Connections Conference	1301 2nd Ave S, Minneapolis, MN 55403
February 8, 2025	Fruit of the Vine Food Shelf	1533 W Arrowhead Rd, Duluth, MN 55811
February 12, 2025	Rochester College and Technical College Cafeteria	851 30th Ave SE, Rochester, MN 55904
February 12, 2025	Community Action Duluth	2424 W 5th St Ste 102, Duluth, MN 55806
February 18, 2025	Duluth Public Library–Main	520 W Superior St, Duluth, MN 55802-1514
February 18, 2025	Duluth Public Library–Main	520 W Superior St, Duluth, MN 55802-1514
February 19, 2025	Hennepin County Hosmer Library	347 E 36th St, Minneapolis, MN 55408
February 19, 2025	Duluth Public Library–Mt. Royal	105 Mount Royal Shopping Cir, Duluth, MN 55803
February 20, 2025	Hennepin County East Lake Library	2727 East Lake Street, Minneapolis, MN 55406
February 22, 2025	Urban Agriculture Conference	235 Marshall Ave, Saint Paul, MN 55102
February 25, 2025	Duluth Public Library–Mt. Royal	105 Mount Royal Shopping Cir, Duluth, MN 55803
February 27, 2025	Duluth Public Library–Main	520 W Superior St, Duluth, MN 55802-1514
March 4, 2025	Duluth Public Library–Main	520 W Superior St, Duluth, MN 55802-1514
March 6, 2025	St. Paul Public Library–Rice Street	1200 Payne Ave, Saint Paul, MN 55130
March 6, 2025	Duluth Public Library–Main	520 W Superior St, Duluth, MN 55802-1514
March 11, 2025	Fruit of the Vine Food Shelf	1533 W Arrowhead Rd, Duluth, MN 55811
March 12, 2025	Hennepin County Hosmer Library	347 E 36th St, Minneapolis, MN 55408
March 12, 2025	Duluth CAP–Indoor Farmer's Market	2424 W 5th St, Duluth, MN 55806-1500
March 14, 2025	Midtown Global Market Community Resource Event	920 East Lake Street, Minneapolis, MN 55407
March 17, 2025	Whole Foods Co-Op Hillside	610 E 4th St, Duluth, MN 55805
March 18, 2025	Duluth Downtown YMCA	302 W 1st St, Duluth, MN 55802

Date	Event or location name	Address
March 19, 2025	Whole Foods Co-Op Denfeld	4426 Grand Ave, Duluth, MN 55807
March 20, 2025	Duluth Downtown YMCA	302 W 1st St, Duluth, MN 55802
March 24, 2025	Duluth Downtown YMCA	302 W 1st St, Duluth, MN 55802
March 26, 2025	125 LIVE Community Center	125 Elton Hills Dr NW, Rochester, MN 55901
March 29, 2025	Eastside Spring Holiday Event	1200 Payne Ave, Saint Paul, MN 55130
April 4, 2025	UMN EJ Summit	301 19th Ave S, Minneapolis, MN 55455
April 4, 2025	Duluth Downtown YMCA	302 W 1st St, Duluth, MN 55802
April 6, 2025	Brewing Up Awareness	1016 7th Street NW, Rochester, MN 55901
April 11, 2025	Midtown Global Market Community Resource Event	920 East Lake Street, Minneapolis, MN 55407
April 15, 2025	UMD Sustainability Conference	1215 Ordean Ct, Duluth, MN 55812
April 16, 2025	Rochester Volunteer Fair	125 Elton Hills Dr NW, Rochester, MN 55901
April 18, 2025	St. Paul Public Library–Riverview	1 E George St., Saint Paul, MN 55107
April 22, 2025	Hennepin County Hosmer Library	347 E 36th St, Minneapolis, MN 55408
April 22, 2025	Lake Superior College Earth Day Fair	2101 Trinity Rd, Duluth, MN 55811
April 24, 2025	Harbor City International Climate Conference	332 W Michigan St Ste 300, Duluth, MN 55802
April 26, 2025	St. Paul Public Library–Dayton's Bluff	645 7th St E, Saint Paul, MN 55106
April 26, 2025	Duluth EcoFest	2920 W Michigan St, Duluth, MN 55806
April 26, 2025	Downtown Duluth YMCA	302 W 1st St, Duluth, MN 55802
May 2, 2025	Downtown Duluth YMCA	302 W 1st St, Duluth, MN 55802
May 3, 2025	Rochester Earthfest	2900 19th St NW, Rochester, MN 55901
May 6, 2025	Downtown Duluth Public Library	520 W Superior St, Duluth, MN 55802-1514
May 7, 2025	Downtown Duluth Public Library	520 W Superior St, Duluth, MN 55802-1514
May 15, 2025	Downtown Duluth Public Library	520 W Superior St, Duluth, MN 55802-1514
May 15, 2025	Lincoln Park Farmer's Market	2424 W 5th St Ste 102, Duluth, MN 55806
May 16, 2025	Downtown Duluth Public Library	520 W Superior St, Duluth, MN 55802-1514
May 17, 2025	Rochester Pride	244 E Soldiers Field Dr, Rochester, MN 55902
June 4, 2025	Hennepin County Hosmer Library	347 E 36th St, Minneapolis, MN 55408
June 12, 2025	Lincoln Park Farmer's Market	2424 W 5th St Ste 102, Duluth, MN 55806
June 14, 2025	Family Rise Together "Juneteenth" Family Fun Night	3002 W 3rd St, Duluth, MN 55806
June 25, 2025	Hennepin County Sumner Library	611 Van White Memorial Blvd, Minneapolis, MN 55411
June 27, 2025	Red Lake Nation Embassy Open House	2111 Cedar Ave S. Minneapolis, MN 55404
July 1, 2025	Central Hillside Farmer's Market	503 E 3rd St, Duluth, MN 55805-1905

Date	Event or location name	Address
July 2, 2025	St. Paul Public Library–Merriam Park	1831 Marshall Ave. St. Paul, MN 55104
July 8, 2025	Anoka County Mississippi Library	410 Mississippi St. NE. Fridley, MN 55432
July 8, 2025	Central Hillside Farmer's Market	503 E 3rd St, Duluth, MN 55805-1905
July 10, 2025	Dakota County Galaxie Library	14955 Galaxie Ave. St. Paul, MN 55124
July 16, 2025	Shakopee Community Center	1255 Fuller St. South, Shakopee, MN 55379
July 30, 2025	Brookdale Library	6125 Shingle Creek Pkwy, Brooklyn Center, MN 55430
August 5, 2025	R.H. Stafford Library	8595 Central Park Pl, Woodbury, MN 55125
August 5, 2025	Hillside Night Out	500 E 10th St, Duluth, Minnesota 55805
August 17, 2025	Open Streets CedarFest	1501 South 4th St. Minneapolis, MN 55454
August 21, 2025	Pillsbury United Communities Public Health Fair	420 15th Ave S, Minneapolis, MN 55454
August 23, 2025	Minnesota State Fair Eco Experience	1265 Snelling Ave N, Saint Paul, MN 55108
September 9, 2025	UMR–Community Engagement Fair	111 Broadway Ave S Suite 300, Rochester, MN 55904
September 26, 2025	Eagan Wescott Library	1340 Wescott Rd, Eagan, MN 55123
October 29, 2025	Hennepin County Hosmer Library	347 E 36th St, Minneapolis, MN 55408

Community Conversations

Members of the public who interacted with MPCA staff at tabling events or other outreach activities were contacted and invited to participate in further conversations throughout the engagement process. These conversations involved approximately 1-3 people per conversation and often lasted for 45-90 minutes. The conversations had an expansive topic focus where people could discuss their living conditions, learn about the rule, and share their opinion on the rule's development. The MPCA had more than 85 community conversations related to cumulative impacts in the 7-County Metropolitan area (Table 2).

Table 2. MPCA-hosted informal community conversations

Date	Location/Zip code	Organization, entity, or individual
December 12, 2024	55155	COPAL
January 5, 2025	55057	EJ Advocate
January 6, 2025	55102	Science Museum of Minnesota
January 12, 2025	55411	Project Sweetie Pie
January 13, 2025	55406	COPAL
January 13, 2025	Virtual (Teams)	City of Rochester
January 14, 2025	Virtual (Teams)	APEX Business Solutions
January 15, 2025	Virtual (Teams)	Lutheran Social Services
January 17, 2025	55411	North Minneapolis resident focused on public health and employment
January 17, 2025	55805	Zeitgeist Community Development
January 17, 2025	55806	Community Action Duluth
January 22, 2025	55802	City of Duluth, Office of Sustainability

Date	Location/Zip code	Organization, entity, or individual
January 24, 2025	55411	EJ advocate
January 28, 2025	55803	First United Methodist Church
January 28, 2025	Virtual (Teams)	City of Minneapolis Health Dept.
January 29, 2025	Virtual (Teams)	MN GreenCorps Alum, Rochester Resident
January 31, 2025	55108	Institute on the Environment
January 31, 2025	55412	Land Song
February 3, 2025	55413	Environmental Justice Coordinating Council
February 3, 2025	Virtual (Teams)	Upper Mississippi River Basin Association
February 4, 2025	Virtual (Teams)	Homestead Trails Neighborhood Association
February 10, 2025	55404	North Minneapolis resident focused the effects of pollution
February 11, 2025	55805	Trinity Lutheran Church
February 11, 2025	55806	Harbor City International School
February 12, 2025	55103	EJ Advocate
February 13, 2025	55805	Family Rise Together
February 16, 2025	55805	First United Methodist Church
February 21, 2025	55406	Children and Nature Network
February 21, 2025	55454	EJ Advocate
February 21, 2025	55102	St. Paul Public Schools Sustainability Department
February 21, 2025	55806	Ecolibrium 3
February 23, 2025	55108	Sustainability Corps at UMN TC
February 25, 2025	55806	Harbor City International School
February 26, 2025	Virtual (Teams)	Somali American Social Services Association
February 27, 2025	Virtual (Teams)	The Village Agricultural Co-op
February 28, 2025	55105	Macalester Environmental Faculty
March 7, 2025	55104	African Economic Development Solutions
March 7, 2025	55107	Neighborhood House & West Side Community Organization
March 7, 2025	55802	Duluth YMCA
March 11, 2025	55106	St. Paul Public Library–Dayton's Bluff
March 17, 2025	Virtual (Teams)	COPAL–Rochester
March 19, 2025	Virtual (Teams)	UMR–Public Health Professor
April 16, 2025	55108	UMN Sustainability Communications
April 25, 2025	55103	Asian Economic Development Association
April 25, 2025	55407	UNIDOS
April 28, 2025	Virtual (Teams)	Health Professionals for a Healthy Climate
April 30, 2025	Virtual (Google Meet)	Ecolibrium 3
May 2, 2025	55802	Duluth YMCA
May 7, 2025	55404	Little Earth Residents Association
May 11, 2025	55806	Harm Reduction Sisters
May 12, 2025	55421	Hennepin County employee
May 14, 2025	55806	St. Louis County Human Rights Office
May 14, 2025	Virtual (Teams)	UMR–Civic Engagement Professor

Date	Location/Zip code	Organization, entity, or individual
May 15, 2025	55805	Health Professionals for a Healthy Climate
May 15, 2025	55805	Seirra Club, North Star Chapter
May 15, 2025	55805	Minnesota Environmental Partnership
May 16, 2025	55104	Reconnect Rondo
May 29, 2025	55409	Central Area Neighborhood Development Organization
May 29, 2025	55806	Vibrant Streets Duluth
June 1, 2025	55802	AICHO
June 10, 2025	55411	Community Members for Environmental Justice
June 12, 2025	55155	Minnesota Storytelling Collective
June 26, 2025	Virtual (Teams)	NAACP–Duluth Chapter
June 27, 2025	55101	Office of Indian Affairs-Health
June 30, 2025	55407	Migizi
July 10, 2025	55411	Brooklyn Center Public Works
July 16, 2025	55802	St. Louis County Office of Emergency Management
July 18, 2025	55155	Native Sun
July 18, 2025	Virtual (Teams)	Family Services Rochester
July 21, 2025	55155	Rochester Mosque
July 23, 2025	Virtual (Teams)	City Councilmember Nick Miller
July 25, 2025	Virtual (Teams)	B'nai Israel Synagogue
July 25, 2025	Virtual (Teams)	Rochester Somali Community Center
July 28, 2025	Virtual (Teams)	St. Louis County Public Health
July 29, 2025	Virtual (Teams)	City of Duluth, Parks & Recreation Department
July 31, 2025	55806	Family Freedom Center
August 4, 2025	Virtual (Teams)	Zumbro Valley Medical Society and TABLE (team of advisors based on lived experiences)
August 4, 2025	Virtual (Teams)	SEMCIL and First Universalist Church
August 8, 2025	Virtual (Teams)	UMR–Student Civic Engagement Director
August 11, 2025	Virtual (Teams)	Region 10 Quality Council and ARC
August 12, 2025	Virtual (Teams)	One Roof Housing
August 30, 2025	55811	Naomi Yaeger / CBA Benefit Panel Member
September 4, 2025	55114	Minnesota Geological Survey
October 6, 2025	55802	YWCA Duluth
October 27 2025	55104	Wilder Foundation
October 30, 2025	Virtual (Teams)	APEX Business Solutions / MPCA
November 6, 2025	55906	Somali American Social Service Association
November 14 2025	55802	President Sean Floerke, Boreal Waters Community Foundation
November 14 2025	55802	Joe Hazelton, Director of Housing & Residence Life, University of Minnesota Duluth
November 14 2025	55802	Duluth City Councilwoman Janet Kennedy
November 14 2025	55802	Vice President Karl Schuettler, Northspan Foundation

Date	Location/Zip code	Organization, entity, or individual
November 14 2025	55802	Greg Smith, Life Safety Division Supervisor, Duluth Fire Department
November 17 2025	55155	Minnesota Management and Budget
November 18 2025	55155	Department of Human Services
November 24 2025	55406	Minneapolis Public Schools
December 1, 2025	55802	EJ Resident
December 3, 2025	55407	Friends of Midtown Global Market
January 9, 2026	Virtual (Teams)	City of Duluth, Planning and Development Department
January 26, 2026	55106	Metro State University

Interviews

The MPCA hosted 51 interviews with community members (Table 3). The interviews involved 1-2 people and had a narrow topic focus. The purpose of the interviews was to gain insight into the possible effects of the rule on various stakeholders. The MPCA identified participants' knowledge base on the rule and asked for their general thoughts on the rule. The MPCA interviewer then asked participants about specific conceptual areas of the rule. When applicable, the MPCA asked participants if and how their lived experiences informs their perception and feedback of the rule. The interviews lasted for 60-90 minutes. The MPCA guided the conversation and prompted responses from the participants. Most participants participating in the interview had prior involvement with the MPCA. These individuals were identified from interactions at community events, tabling experience, or through organizations.

Table 3. Summary of MPCA-hosted interviews

Date	Zip code where interview occurred
May 8, 2025	Virtual
May 13, 2025	Virtual
May 13, 2025	Virtual
May 14, 2025	55403
May 21, 2025	55413
May 22, 2025	55405
May 22, 2025	55116
May 23, 2025	55411
May 29, 2025	55408
May 29, 2025	55901
May 30, 2025	55901
June 4, 2025	55901
June 6, 2025	55901
June 9, 2025	55804
June 11, 2025	55414
June 13, 2025	55406
June 13, 2025	55404
June 13, 2025	55411
June 17, 2025	55805
June 18, 2025	55810

Date	Zip code where interview occurred
June 18, 2025	55808
June 24, 2025	55406
July 1, 2025	55408
July 8, 2025	55805
July 8, 2025	55805
July 11, 2025	55806
July 15, 2025	55103
July 15, 2025	55811
July 21, 2025	55119
July 24, 2025	55806
July 28, 2025	55805
July 30, 2025	55803
August 4, 2025	55117
August 4, 2025	55337
August 11, 2025	55124
August 11, 2025	55406
August 18, 2025	55428
August 18, 2025	55806
August 21, 2025	55805
August 26, 2025	55904
August 28, 2025	55422
September 18, 2025	Teams/Phone
September 19, 2025	55104
September 23, 2025	55107
September 25, 2025	55014
September 30, 2025	Teams/Phone
October 2, 2025	Teams/Phone
October 2, 2025	Teams/Phone
October 10, 2025	Teams/Phone
October 14, 2025	55413
October 16, 2025	55411

Focus Groups

The MPCA hosted focus groups with stakeholders to receive feedback on proposed rule. The focus groups were comprised of approximately 3-10 people and have a narrow topic focus. During these interactions, MPCA staff asked participants of their general thoughts of the rule and identified their knowledge base. The MPCA staff then asked participants about specific conceptual areas to hear their perception and feedback for the rule. The MPCA also asked participants to share how their lived experiences shape what they want to see incorporated into the rule. The focus groups lasted for 50-75 minutes. Table 4 lists the details of the focus group occurrences:

Table 4. Summary of MPCA-hosted focus groups

Date	Location/address	Description
November 19, 2024	Green Hall, University of Minnesota, 2005 Upper Buford Circle, St Paul, MN 55108	University of Minnesota Students
April 17, 2025	Virtual (Teams)	University of Minnesota Students
September 17, 2025	Sumner Library, 611 Van White Memorial Blvd, Minneapolis, MN 55411	Environmental Organizations active in North Minneapolis
December 8, 2025	Little Earth Community Center, 2501 Cedar Ave S, Minneapolis, MN,55404	Elders at the Little Earth Community in South Minneapolis

Guest Workshops, Presentations, and Events Attended

MPCA staff attended many community events as guests to hear from the public about their neighborhoods, interests, the impacts of pollution, and their vision for the future. MPCA staff attended events hosted in EJ areas with connections to topics or groups that are relevant to a component of the rule. These events often focus on topics that involve potential areas of study in the cumulative impacts analysis or are hosted by a demographic group that may contribute to an area being classified as an EJ area.

The MPCA was invited to present about the Cumulative Impacts rule and host guest workshops at events across the state. These engagement events often involved more than 10 individuals. These presentations or workshops often took place at schools, community centers, or other accessible places.

These opportunities varied in length and depth. During these presentations, the MPCA presented general information about cumulative impacts and focused on a specific conceptual area or component of a conceptual area when time permitted. The presentations provided the MPCA with an opportunity to ask to inform people about the rule and learn about the applicability of the rule in their lives. Attendees often participated in large group discussions and a question-and-answer session. The presentations last for 40-90 minutes. Table 5 shows the events attended, guest workshops, and presentations that the MPCA participated in:

Table 5. Summary of externally hosted guest workshops, presentations, and events attended

Date	Event name	Address
December 10, 2024	Metro Blue Line Extension Community Visioning Event	710 West Broadway Ave. Minneapolis, MN 55411
January 15, 2025	Northside/Southside Greenzone Meeting	2323 11th Ave S, Minneapolis, MN 55404
January 16, 2025	39th Annual MLK Statewide Conference (State of MN)	700 7th St E, Saint Paul, MN 55106
January 17, 2025	MLK Youth Empowerment Summit	120 W. Kellogg Blvd., Saint Paul, MN 55102
January 22, 2025	Reimagining Youth Justice: The connection between our ecosystems & thriving communities	Virtual
February 3, 2025	Transit Truths: A Transit Equity Day Event	401 N 44th Ave W, Duluth, MN 55807

Date	Event name	Address
February 4, 2025	UMD Climate Futures Conference	1120 Kirby Dr, Duluth, MN 55812
February 8, 2025	Community Connections Conference (City of Minneapolis)	1301 Second Ave S, Minneapolis, MN 55403
February 12, 2025	Blood Lead Testing at Community Action Duluth	2424 W 5th St Ste 102, Duluth, MN 55806
February 19, 2025	Southside Green Zone Council	2307 17th Ave S, Minneapolis, Mn 55404
February 22, 2025	USDA Urban Agriculture Conference	235 Marshall Ave, Saint Paul, MN 55102
February 25, 2025	Harbor City International School Workshop	332 West Michigan Street, Suite 300Duluth, MN 55802
March 13, 2025	West Side Summit	179 Robie St. E. St. Paul, MN 55107
March 18, 2025	Swain Climate Lecture: A Just Transition For All with Mijin Cha	301 19th Ave S, Minneapolis, MN 55455
March 18, 2025	Mind, Body, Soul Convening	Virtual
March 22, 2025	Resilient Landscapes for Reimagined Futures Community Event	2307 17th Ave S. Minneapolis, MN 55404
March 29, 2025	Eastside Spring Holiday Event	1200 Payne Ave, Saint Paul, MN 55130
April 4, 2025	UMN EJ Summit	301 19th Ave S, Minneapolis, MN 55455
April 11, 2025	Global Arts School Presentation	810 Palace Ave, Saint Paul, MN 55102
April 15, 2025	UMD Sustainability in Our Community Event	1120 Kirby Dr, Duluth, MN 55812
April 19, 2025	Wakan Tipi Earth Day Clean Up	10 Mounds St NE, Saint Paul, MN 55112
April 21, 2025	Macalester College EJ Career Event	201 Snelling Ave N, Saint Paul, MN 55104 ·
April 21, 2025	Macalester College EJ Senior Career Event	1600 Grand Ave. St. Paul, MN 55105
April 22, 2025	Lake Superior College Earth Day Fair	2101 Trinity Rd, Duluth, MN 55811
April 22, 2025	Hopkins Earth Day Event w/ Change Narrative	11000 Excelsior Boulevard, Hopkins, MN 55343
April 25, 2025	Family Freedom Center–It Takes a Village Event	310 N 1st Ave W, Duluth, MN 55806-2734

Date	Event name	Address
April 26, 2025	YMCA Downtown Duluth–Community Open House Healthy Kids Day	302 W 1st St, Duluth, MN 55802
April 26, 2025	Eco 3 EcoFest	2920 W Michigan St, Duluth, MN 55806
April 26, 2025	Seed Library Open House-Dayton's Bluff	645 7th St E, Saint Paul, MN 55106
May 2, 2025	YMCA Downtown Duluth–Family Night Event	302 W 1st St, Duluth, MN 55802
May 4, 2025	May Day Parade and Festival	3400 15th Ave S, Minneapolis, MN 55407
May 15, 2025	Cumulative Impacts Public Health Information Session & Social Hour–HPCP	624 E 1st St Ste 201, Duluth, MN 55805
May 20, 2025	Growing Resilient Communities: Gathering of Collaboratives & Tribal Nations	Virtual
May 20, 2025	St. Paul and Ramsey County Gardener's Social hour	287 Maria Ave, St Paul, MN 55106
May 23, 2025	FRONDO Final Community Celebration	422 University Ave W, Saint Paul, MN 55103
May 28, 2025	Building Great Places: Activating Public Spaces for the Common Good	222 East Superior Street, Duluth, MN 55802
May 29, 2025	Rise of the Bike Commuter: Talks and Perspectives on Mobility in Duluth	1917 W Superior St, Duluth, MN 55806
May 30, 2025	Weaving Indigenous Stories Symposium	Virtual
June 14, 2025	Lincoln Park Summer Fest	19th Ave & Superior Street, Duluth, MN 55806
June 14, 2025	Family Rise Together "Juneteenth" Family Fun Night	3002 W 3rd St, Duluth, MN 55806
June 22, 2025	CMEJ Air Monitoring Presentation	2007 Emerson Ave N, Minneapolis, MN 55411
June 24, 2025	Emerald Ash Borer Workshop and Resource Fair	2400 Park Ave Minneapolis, MN 55404
June 29, 2025	AEDA Little MeKong Market & Hmong Festival	422 University Ave W, Saint Paul, MN 55103

Date	Event name	Address
July 30, 2025	Building Great Places: Let's Keep Building! (Zeitgeist)	Virtual
August 3, 2025	AEDS Little Africa Festival	1564 Lafond Ave, St Paul, MN 55104
August 5, 2025	Hillside Night Out	500 E 10th St, Duluth, Minnesota 55805
August 23, 2025	Cumulative Impacts at the Eco Experience	1615 Randall Ave, Falcon Heights, MN 55108
August 30, 2025	Duluth-Superior Pride Fest	350 Harbor Dr, Duluth, MN 55802
October 16, 2025	Region 10 Quality Council Meeting	virtual
October 21, 2025	Little Earth Elder's Bingo Event	2501 Cedar Ave S, Minneapolis, MN 55404
October 22 2025	Learning Lab: Latino Community & Effective Engagement	505 4th Ave. S., Minneapolis, MN 55415
October 29, 2025	Southeast Asian Community & Effective Engagement	505 4th Ave. S., Minneapolis, MN 55415
November 5, 2025	Advocating with Peoples with Disabilities	505 4th Ave. S., Minneapolis, MN 55415
November 14, 2025	Duluth Housing Strategies Conference	350 Harbor Dr, Duluth, MN 55802
November 20, 2025	Rochester Engagement Open House	903 W Center St, Rochester, MN 55902
December 4 2025	TC Metro Cumulative Impacts Engagement Open House	920 Lake St E, Minneapolis, MN 55407
December 10, 2025	Rochester Area Housing Coalition Meeting	12 Elton Hills Dr NW in Rochester, Minnesota 55901
December 16, 2025	Air Issues Seminar hosted by Clean Air Minnesota	virtual
January 15, 2026	Rochester Area Volunteer Administrators Monthly Meeting	virtual
January 22, 2026	APEX Economic Development Agency Annual Conference	1120 Kirby Dr, Duluth, MN 55812
January 28, 2026	North Hennepin Community College: Green Jobs and Pathways Fair	7411 85th Ave N, Brooklyn Park, MN 55445

MPCA Events (Webinars, Working Sessions, Open Houses)

The MPCA hosted webinars, open houses, and working sessions to engage with a larger audience of stakeholders. These engagement opportunities provided interested parties with information about the rule, allowed people to discuss their perception and opinion of the rule, and shared their thoughts on specific rule topics for the MPCA to consider. The MPCA also held informal comment periods after these events to provide opportunities for people to provide input even if they were unable to attend a meeting, give people time to think about the information they heard and provide additional input, as well as dive into more technical details or specific issues of interest to them.

The MPCA hosted the following types of events:

- RFC Open Houses during the RFC public notice period in September 2023. These meetings were held in St. Paul, Brooklyn Center, Duluth, Rochester, and virtually and provided an overview of the Cumulative Impacts rulemaking including the statutory authority for the rules, what the MPCA was directed to establish through rulemaking, and the timeline associated with the rulemaking.
- Co-learning webinars held virtually with speakers invited by the MPCA to come present about various cumulative impacts programs across the United States. The intention of these meetings was to learn about other programs and how those groups implemented similar rules, regulations, or programs alongside other interested parties.
- Working sessions on rule topic areas. The focus of these meetings were to talk through smaller portions of the rules. They were held in-person with a short presentation before talking through the rule topic area in small group discussions using handouts and printed materials to help facilitate thinking through how the MPCA could develop the different portions of the cumulative impacts rules.
- Other webinars held by MPCA throughout the rulemaking to summarize the progress made during the rulemaking so far. These webinars include summaries of the comments MPCA received during the RFC public comment period, summaries of what the MPCA heard during the co-learning webinars, introduced the rule topic areas that the MPCA needed to develop for the rulemaking, identified areas the MPCA planned to talk about in detail through working sessions - on rule topics, summaries of rulemaking efforts conducted and previews of efforts to come, and webinars to summarize the overall rule concept.
- Engagement Open Houses. The engagement open houses hosted at the end of 2025 were events meant to share updates on the engagement and outreach efforts for the rulemaking process. At the event, Agency staff shared general information about the rule, discussed the forms of engagement conducted, and showed the data tool in development alongside of the rule language.

Table 6 provides a summary of the webinars, working sessions, and open houses held by the MPCA during the course of the rulemaking.

Table 6. Summary of MPCA-hosted events

Date	Event type	Location/address
September 12, 2023	Request for Comments (RFC) Open House	Virtual
September 14, 2023	RFC Open House	Science Education Center Atrium, Metro State University, 644 6th St E., St. Paul, MN 55106
September 19, 2023	RFC Open House	Brookdale Library, 6125 Shingle Creek Parkway, Brooklyn Center, MN 55430

Date	Event type	Location/address
September 21, 2023	RFC Open House	Event Center, Clyde Iron Works, 2920 W. Michigan St., Duluth, MN 55806
September 26, 2023	RFC Open House	Aune Hall, Graham Park, 1508 Aune Dr. SE, Rochester, MN 55904
November 14, 2023	RFC Summary webinar	Virtual
January 30, 2024	Co-learning webinar (Cumulative impacts programs across the country)	Virtual
March 26, 2024	Co-learning webinar (Contents of cumulative impacts analyses)	Virtual
April 30, 2024	Co-learning webinar (Community benefit agreements)	Virtual
May 28, 2024	Co-learning webinar (Overview of Cumulative Impacts rulemaking process)	Virtual
July 10, 2024	Working session on key rule topics (Data indicators)	Rondo Community Library, St. Paul Public Library, 461 Dale St. N, St. Paul, MN 55103
August 14, 2024	Working session on key rule topics (Community benefit agreements)	Lincoln Park Middle School, 3215 W. 3rd St., Duluth, MN 55806
September 19, 2024	Working session on key rule topics (Benchmarks)	Matthews Recreation Center, 2318 29th Avenue S., Minneapolis, MN 55406
October 23, 2024	Working session on key rule topics (Community benefit agreements)	John Marshall High School, 1510 14th Street NW, Rochester, MN 55901
November 13, 2024	Working session on key rule topics (environmental stressors)	Humboldt High School, 30 Baker Street E., St. Paul, MN 55107
February 25, 2025	Midpoint check-in webinar	Virtual
February 26, 2025	Midpoint check-in webinar	Virtual
May 13, 2025	Working session on key rule topics (Cumulative impacts analysis and substantial adverse impacts)	Webber Community Center, 4401 N Bryan Avenue, Minneapolis, MN 55412
May 20, 2025	Working session on key rule topics (Cumulative impacts analysis and substantial adverse impacts)	Virtual
June 25, 2025	Draft concepts webinar	Virtual
November 12, 2025	Duluth Cumulative Impacts Engagement open house	202 W 2nd St, Duluth, MN, 55802
November 20, 2025	Rochester Cumulative Impacts Engagement open house	903 W Center St, Rochester, MN 55902
December 4, 2025	Twin Cities Cumulative Impacts Engagement open house	920 E Lake St, Minneapolis, MN 55407

Environmental Justice Advisory Group

The MPCA approached the EJAG to receive input on the development of the Cumulative Impacts rule. EJAG's conversations related to cumulative impacts took place during the regularly scheduled meetings with Commissioner Kessler and during subgroup meetings led by MPCA staff to discuss the rule in more detail. EJAG met and discussed with the Cumulative Impacts rule on the following dates:

Table 7. Summary of Environmental Justice Advisory Group (EJAG) meetings

Date	Entire group or subgroup	Description
January 23, 2025	Entire group	General updates on the rule development. Discussions related to timeline and the engagement process.
February 28, 2025	Subgroup	Introductions and gaining familiarity with the rule.
March 13, 2025	Entire group	Subgroup report out to EJAG
April 9, 2025	Subgroup	Cumulative impacts analysis contents and substantial adverse impacts
May 1, 2025	Subgroup	Community benefit agreements, public meeting methods, public comment methods
May 15, 2025	Entire group	Summary of subgroup conversations
July 10, 2025	Entire group	Discussion on Cumulative Impacts rulemaking engagement

Community Benefit Agreement Input Panel

The Agency formed a CBA input panel comprising members representing different perspectives and areas of expertise. The panel was made up of EJ area residents, industry representatives, labor representatives, local government representatives, and community advocates, for a total of 16 panelists. The panel was provided with the draft rule concept for CBAs and met a total of five times, which resulted in the drafting of four meeting summary documents and a final capstone report, which included panel areas of consensus and disagreement.

Table 8. Summary of MPCA-hosted Community Benefit Agreement input panel meetings

Date	Location/address	Description
July 24, 2025	Hybrid: Virtual & MPCA St Paul Office, 520 Lafayette Rd, St Paul, MN 55155	Participant roles and expectations, review background materials and draft CBA concept, and brainstorm future meeting topics
August 14, 2025	Virtual	Discuss community benefits, community voice and input in CBA process, and CBA evaluation criteria
August 27, 2025	Virtual	Defining community, public outreach and engagement activities, communities' role in drafting a CBA
September 8, 2025	Virtual	Pre-drafting and drafting of a CBA, post-drafting of a CBA, and evaluation of a CBA
October 14, 2025	Virtual	MPCA review and utilization of capstone document, key findings and capstone document review, and discussion of panel process

Reasonableness of the Amendments

General Reasonableness

Chapter 7007 contains the air permitting requirements. The MPCA is proposing to establish new parts in this chapter that implement and govern cumulative impacts analyses and permit decisions in EJ areas in the Twin Cities seven-county metropolitan area and cities of the first class.

As described in the statement of need as a whole, the intent of the new rule is to meet the Minnesota Legislature's directive to develop criteria for requiring a cumulative impact analysis and its contents, define when an environmental or health impact qualifies as a substantial adverse impact, establish the content of a community benefits agreement and the process to enter into one, establish a petition process for EJ area residents to request a cumulative impact analysis, establish a process by which Tribal governments in Minnesota can elect to apply these statutes to a permit application, establish methods for public participation, and ensure the public has access to information about factors that may make people susceptible to harm from exposure to pollutants, including potential environmental effects on health from exposure to pollutants and social and environmental factors such as poverty, substandard housing, food insecurity, elevated rates of disease, and poor access to health insurance and medical care.

It is reasonable to adopt rules that establish the content needed in various analyses, the process for submitting those analyses, and the process for reviewing those analyses so that the methodology to implement and govern decisions regarding whether to issue or deny permits is done in a consistent manner. Having the process described, the information needed, and the decision points codified in rules provides a common understanding of how the rules will be implemented and decisions will be made by the Agency. Additionally, affected regulated parties will have a common understanding of their obligations and responsibilities and will be regulated fairly to one another. Furthermore, establishing the cumulative impacts analysis process in rule will provide certainty to affected regulated parties regarding how to comply with the applicable requirements. Establishing the cumulative impacts analysis process in rule is also reasonable because it provides transparency to Minnesotans that wish to understand how the Agency will review and evaluate the impacts from permitted facilities in their communities.

Additionally, these rules will apply to multiple regulated parties. The types of actions that regulated parties may pursue as part of a requested permit action, in combination with the impacts associated with a requested permit action and the location and people impacted, provide countless possible scenarios to evaluate. However, the MPCA cannot provide an exhaustive list of all possible actions, impacts, locations/people impacted, and the actions to address all specific scenarios in rule. Instead, the rules are constructed to provide a methodology to evaluate impacts to the environment and human health that considers the site-specific details of the stationary source, the location, and the people. It is important that the rule work for all regulated parties while protecting the environment and human health. Providing clear requirements that provide for the consideration of the site-specific details will protect the environment and human health and ensure that the health and environmental impacts from these regulated parties are understood and thoroughly evaluated.

These rules also parallel similar programs that already exist and are implemented in Minnesota. Where possible, the proposed rules parallel the requirements that exist in other Minnesota regulatory programs like environmental review under Minn. R. 4410.0200 to 4410.6500 and Minn. Stat. ch. 116D, and the CL&E process under Minn. Stat. § 116.07, subd. 4a. It is reasonable for these rules to align with other Minnesota Rules when appropriate to reduce redundancy. Using similar processes to evaluate

environmental and health impacts provides for a common understanding of what is expected and facilitates compliance.

Furthermore, these rules also parallel similar programs that exist and are implemented in other states. Specifically, these rules utilize a similar methodology to that used by the state of New Jersey in their Environmental Justice Rule (found in New Jersey Administrative Code, Title 7, Chapter 1C - Environmental Justice). The New Jersey rules are structured in a similar manner to what the directives in Minn. Stat. § 116.065 require the MPCA to create for the cumulative impacts rules. It is reasonable for these rules to align with other state rules when appropriate because using similar processes to evaluate environmental and health impacts provides for a common understanding and a real life example of how similar rules work and are implemented in practice.

The MPCA is also proposing to make additional housekeeping changes to its air quality rules in chapter 7007. In particular, these rule amendments make changes to clarify where the cumulative impacts rules intersect with existing air permitting rules. Amendments to these rule chapters will provide consistency and clarity, and make the rules easier for interested parties to understand.

Specific Reasonableness

The Agency's proposed rules include minor revisions that reflect best practices and recommendations from the Revisor of Statutes, including:

- Updating the term "shall" to "must" throughout the entire chapter;
- Breaking rule-text structured as paragraphs into "outline" structure, with subpart, item, and subitem entries, as the rules might require; and
- Replacing passive voice with active.

All other proposed changes are identified below and followed by a justification.

PART 7007.0050 -- SCOPE

Justification for part 7007.0050

As described in the Scope of the Proposed Amendments section of this SONAR, this rule part is part of the collection of air permitting requirements listed in parts 7007.0100 to 7007.1850. The amendments to this part are needed to integrate the requirements of the cumulative impacts rules with the existing air permitting rules. As the cumulative impacts rules add new requirements related to air permitting, it is reasonable to amend the existing requirements in this part to clarify where the cumulative impacts rules intersect with existing permitting requirements.

Part 7007.0050 is amended to break the rule text structured as a paragraph into an outline structure and to add the cumulative impacts rules in parts 7007.6000 to 7007.6120 to the scope statement for chapter 7007. Item E establishes that owners and operators that meet the applicability requirements in part 7007.6020 are subject to the parts 7007.6000 to 7007.6120 in addition to the requirements of parts 7007.0100 to 7007.1850. It is reasonable to identify when the rules apply to owners and operators so it is clear what requirements owners or operators must comply with when they meet the applicability requirements.

PART 7007.0100 – DEFINITIONS

Justification for part 7007.0100

As described in the Scope of the Proposed Amendments section of the SONAR, this rule part is part of the collection of air permitting requirements listed in parts 7007.0100 to 7007.1850. The amendments

to this part are needed to integrate the requirements of the cumulative impacts rules with the existing air permitting rules. As the cumulative impacts rules add new requirements related to air permitting, it is reasonable to amend the existing requirements in this part to clarify where the cumulative impacts rules intersect with existing permitting requirements.

Item Y is established, adding the cumulative impacts rules to the definition of Applicable requirement under Subpart 7. This is needed because permits require inclusion of conditions to ensure compliance with all applicable requirements under 7007.0800, subp. 2(A) and this will clarify for owners and operators that the proposed rule is an applicable requirement for the permit. It is reasonable to clarify the applicability of the rule for owners and operators.

PART 7007.0150 – PERMIT REQUIRED

Justification for part 7007.0150

As described in the Scope of the Proposed Amendments section of the SONAR, this rule part is part of the collection of air permitting requirements listed in parts 7007.0100 to 7007.1850. The amendments to this part are needed to integrate the requirements of the cumulative impacts rules with the existing air permitting rules. As the cumulative impacts rules add new requirements related to air permitting, it is reasonable to amend the existing requirements in this part to clarify where the cumulative impacts rules intersect with existing permitting requirements.

Subpart 6 is added to clarify that the existing air permitting rules are in addition to the proposed cumulative impacts rules and Minn. Stat. § 116.065, and may apply before certain permit actions can be issued. This is needed to integrate the proposed cumulative impacts rules with the existing air permitting rules. It is reasonable to clarify that existing rules apply in addition to the proposed rules and statute so that interested persons can make an informed permitting decision.

PART 7007.0500 – CONTENT OF PERMIT APPLICATION

Justification for part 7007.0500

As described in the Scope of the Proposed Amendments section of the SONAR, this rule part is part of the collection of air permitting requirements listed in parts 7007.0100 to 7007.1850. The amendments to this part are needed to integrate the requirements of the cumulative impacts rules with the existing air permitting rules. As the cumulative impacts rules add new requirements related to air permitting, it is reasonable to amend the existing requirements in this part to clarify where the cumulative impacts rules intersect with existing permitting requirements.

Subpart 6 is established to identify the information related to the proposed rule that is required in a permit application. This is needed to clarify what information owners and operators need to include when applying for a permit in an area subject to the proposed rule. It is reasonable to clarify the information that owners and operators need to include in a permit application.

Subpart 6, item A indicates that all permit applications must state whether the permit application is subject to the provisions of parts 7007.6000 to 7007.6120. This is needed based on Minn. Stat. § 116.065, subd. 3(b) which requires owners and operators to include certain information with a permit application if the owners and meet the applicability requirements. It is reasonable to specify the necessary application information for owners and operators to explicitly state whether or not the rule applies to their permit application.

Subpart 6, item B specifies the information that must be included in the application when the owners and operators are subject to the provisions of Minn. Stat. § 116.065 or Minn. R. § 7007.6000 to 7007.6120. Item B aligns with the requirements in Minn. Stat. § 116.065, subd. 3(b) by clearly identifying

the information the statutory language specifies a permit application must include alongside the existing permitting requirements that specify information that must be included in a permit application. Item B requires that a permit application must include the initial assessment required under part 7007.6050, which includes the applicant's determination of whether the permit action is likely to impact the environment or the health of the residents of an EJ area and the data and information used by the applicant to make that determination. This aligns directly with the statutory language in Minn. Stat. § 116.065, subd. 3(b)(1) and 3(b)(2). The initial assessment required under part 7007.6050 also includes the information and data the commissioner needs to determine whether a cumulative impacts analysis is needed. This aligns with the statutory language in Minn. Stat. § 116.065, subd. 3(b)(3). It is reasonable to both specify and clarify the necessary application information to avoid confusion.

Subpart 6, item C indicates that the owner or operator is required to supplement the application, prior to release of a draft permit, when a cumulative impacts analysis and/or a CBA are required under 7007.6000 to 7007.6120. Subitem (1) specifies that applicant must supplement the permit application to include the cumulative impacts analysis if one is required. Subitem (2) specifies that the applicant must supplement the permit application to include the CBA if one is required. This is needed to clarify what information must be submitted to ensure the application is complete as well as when that information needs to be submitted. It is reasonable to clarify what supplemental information must be submitted and when.

PART 7007.0750 – APPLICATION PRIORITY AND ISSUANCE TIMELINES

Justification for part 7007.0750

As described in the Scope of the Proposed Amendments section of the SONAR, this rule part is part of the collection of air permitting requirements listed in parts 7007.0100 to 7007.1850. The amendments to this part are needed to integrate the requirements of the cumulative impacts rules with the existing air permitting rules. As the cumulative impacts rules add new requirements related to air permitting, it is reasonable to amend the existing requirements in this part to clarify where the cumulative impacts rules intersect with existing permitting requirements.

Subpart 2 generally specifies requirements for the MPCA regarding application processing and issuance deadlines. This subpart includes Agency deadlines for certain types of permit applications and when the MPCA can extend those timelines under a variety of circumstances, including when there are substantial adverse comments received, if information the applicant takes longer than 30 days to provide required information, and for permitting actions subject to environmental review.

Subpart 2, item G is added to allow the MPCA to extend Agency deadlines established by 7007.0750, when the permitting action is subject to the cumulative impacts rules. This new item is similar in concept to subpart 2, item E for environmental review. This is needed to provide adequate time for completion of the cumulative impact requirements in part 7007.6000 to 7007.6120. It is reasonable to allow for extensions to deadlines for Agency action to ensure permitting deadlines are reasonable when there are additional requirements that apply.

PART 7007.0850 – PERMIT APPLICATION NOTICE AND COMMENT

Justification for part 7007.0850

As described in the Scope of the Proposed Amendments section of the SONAR, this rule part is part of the collection of air permitting requirements listed in parts 7007.0100 to 7007.1850. The amendments to this part are needed to integrate the requirements of the cumulative impacts rules with the existing air permitting rules. As the cumulative impacts rules add new requirements related to air permitting, it

is reasonable to amend the existing requirements in this part to clarify where the cumulative impacts rules intersect with existing permitting requirements.

Subpart 2 generally specifies requirements for the MPCA regarding the public notice and comment procedures that apply when issuing, reissuing, or making an amendment to various permit types. This subpart includes how the commissioner must provide notice, what information the notice must contain, the timeframe for public comment, that the commissioner must respond to comments, and when the commissioner must comply with these requirements dependent on the type of permit or permit amendment.

Subpart 2, item E is added to clarify that a public notice period is required for permit actions subject to the proposed rule before they are issued. This is needed to ensure an opportunity for public participation for permit actions subject to this rule. Similar to existing items C and D that allow for a public comment period for permit actions that are not required to be noticed but are expected to have adverse public comments, it is reasonable to allow for a public comment period when public input is required by the cumulative impacts rule provisions, even for permit actions that do not normally require public notice. Additionally, the ability for the MPCA to public notice these types of permit actions already exists in item A (for issuing, reissuing, or making a major amendment to a part 70 permit) and item B (for issuing or reissuing a state permit). Similarly, item C (for issuing a major amendment to a state permit) and item D (for issuing a moderate amendment to a permit) provide for the ability for the MPCA to public notice these types of permit actions when the commissioner determines the permit action involves issues that generate or are likely to generate adverse comments. The MPCA expects that permits subject to the cumulative impacts rules are likely to be of high interest to the public and may generate significant adverse comments when a cumulative impacts analysis is needed and/or when a CBA is needed. It is reasonable to maintain a consistent approach to the opportunities for public participation already established in the air permitting rules.

Additionally, the previous item E is renumbered to be new item F. This is to allow for new item E to be listed after similar requirements. It is reasonable to renumber requirements to provide consistency in the organization of rule language.

Subpart 3, item A is amended to correct the rule reference due to adding the new Item E, to subpart 2. Subpart 3 identifies that during the public comment period for any draft permit or amendment that requires public notice, any person may petition for a public informational meeting or a contested case hearing. It is reasonable to allow for interested persons to request a public informational meeting or contested case hearing for draft permits requiring public notice when a cumulative impacts analysis and/or CBA is required as the MPCA expects significant interest regarding draft permits that require these documents and analyses.

Additionally, the opportunity for any person to request an informational meeting or contested case is already provided in the existing requirements in subpart 2, items A through D for issuing, reissuing, or making a major amendment to any part 70 permit, for issuing and reissuing a state permit, and for issuing a moderate or major amendment to any permit that is expected to have adverse public comments. The proposed amendments to subpart 2, item E do not expand the scope of types of permit actions that are covered under the existing subpart 3, but simply clarify that if a public notice is required under subpart 2, item E the existing procedures regarding petitions for hearings and meetings apply. This change is reasonable because it maintains a consistent approach to the opportunities for public participation and petitions already established in the air permitting rules.

PART 7007.1000 – ISSUING AND DENYING PERMITS

Justification for part 7007.1000

As described in the Scope of the Proposed Amendments section of the SONAR, this rule part is part of the collection of air permitting requirements listed in parts 7007.0100 to 7007.1850. The amendments to this part are needed to integrate the requirements of the cumulative impacts rules with the existing air permitting rules. As the cumulative impacts rules add new requirements related to air permitting, it is reasonable to amend the existing requirements in this part to clarify where the cumulative impacts rules intersect with existing permitting requirements.

Part 7007.1000 generally specifies when the MPCA may issue or deny a permit or permit amendment. This part includes requirements that must be met before the MPCA issues a permit or permit amendment and the grounds for the MPCA to deny a new, modified, or reissuance permit.

The applicable provisions of Minn. Stat. § 116.065 and this rule are added at Subpart 1, new item I. Minn. Stat. § 116.065, subd. 5 requires the MPCA to consider information such as the cumulative impacts analysis conducted, and testimony and comments provided in public meetings, in deciding whether to issue or deny a permit. The statutory language also specifies when the permit may be issued and circumstances where the MPCA must deny a permit subject to Minn. Stat. § 116.065. Item I specifies the conditions that must be satisfied in order for the Agency to issue a permit subject to Minn. Stat. § 116.065. This item is needed to ensure that the requirements of Minn. Stat. § 116.065 and this rule have been satisfied prior to permit issuance so they can be part of the decision to issue the permit. It is similar in concept to Minn. R. 7007.1000, subp. 1(H) related to environmental review in that all conditions needed to meet the environmental review statutes and rules must be satisfied in order for the Agency to issue a permit. It is reasonable to clarify that the proposed rule requirements related to cumulative impacts must be satisfied prior to issuance and include the rule language to be consistent with other rules.

Subpart 2, item H is established to clarify that a permit must be denied if the applicant fails to enter into a CBA with the commissioner when one is required. This is needed to meet the statutory requirement under Minn. Stat. § 116.065, subd. 5(b) which states that permit denial is the resolution for owners and operators who fail to enter into such an agreement when there is a substantial adverse impact. It is reasonable to deny a permit where the owners and operators do not meet the regulatory obligation of entering a CBA for a facility in an EJ area where a cumulative impacts analysis has determined that issuing the permit would have a substantial adverse impact on the environment or health of the EJ area and its residents.

PART 7007.1300 – INSIGNIFCANT ACTIVITY LIST

Justification for part 7007.1300

As described in the Scope of the Proposed Amendments section of the SONAR, this rule part is part of the collection of air permitting requirements listed in parts 7007.0100 to 7007.1850. The amendments to this part are needed to integrate the requirements of the cumulative impacts rules with the existing air permitting rules. As the cumulative impacts rules add new requirements related to air permitting, it is reasonable to amend the existing requirements in this part to clarify where the cumulative impacts rules intersect with existing permitting requirements.

Subpart 5 identifies hazardous air pollutant (HAP) thresholds used as part of determining if an emissions unit qualifies as an insignificant activity under part 7007.1300, subpart 4. The proposed rule amends subpart 5, by breaking the rule text structured as a sentence into an outline structure, to establish two items that identify the existing use and to allow for a second use of the HAP thresholds for the purpose of establishing thresholds for a cumulative impact analysis. New item A will include the current use of

the HAP thresholds. New item B will allow the use of these HAP thresholds as benchmarks for determining if owners or operators must conduct a cumulative impacts analysis. This is needed because the proposed rules under part 7007.6050, subp. 4 will cite these thresholds as benchmarks. It is reasonable to revise subpart 5 to include this new use of the hazardous pollutant thresholds.

PART 7007.1450 – MINOR AND MODERATE PERMITS AMENDMENTS

Justification for part 7007.1450

As described in the Scope of the Proposed Amendments section of the SONAR, this rule part is part of the collection of air permitting requirements listed in parts 7007.0100 to 7007.1850. The amendments to this part are needed to integrate the requirements of the cumulative impacts rules with the existing air permitting rules. As the cumulative impacts rules add new requirements related to air permitting, it is reasonable to amend the existing requirements in this part to clarify where the cumulative impacts rules intersect with existing permitting requirements.

Subpart 7, item B describes when an owner or operator may begin actual construction under a moderate amendment process.

A revision is made to item B to ensure that the requirements under new item C are met prior to making the changes proposed in a moderate permit amendment application. This is needed to clarify that owners and operators of facilities must not begin actual construction before they have satisfied parts 7007.6000 through 7007.6120. It is reasonable to clarify when an owner or operator may begin actual construction.

Subpart 7 is revised to add Item C to clarify when an owner or operator subject to review under parts 7007.6000 to 7007.6120 may begin actual construction. This is needed so that the owner or operator is aware of the requirements that need to be met prior to making the change. Subitems (1) and (2) identify that beginning actual construction is prohibited until either the commissioner has determined a cumulative impacts analysis is not needed or an amended permit has been issued. These circumstances identify potential outcomes for moderate amendment permit applications that may be subject to the cumulative impacts rules. If a cumulative impacts analysis is needed, the outcome of that analysis could include changes to the current or proposed operations at the facility. There could also be the potential for substantial adverse impacts and the need for a CBA. As described in the reasonableness for amendments to part 7007.1000, there are conditions where the commissioner is required to deny a permit. The commissioner must not allow a facility to begin construction of a modification identified in a permit application if required to deny that permit application. Prohibiting the owners and operators from beginning actual construction until either the commissioner determines a cumulative impacts analysis is not needed, or if one is needed until the permit is issued, is the logical conclusion for how the MPCA can both meet the potential obligation to deny a permit contemplated in Minn. Stat. § 116.065, subd. 5(b) and the ability to grant approval to begin actual construction in part 7007.1450, subp. 7. It is reasonable to clarify when the owner or operator may begin actual construction for permit actions subject to parts 7007.6000 to 7007.6120.

PART 7007.6000 – SCOPE

Justification for part 7007.6000

The intent of this part is to provide clarity regarding the scope of the rules established in Minn. R. 7007.6000 to 7007.6120.

Minn. R. 7007.6000 establishes the scope of the new cumulative impacts rules contained in Minn. R. 7007.6000 to 7007.6120. The rules in these parts are proposed in order to fulfill the requirements set forth by Minn. Stat. § 116.065, which directs the Agency to establish the conditions that implement and

govern cumulative impacts analyses and permit decisions in EJ areas in the Twin Cities seven-county metropolitan area and cities of the first class.

In general, it is reasonable to provide clarity in rule language regarding the scope of the proposed rules as it provides overall context of the proposed rules.

Subpart 1. Scope
Subpart 1 establishes the scope of Minn. R. 7007.6000 through 7007.6120 by identifying that the rules apply to owners and operators that meet the applicability requirements in Minn. R. 7007.6020. It is reasonable to identify when the rules apply to owners and operators so it is clear what requirements owners and operators must comply with when they meet the applicability requirements.

Subpart 2. Exclusions
Subpart 5 establishes that nothing in Minn. R. 7007.6000 through 7007.6120 limits the commissioner's or Agency's authority under Minn. Stat. § 116.065 or other law. These rules apply to a limited geographic area in Minnesota and to a limited subset of regulated parties with certain air permits. These requirements are in addition to, and do not supersede, any other requirements that may apply to owners and operators of a stationary source as Minn. Stat. § 116.065 does not provide the ability to do so. It is reasonable to provide clarity regarding that the proposed rules are standalone requirements.

PART 7007.6010 – DEFINITIONS

Justification for part 7007.6010

The intent of this part is to provide clarity regarding terms and definitions that support the implementation of Minn. R. 7007.6000 to 7007.6120.

Minn. R. 7007.6010 establishes new definitions for terms used throughout Minn. R. 7007.6000 to 7007.6120. New terms and definitions proposed in this rulemaking will have general applicability to the cumulative impacts rules in Minn. R. 7007.6000 to 7007.6120.

In general, it is reasonable to provide definitions for new terms to clarify the terms as they are used throughout Minn. R. 7007.6000 to 7007.6120.

Subpart 1. Scope
Subpart 1 identifies that the definitions in this part apply to terms used throughout Minn. R. 7007.6000 to 7007.6120 and that definitions provided elsewhere in Minnesota Rules apply to terms used throughout Minn. R. 7007.6000 to 7007.6120 where a definition is not provided in this part. It is reasonable to clarify which definitions are applicable to the terms used in these rule parts.

Subpart 2. Acceptable risk level
Subpart 2 defines the term "acceptable risk level." Acceptable risk level defines the level that is likely to pose little or no risk to human health, including sensitive populations, otherwise known as "sensitive receptors." It is reasonable to define this term to clarify what is an acceptable risk level and how this level relates to the risk posed to human health.

Subpart 3. Acute health endpoint
Subpart 3 defines the term "acute health endpoint." Acute health endpoint defines the target organ or system, such as neurological, respiratory, reproductive, for acute inhalation risk. Acute health endpoint includes acute noncancer health endpoint. It is reasonable to define this term to distinguish between the different exposure health endpoints. This definition helps ensure that the acute health endpoints are investigated over an acute exposure, which is a short period of time usually over an hour or 24 hours.

Subpart 4. Acute inhalation risk

Subpart 4 defines the term "acute inhalation risk." Acute inhalation risk defines the risk from one or more exposures to an air toxic within a short period that is evaluated using items listed in items A and B. Items A and B are added to define that the acute inhalation risk is evaluated using the maximum ambient air concentration of an air toxic occurring over one hour, up to and at the stationary source's fence line or the modeled maximum air concentration of an air toxic that occurs over 24 hours, up to and at the stationary source's fence line. The acute inhalation risk is the sum of both risks estimated in items A (1 hour) and B (24 hours). This definition is used when evaluating the acceptable risk levels. It is reasonable to define this term to distinguish between the different exposure inhalation risks and it is a common term used in risk assessment.

Subpart 5. Adverse cumulative stressors

Subpart 5 defines the term "adverse cumulative stressors." This term identifies and measures environmental stressor information for specific census tracts, which the MPCA must maintain and make accessible to the public pursuant to Minn. Stat. § 116.065, subd. 5(f). As described in the Statement of General Need section for CI-MAP, this term is needed to enable a methodology for considering environmental stressors as part of determining whether a cumulative impacts analysis is needed. For example, if the combined stressor total for the EJ area exceeds the combined stressor total of the geographic point of comparison (i.e., the median combined stressor total for the county or the state), that EJ area has adverse cumulative stressors. This information is used in determining whether a permit, if issued, would substantially impact the environment or the health of the residents of an EJ area. Additionally environmental stressors are considered in determining whether a permit would have substantial adverse impact on the environmental or health of the EJ area and its residents, and if so, requires the commissioner and facility owner or operator to enter into a CBA prior to permit issuance.

Under Minn. Stat. § 116.065, subd. 6(c)(2), the MPCA must provide sources of public information that permit applicants can access regarding environmental stressors. Under Minn. Stat. § 116.065, subd. 5(b), the MPCA must consider environmental stressors as part of making a decision to issue or deny a permit. However, Minn. Stat. § 116.065 does not prescribe how this information must be presented nor how the MPCA must consider environmental stressors as part of making a decision to issue or deny a permit. This term is needed to provide a consistent methodology that the MPCA uses to provide information in the database of environmental stressors and consider those environmental stressors as part of a permit decision. It is reasonable to clarify the points of analysis and provide consistency in terms used in that analysis.

This term is proposed to identify EJ areas that have environmental stressors that are higher than their geographic point of comparison for use in a comparative analysis of environmental stressors. Environmental stressors are factors that may make people more susceptible to harm from exposure to pollutants. The term cumulative impacts is defined under Minn. Stat. § 116.065, subd. 1(c) and refers to the aggregated levels of different kinds of pollution. As different kinds of pollution may have aggregated impacts on people, multiple factors may interact and have an aggregated effect in making people more susceptible to the harms of pollution. For example, an area may have multiple stressors that are considered adverse environmental stressors (i.e., those stressors that are higher than the reference value or value identified for the geographic point of comparison). The combination of those adverse stressors may make residents of an EJ area more susceptible to the harms of pollution just as any individual environmental stressor may do so.

It is reasonable to define this term to clarify the information that the MPCA will provide related to environmental stressors because owners and operators need to know what information is provided for environmental stressors as part of determining when a cumulative impacts analysis is needed and when issuing a permit would have a substantial adverse impact. The MPCA proposes this term to enable a

comparative analysis of the combined effect of multiple environmental stressors. Using a comparative analysis is reasonable because it provides the MPCA a methodology to provide and consider environmental stressors present in an EJ area as required under Minn. Stat. § 116.065.

Subpart 6. Adverse environmental stressors

Subpart 6 defines the term "adverse environmental stressors." This term identifies and measures environmental stressor information in specific census tracts, which the MPCA must maintain and make accessible to the public pursuant to Minn. Stat. § 116.065, subd. 5(f). This term is needed to enable a methodology for considering environmental stressors as part of determining whether a cumulative impacts analysis is needed. For example, an environmental stressor for the EJ area is analyzed by comparing data available for the stressor to a reference value (i.e., a standard or benchmark used to compare and assess the value for an environmental stressor) where available, or geographic point of comparison (i.e., a county and/or statewide comparison point and its corresponding value) if a reference value was not available. If an environmental stressor in a census tract exceeds the reference value or geographic point of comparison, then that stressor is considered an adverse environmental stressor. This information is used in determining whether a permit, if issued, would substantially impact the environment or the health of the residents of an EJ area. Additionally environmental stressors are considered in determining whether a permit would have substantial adverse impact on the environmental or health of the EJ area and its residents, and if so, requires the commissioner and facility owner or operator to enter into a CBA prior to permit issuance.

Under Minn. Stat. § 116.065, subd. 6(c)(2), the MPCA must provide sources of public information permit applicants can access regarding environmental stressors. Under Minn. Stat. § 116.065, subd. 5(b), the MPCA must consider environmental stressors as part of making a decision to issue or deny a permit. However, Minn. Stat. § 116.065 does not prescribe how this information must be presented nor how the MPCA must consider environmental stressors as part of making a decision to issue or deny a permit. This term is needed to provide a consistent methodology that the MPCA uses to provide information in the database of environmental stressors and consider those environmental stressors as part of a permit decision. It is reasonable to clarify the points of analysis and provide consistency in terms used in that analysis.

This term is proposed to clarify that both quantitative and comparative methods can be used to determine if an environmental stressor is considered adverse. Environmental stressors are factors that may make people more susceptible to harm from exposure to pollutants, and they may have both quantitative and comparative methods of determining how much they make people more susceptible. Quantitative methods are used when there exists a reference value that allows the MPCA to do so and comparative methods are used when there is not a reference value specified.

It is reasonable to define this term to clarify the information that the MPCA will provide related to environmental stressors because owners and operators need to know what information is provided for environmental stressors as part of determining when a cumulative impacts analysis is needed and when issuing a permit would have a substantial adverse impact. The MPCA proposes this term to enable a comparative analysis of the combined effect of multiple environmental stressors. Using a comparative analysis is reasonable because it provides the MPCA a methodology to provide and consider environmental stressors present in an EJ area as required under Minn. Stat. § 116.065.

Subpart 7. Cancer risk

Subpart 7 defines the term "cancer risk." Cancer risk defines the risk of developing cancer from exposure to air pollution emissions from a given stationary source. The risk is calculated from the probability that a hypothetical human receptor will develop cancer based on a set of exposures, model, and toxicity assumptions. It is reasonable to define this term as this term is consistent with how risks

from cancer are assessed through a risk assessment and it is a common term used in risk assessments.

Subpart 8. Chronic health endpoint
Subpart 8 defines the term "chronic health endpoint." Chronic health endpoint defines the target organ or system, such as neurological, respiratory, reproductive for chronic inhalation risk. Chronic health endpoint includes chronic noncancer health endpoint. It is reasonable to define this term to distinguish between the different exposure health endpoints. This definition helps ensure that the health endpoints are investigated over a chronic exposure.

Subpart 9. Chronic inhalation risk
Subpart 9 defines the term "chronic inhalation risk." Chronic inhalation risk defines the risk from consistent exposure or multiple exposures occurring over an extended period of an individual's lifetime, such as greater than one year to a lifetime, that is evaluated using the highest annual ambient air concentration over a five-year period, up to and at the stationary source's fence line. This definition is used when evaluating the acceptable risk levels. It is reasonable to define this term to distinguish between the different exposure inhalation risks and it is a common term used in risk assessments.

Subpart 10. Combined stressor total
Subpart 10 defines the term "combined stressor total." This term identifies and measures environmental stressor information in specific census tracts, which the MPCA must maintain and make accessible to the public pursuant to Minn. Stat. § 116.065, subd. 5(f). This term is needed to enable a methodology for considering environmental stressors as part of determining whether a cumulative impacts analysis is needed. For example, if the combined stressor total for the EJ area exceeds the combined stressor total of the geographic point of comparison (i.e., the median combined stressor total for the county or the state), that EJ area has adverse cumulative stressors. This information is used in determining whether a permit, if issued, would substantially impact the environment or the health of the residents of an EJ area. Additionally environmental stressors are considered in determining whether a permit would have substantial adverse impact on the environmental or health of the EJ area and its residents, and if so, requires the commissioner and facility owner or operator to enter into a CBA prior to permit issuance.

Under Minn. Stat. § 116.065, subd. 6(c)(2), the MPCA must provide sources of public information permit applicants can access regarding environmental stressors. Under Minn. Stat. § 116.065, subd. 5(b), the MPCA must consider environmental stressors as part of making a decision to issue or deny a permit. However, Minn. Stat. § 116.065 does not prescribe how this information must be presented nor how the MPCA must consider environmental stressors as part of making a decision to issue or deny a permit. This term is needed to provide a consistent methodology that the MPCA uses to provide information in the database of environmental stressors and consider those environmental stressors as part of a permit decision. It is reasonable to clarify the points of analysis and provide consistency in terms used in that analysis.

This term is proposed to identify a simple summation of environmental stressors that are higher than the reference value or geographic point of comparison for use in a comparative analysis of environmental stressors. Environmental stressors are factors that may make people more susceptible to harm from exposure to pollutants. The term cumulative impacts is defined under Minn. Stat. § 116.065, subd. 1(c) and refers to the aggregated levels of different kinds of pollution. As different kinds of pollution may have aggregated impacts on people, multiple factors may interact and have an aggregated effect in making people more susceptible to the harms of pollution. For example, an area may have multiple stressors that are considered adverse environmental stressors (i.e., those stressors that are higher than the reference value or value identified for the geographic point of comparison). The combination of those adverse environmental stressors may make residents of an EJ more susceptible to

the harms of pollution just as any individual environmental stressor may do so.

It is reasonable to define this term to clarify the information that the MPCA will provide related to environmental stressors because owners and operators need to know what information is provided for environmental stressors as part of determining when a cumulative impacts analysis is needed and when issuing a permit would have a substantial adverse impact. The MPCA proposes this term to enable a comparative analysis of the combined effect of multiple environmental stressors. Using a comparative analysis is reasonable because it provides the MPCA a methodology to provide and consider environmental stressors present in an EJ area as required under Minn. Stat. § 116.065.

Subpart 11. Community benefit

Subpart 11 defines the term "community benefit." This term identifies types of benefits that must be included in a CBA. Under Minn. Stat. § 116.065, subd. 6(c)(4)(ii), the MPCA must establish the content of a CBA, which must include considerations other than or in addition to economic considerations, with priority given to considerations that directly impact the residents of the EJ area. The proposed definition is reasonable because it establishes broad categories for benefits, allowing applications, across different EJ areas, flexibility to comply with the rule. It is also reasonable because it establishes expectations for what a benefit must achieve—tangible health, environmental, social, economic, or other benefit—which aligns with the environmental stressors included in Minn. Stat. § 116.065, subd. 1(f). The proposed definition also establishes who must be the recipient of the community, which aligns with Minn. Stat. § 116.065, subd. 6(c)(4)(ii). This term is needed to provide clarity on how a benefit must serve an EJ area and its residents. It is reasonable to clarify the type of benefits that must be included in a CBA because it prevents confusion for regulated parties, community members, and the MPCA.

Subpart 12. Community benefit agreement

Subpart 12 defines the term "community benefit agreement." This term is needed because Minn. Stat. § 116.065, subd. 5(b) states that, unless the commissioner enters into a CBA with the owner or operator of a stationary source, the commissioner must deny a permit for a stationary source in an EJ area if the cumulative impacts analysis (required under Minn. Stat. § 116.065, subd. 3(d)), determines that issuing the permit, in combination with the environmental stressors present in the EJ area and considering the socioeconomic impact of the stationary source to the residents of the EJ area, would have a substantial adverse impact on the environment or health of the EJ area and its residents. However, Minn. Stat. § 116.065 does not define this term, and it is not defined in existing rules. It is reasonable to define this term because it provides clarity and prevents confusion for regulated parties, community members, and the MPCA. The proposed definition is reasonable because it establishes what is required by Minn. Stat. § 116.065, subd. 5 in rule and how this differs from the most commonly understood meaning of this term, while maintaining the basic tenet of a CBA as the provision of benefits to residents of a defined area.

Subpart 13. Cumulative impacts

Subpart 13 defines the term "cumulative impacts" to have the meaning specified in Minn. Stat. § 116.065. It is reasonable to use a definition already provided in Minn. Stat. § 116.065, as it is the authorizing statute for this rulemaking, and to avoid confusion by using a consistent definition across both the statutory language and the rules.

Subpart 14. Draft community benefit agreement

Subpart 14 defines the term "draft community benefit agreement." This term refers to the version of a CBA that is developed by the owners and operators after the first CBA-specific public meeting (required by Minn. R. 7007.6080), in which any interested part may recommend community benefits. This version of a CBA is offered for review by the owner and operator, to any interested party, prior to the second CBA-specific meeting and comment period required under Minn R. 7007.6080.

Under Minn. Stat. § 116.065, subd. 6(c)(4) the MPCA must establish procedures for entering into a CBA. However, Minn. Stat. § 116.065 does not prescribe how a CBA must be developed. This term is needed to provide clarity of which version of the CBA must be provided for review prior to it being discussed and commented on at the second CBA-specific meeting and comment period. It is reasonable to define this term because it provides a distinction between the versions of a CBA developed through the CBA process.

Subpart 15. Economic benefit

Subpart 15 defines the term "economic benefit." This term identifies types of benefits that may be included in a CBA. Under Minn. Stat. § 116.065, subd. 6(c)(4)(ii), the MPCA must establish the content of a CBA, which must include considerations other than or in addition to economic considerations. This subpart defines the term "economic benefit" to mean a benefit that provides gains that can be measured in financial terms. The definition also lists some examples of what is consider an economic benefit. The term "economic" generally refers to monetary value, so it is reasonable to define "economic benefit" as a benefit that provides gains that can be measured in financial terms. This term is needed to provide clarity on how a benefit is determined to be an economic consideration. It is reasonable to clarify the type of benefits, and provide examples, that may be included in a CBA because it prevents confusion for regulated parties, community members, and the MPCA.

Subpart 16. Environmental justice

Subpart 16 defines the term "environmental justice" to have the meaning specified in Minn. Stat. § 116.065. It is reasonable to use a definition already provided in Minn. Stat. § 116.065, as it is the authorizing statute for this rulemaking, and to avoid confusion by using a consistent definition across both the statutory language and the rules.

Subpart 17. Environmental justice area

Subpart 17 defines the term "environmental justice area" to have the meaning specified in Minn. Stat. § 116.065. It is reasonable to use a definition already provided in Minn. Stat. § 116.065, as it is the authorizing statute for this rulemaking, and to avoid confusion by using a consistent definition across both the statutory language and the rules.

Subpart 18. Environmental stressors

Subpart 18 defines the term "environmental stressors" to have the meaning specified in Minn. Stat. § 116.065. It is reasonable to use a definition already provided in Minn. Stat. § 116.065, as it is the authorizing statute for this rulemaking, and to avoid confusion by using a consistent definition across both the statutory language and the rules.

Subpart 19. Facility expansion

Subpart 19defines the term "facility expansion." This term is defined because Minn. Stat. § 116.065, subd. 1(h) includes "facility expansion" in the definition of permits and it is not defined by the statute or existing rules. "Facility expansion" is defined to mean a modification, as defined under 7007.0100, subp. 14, at an existing permitted stationary source that will cause an increase in emissions of an air pollutant, or makes the stationary source subject to the requirement to obtain an individual state or federal permit. Facility expansion does not include: any change to permit conditions that is allowed under part 7007.1250 for insignificant modifications, any modification at a permitted stationary source that is allowed under part 7007.1350 for changes that contravene permit terms, administrative amendment changes under part 7007.1400, or any minor permit amendment under part 7007.1450.

This definition means owners or operators of a stationary source operating under a permit that are contemplating a change at their source, will need to assess whether the change is a facility expansion. First, the owners and operators must determine whether the change is a modification defined under

7007.0100, subp. 14. If it is not a modification, then the change is not a facility expansion and is not subject to the cumulative impacts rules. If the change qualifies as a modification under 7007.0100, subp. 14, then the owner or operator needs to determine the appropriate type of amendment and compare the increase of emissions from the modification to the permitting thresholds for requiring a moderate under part 7007.1450. If a moderate or major amendment is needed, then the change is considered a facility expansion for the purposes of this rule.

Item A is specific to facility expansions that cause an increase in emissions of an air pollutant. A reference to the term, modification, is needed to establish when an increase in emissions occurs. Under the definition of modification (Minn. R. 7007.0100, subp. 14), an increase in emissions occurs if the emission rate of any regulated air pollutant increases, or if the change results in the release of a regulated pollutant that had not been emitted before. Emissions increases are determined by comparing the rate of emissions in pounds per hour before and after the change. The definition of modification specifies the calculations methods to be used in this comparison, and lists changes that by themselves, are not considered modifications. It is reasonable for the definition of facility expansion to include an increase in emissions as a way to determine whether a project is a facility expansion. It is also reasonable to use the definition of modification because it is an existing process often used to determine when a permit amendment may be needed.

Item B is specific to a modification at an existing permitted sources that requires the owners or operators to obtain a permit, as defined by Minn. Stat. § 116.065, subd. 1(h) and new part 7007.6010, subpart 31. As an example, a source operating under a registration, capped, or general permit that makes a modification such that the source no longer qualifies for the registration permit may need to apply for a permit for the new operations. This may also include facilities that need to move from an individual state permit to a permit that meets the definition of permit under new part 7007.6010, subpart 31. These types of changes are considered facility expansions because the change is a modification to a source that is already permitted and the source is required to obtain a new permit that is included in the permit definition under Minn. Stat. § 116.065, subd. 1(h), and new part 7007.6010, subpart 31. These scenarios would not be considered new construction permits, because new construction is limited to new sources that were not previously permitted. The inclusion of sources that are newly required to obtain a permit in the definition of facility expansion is needed to account for one of the ways that a source may become newly subject to Minn. R. 7007.6000 to 7007.6120. It is reasonable to include these sources in the definition of facility expansion because, due to a modification at the source, they will be newly subject to the proposed rule.

Several types of permit actions are not included in the definition of facility expansion. For example, contravening permit terms (under part 7007.1350) and administrative amendments (under part 7007.1400) are not included as part of the facility expansion definition because these types of actions cannot involve an increase in emissions. Insignificant modifications (under part 7007.1250) are also not considered a facility expansion because there is no permit application needed to make the change. It is reasonable to exclude these types of activities from facility expansion because there would not be an emissions increase, or there would be no permit application that could be acted on.

Minor amendments (under part 7007.1450, subp. 2) are not included as facility expansions. A modification that qualifies for a minor amendment permit must have emissions below the thresholds in part 7007.1450, subp. 2. The existing permitting rule structure allows applicants for a minor amendment to make the modification seven working days after the application is received. This is meant to reduce the resources needed for processing these lower impact permit actions and allow the Agency to focus on the permit actions that have higher emission increases and/or higher regulatory analyses. It is reasonable to exclude minor amendments because they are already considered to have lower impacts based on the structure of the air permitting rules. By staying consistent with the current rule structure,

the Agency can continue to focus efforts on potential impacts on the environment and health of residents from facility expansion permits that result in higher emissions increases or that result in a new permit.

A definition of facility expansion is needed because this term is specified in Minn. Stat. § 116.065, subd. 1(h). It is reasonable to define facility expansion to clarify which types of permits are subject to the proposed rule.

Subpart 20. Farmer cancer multipathway risk

Subpart 20 defines the term "farmer cancer multipathway risk." Farmer cancer multipathway risk defines the cancer multipathway risk for a farmer scenario. A "farmer" is a hypothetical person that inhales air, incidentally ingests soil, ingests homegrown produce, drinks home-produced milk, and eats home-grown meat products (e.g., pork, beef, chicken) including eggs, that could be affected by a stationary source's emissions. Cancer multipathway risk is the cancer risks from different exposure routes, some examples are inhalation, oral, and dermal. This definition is used when evaluating the acceptable risk levels. It is reasonable to define this term to distinguish between the different multipathway risks and it is a common term used in risk assessments.

Subpart 21. Farmer noncancer multipathway risk

Subpart 21 defines the term "farmer noncancer multipathway risk." Farmer noncancer multipathway risk defines the noncancer multipathway risk for a farmer scenario. A "farmer" is a hypothetical person that inhales air, incidentally ingests soil, ingests homegrown produce, drinks home-produced milk, and eats home-grown meat products (e.g., pork, beef, chicken), including eggs, that could be affected by a stationary source's emissions. Noncancer multipathway risk is the noncancer risk from different exposure routes, some examples are inhalation, oral, and dermal. This definition is used when evaluating the acceptable risk levels. It is reasonable to define this term to distinguish between the different multipathway risks and it is a common term used in risk assessments.

Subpart 22. Geographic point of comparison

Subpart 22 defines the term "geographic point of comparison." This term identifies information used in the database of environmental stressors in specific census tracts, which the MPCA must maintain and make accessible to the public pursuant to Minn. Stat. § 116.065, subd. 5(f). This term is needed to enable a methodology for considering environmental stressors as part of determining whether a cumulative impacts analysis is needed. For example, if the combined stressor total for the EJ area exceeds the combined stressor total of the geographic point of comparison (i.e., the median combined stressor total for the county or the state), that EJ area has adverse cumulative stressors. This information is used in determining whether a permit, if issued, would substantially impact the environment or the health of the residents of an EJ area. Additionally environmental stressors are considered in determining whether a permit would have substantial adverse impact on the environmental or health of the EJ area and its residents, and if so, requires the commissioner and facility owner or operator to enter into a CBA prior to permit issuance.

Under Minn. Stat. § 116.065, subd. 6(c)(2), the MPCA must provide sources of public information permit applicants can access regarding environmental stressors. Under Minn. Stat. § 116.065, subd. 5(b), the MPCA must consider environmental stressors as part of making a decision to issue or deny a permit. However, Minn. Stat. § 116.065 does not prescribe how this information must be presented nor how the MPCA must consider environmental stressors as part of making a decision to issue or deny a permit. This term is needed to provide a consistent methodology that the MPCA uses to provide information in the database of environmental stressors and consider those environmental stressors as part of a permit decision. It is reasonable to clarify the points of analysis and provide consistency in terms used in that analysis.

The MPCA proposes this term to enable a comparative analysis of environmental stressors across census tracts where other quantitative values used to understand a specific environmental stressor are not available. Environmental stressors are factors that may make people more susceptible to harm from exposure to pollutants, but they may not always have a quantitative method of determining how much they make people more susceptible.

Furthermore, geographic areas can be uniquely different from each other and have different communities and businesses. The MPCA chose to provide for multiple comparison points, specifically a county and statewide comparison point, because a "one-size-fits-all" approach would not provide for fair treatment as described in the definition of "environmental justice" to residents in EJ areas. For example, using only a statewide comparison point could potentially perpetuate the historic decisions made by providing less protection to EJ areas in comparatively less industrialized counties. Conversely, using only a county comparison point could lead to providing less protection to an EJ area in a more-industrialized county that experiences environmental stressors disproportionately to the rest of Minnesota. Additionally, in determining the comparison area (the geographic point of comparison), the MPCA proposes to use the lower value of the state or county's 50^{th} percentile (i.e., a median value) because it provides a simple methodology to determine whether a census tract is overburdened by, or experiencing environmental stressors disproportionately, compared to other areas.

The 50^{th} percentile was chosen because medians are more resistant to outliers (i.e., extremely high or low values), versus other types of averages such as means or modes, and better represent the typical value. It is reasonable to specify a methodology for determining whether an area is overburdened or experiencing a disproportionate impact in order to support a comparative analysis of environmental stressors.

It is reasonable to define this term, to clarify the information that the MPCA will provide related to environmental stressors, because owners and operators need to know what information is provided for environmental stressors as part of the cumulative impacts analysis determination of need. Using a comparative analysis is reasonable because it provides the MPCA a methodology to provide and consider environmental stressors present in an EJ area as required under Minn. Stat. § 116.065.

Subpart 23. Hazard index

Subpart 23 defines the term "hazard index." Hazard index defines the sum of more than one hazard quotient for multiple substances with the same or similar health endpoints. It is assumed all noncarcinogens have the same or similar health endpoints during initial screening. A hazard index equal to or less than 1, without rounding down to one significant figure, poses no appreciable likelihood of adverse health effects to individuals. It is reasonable to define this term as it is used as a value to determine if an air toxics facility has the potential to pose risk to human health. This term is consistent with how hazard indices are calculated in risk assessments.

Subpart 24. Hazard quotient

Subpart 24 defines the term "hazard quotient." Hazard quotient defines the ratio of a single substance exposure level to an inhalation health benchmark (IHB) for that substance derived from a similar exposure period. (*e.g. Conc/IHB* where Conc is the air concentration for a particular air toxic). A hazard quotient equal to or less than 1, rounded to one significant figure, poses no appreciable likelihood of adverse health effects to the exposed general population. It is reasonable to define this term as it is used as a value to determine if an air toxics facility has the potential to pose risks to human health. This term is consistent with how hazard quotients are calculated in risk assessments.

Subpart 25. Health endpoint

Subpart 25 defines the term "health endpoint." Health endpoint defines the observable adverse biological effect from a chemical exposure used to group chemicals for the purpose of evaluating risks

from multiple chemicals. Examples of a health endpoint include increased risks for various cancers; harm to body organs such as heart, brain, liver, kidneys; harm to systems, such as respiratory, immune, nervous, endocrine, cardiovascular, reproductive; as well as developmental effects, such as lowered birth weight and birth defects. It is reasonable to define health endpoint as it is one of the acceptable risks. This term is consistent with one way risk is assessed through risk assessments and it is a common term used in risk assessments.

Subpart 26. Impacted Environmental justice area

Subpart 26 defines the term "impacted environmental justice area." This term describes the EJ areas that are relevant to the requested permit action and stationary source, including the EJ areas that the stationary source is located in, in whole or in part, and those within one mile of the property boundary of a stationary source, in whole or in part. This definition is needed to clarify terms used in Minn. Stat. § 116.065 and the proposed rules, to describe:

- Who is eligible to sign a petition requesting the MPCA to require a cumulative impacts analysis;
- The area where public meetings must be held when a cumulative impacts analysis is required;
- The area where physical signage must be posted in advance of the required public meetings; and
- The area where active outreach is required during the process of entering into a CBA.

While Minn. Stat. § 116.065 defines *environmental justice area*, it does not define the term "impacted environmental justice area" nor similar terms and phrases such as "environmental justice area impacted by the facility," "environmental justice area affected by the facility," "facilities that impact environmental justice areas," "a facility located in or affecting and environmental justice area," and other similar phrases used within the statute.

The MPCA proposes this definition as a plain reading of these terms based on the applicability criteria included in Minn. Stat. § 116.065, subd. 2 that describes that the proposed rules apply when a stationary source is located in or within one mile of a census tract that is part of an EJ area. The proposed definition also matches the reading of Minn. Stat. § 116.065, subd. 3(e)(2) that refers to petitions. It is reasonable to define *impacted environmental justice area* to mean the EJ areas that are in, or within one mile of, the property boundary of the stationary source as that is the maximum reach of the proposed rules under the applicability criteria established in Minn. Stat. § 116.065.

Subpart 27. Indian Country

Subpart 27 defines the term "Indian Country" to have the meaning specified in Minn. Stat. § 116.065. It is reasonable to use a definition already provided in Minn. Stat. § 116.065, as it is the authorizing statute for this rulemaking, and to avoid confusion by using a consistent definition across both the statutory language and the rules.

Subpart 28. Inhalation health benchmark

Subpart 28 defines the term "inhalation health benchmark" as a concentration in ambient air at or below which an air toxic is unlikely to cause an adverse health effect in a population over a prescribed duration. It is reasonable to define this term as it is used throughout the rule. IHBs were used to create the screening threshold values for the screening threshold analysis and are used in calculating the risk levels in an air emission risk analysis.

Subpart 29. Minnesota Tribal governments

Subpart 17 defines the term "Minnesota Tribal government" to have the meaning specified in Minn. Stat. § 10.65. It is reasonable to use a definition already provided in Minn. Stat. § 10.65 and to avoid confusion by using a consistent definition across both the statutory language and the rules.

Subpart 30. New construction
Subpart 30 defines the term “new construction.” This term means construction of a new stationary source that is required to obtain a permit or a modification at an existing, unpermitted stationary source that requires the owner or operator to obtain a permit. This term needs to be defined because Minn. Stat. § 116.065, subd. 1(h) applies to “new construction” permits, a term that is not defined by the statute or existing rules. It is reasonable to define this term to identify which types of permits are subject to the rule. “New construction” does not include construction at sources that are already operating under an air permit issued by the MPCA, because any changes at existing permitted sources will be evaluated for whether the change is a “facility expansion” rather than “new construction.” The definition for “new construction” is reasonable because it includes both the common understanding of a newly constructed source and the first-time permit actions where a source needs to be treated as new, and it does not include construction or expansion that would require only a registration or capped or state general permit, because those types of permits are excluded from the statute.

Subpart 31. Permit
Subpart 31 defines the term “permit” for use in Minn. R. 7007.6000 to 7007.6120. This term is needed because “permit” is currently defined in Minn. R. 7007.0100, subp. 17, and Minn. Stat. § 116.065, subd. 1(h) introduces a unique definition of permit. Minn. Stat. § 116.065, subd. 1(h) states: “Permit" means a major source air permit, as defined in Minn. R., part 7007.0200, or a state air permit required under Minn. R., part 7007.0250, subpart 5 or 6. This definition of a permit includes only a permit required for new construction or facility expansion or the reissuance of an existing permit. This definition of ‘permit’ for use in the Minn. R. 7007.6000 to 7007.6120 is needed to match the way “permit” is used in the statute. It is reasonable to define a term needed to match the statute.

Subpart 32. Proposed community benefit agreement
Subpart 32 defines the term “proposed community benefit agreement.” This term refers to the version of a CBA that the owners and operators submit to the Agency for review in compliance with part 7007.6110. This version is submitted to the Agency after the second CBA-specific public meeting and for the purpose of entering into the proposed agreement. Under Minn. Stat. § 116.065, subd. 6(c)(4) the MPCA must establish procedures for entering into a CBA. However, Minn. Stat. § 116.065 does not prescribe how a CBA must be developed. This term is needed to provide clarity for which version of the CBA must be reviewed for compliance with the rule and determination of whether the commissioner will enter into the CBA. It is reasonable to define this term because it provides a distinction between the versions of a CBA developed through the CBA process.

Subpart 33. Public space
Subpart 33 defines the term “public space” to identify locations in an EJ area that are open to and utilized by the general public and where owners and operators of a stationary source may consider posting physical signage to notice a required public meeting. Under Minn. Stat. § 116.065, subd. 4(b)(2) the MPCA must direct the permit applicant or permit holder to post physical signage in the impacted EJ area before the required public meeting before and after the cumulative impact analysis is conducted. This term is needed to provide direction to regulated parties on where physical signage may be posted in an impacted EJ area for noticing a required public meeting. A definition provides the specificity to allow for compliance from regulated parties and ensure physical signage is located in areas open to the general public, while being flexible enough to include many kinds of spaces that are open to the general public and likely applicable across different EJ areas.

Subpart 34. Reference value
Subpart 34 defines the term “reference value.” This term identifies information used in the database of environmental stressors in specific census tracts, which the MPCA must maintain and make accessible to

the public pursuant to Minn. Stat. § 116.065, subd. 5(f). This term is needed to enable a methodology for considering environmental stressors as part of determining whether a cumulative impacts analysis is needed. For example, an environmental stressor for the EJ area is analyzed by comparing data available for the stressor to a reference value (i.e., a standard or benchmark used to compare and assess the value for an environmental stressor) where available, or geographic point of comparison (i.e., a county and/or statewide comparison point and its corresponding value) if a reference value was not available. If an environmental stressor in a census tract exceeds the reference value or geographic point of comparison, then that stressor is considered an adverse environmental stressor. This information is used in determining whether a permit, if issued, would substantially impact the environment or the health of the residents of an EJ area. Additionally environmental stressors are considered in determining whether a permit would have substantial adverse impact on the environmental or health of the EJ area and its residents, and if so, requires the commissioner and facility owner or operator to enter into a CBA prior to permit issuance.

Under Minn. Stat. § 116.065, subd. 6(c)(2), the MPCA must provide sources of public information permit applicants can access regarding environmental stressors. Under Minn. Stat. § 116.065, subd. 5(b), the MPCA must consider environmental stressors as part of making a decision to issue or deny a permit. However, Minn. Stat. § 116.065 does not prescribe how this information must be presented nor how the MPCA must consider environmental stressors as part of making a decision to issue or deny a permit. This term is needed to provide a consistent methodology that the MPCA uses to provide information in the database of environmental stressors and consider those environmental stressors as part of a permit decision. Defining this term is reasonable because it clarifies the points of analysis and provides consistency in terms used in that analysis.

This term is proposed to identify when an environmental stressor has a standard or benchmark that enables a quantitative analysis of environmental stressors. Environmental stressors are factors that may make people more susceptible to harm from exposure to pollutants, but they may not always have a quantitative method of determining how much they make people more susceptible. It is reasonable to use standards and benchmarks when they exist as a methodology to consider and evaluate environmental stressors present in an EJ area.

It is reasonable to define this term to clarify the information that the MPCA will provide related to environmental stressors because owners and operators need to know what information is provided for environmental stressors as part of determining when a cumulative impacts analysis is needed and when issuing a permit would have a substantial adverse impact. The MPCA proposes this term to enable a quantitative analysis of environmental stressors when quantitative values are available to understand a specific environmental stressor. Using a quantitative analysis is reasonable because it provides the MPCA a methodology to provide and consider environmental stressors present in an EJ area as required under Minn. Stat. § 116.065.

Subpart 35. Requested permit action

Subpart 35 defines the term “requested permit action.” This term describes applications for permits that are defined by this part and Minn. Stat. § 116.065, subd. 1(h). This definition is needed because Minn. Stat. § 116.065, subd. 3(a)(1) states: “the commissioner is responsible for determining whether a proposed permit action may substantially impact the environment or health of the residents of an environmental justice area.” However, the use of the term “proposed permit” may be confusing because it has a different meaning under Minn. R. 7007.0100, subp. 18. Therefore, “requested permit action” is being defined to represent the permit application initiating the applicability of the Minn. R. 7007.6000 to 7007.6120. It is reasonable to define this term as “requested permit action” to avoid confusion with other uses of “proposed permit” under chapter 7007.

Subpart 36. Resident cancer multipathway risk
Subpart 36 defines the term "resident cancer multipathway risk." Resident cancer multi-pathway risk defines the cancer multipathway risk for a resident scenario. The "resident" exposure scenario assumes a hypothetical person inhales air, incidentally ingests soil, and ingests home-grown produce that could be affected by a stationary source's emissions. Cancer multipathway risk is the cancer risk from different exposure routes, some examples are inhalation, oral, and dermal. This definition is used when evaluating the acceptable risk levels. It is reasonable to define this term to distinguish between the different multipathway risks and it is a common term used in risk assessments.

Subpart 37. Resident noncancer multipathway risk
Subpart 37 defines the term "resident noncancer multipathway risk." Resident noncancer multipathway risk defines the noncancer multipathway risk for a resident scenario. The "resident" exposure scenario assumes a hypothetical person inhales air, incidentally ingests soil, and ingests home-grown produce that could be affected by a stationary source's air emissions. Noncancer multipathway risk is the noncancer risk from different exposure routes, some examples are inhalation, oral, and dermal. This definition is used when evaluating the acceptable risk levels. It is reasonable to define this term to distinguish between the different multipathway risks and it is a common term in risk analysis.

Subpart 38. Sensitive receptors
Subpart 38 defines the term "sensitive receptor." Sensitive receptor defines groups of people or individuals who, due to their age or health status, are susceptible to air pollutants. Sensitive receptors may include infants, children, pregnant individuals and their fetuses, elderly, asthmatics, athletes[11], people compromised by pre-existing diseases, and immuno-compromised people. It is reasonable to define a sensitive receptor as there can be many different interpretations on what is "sensitive." The definition clarifies what a sensitive receptor means for this chapter and is needed when completing the air emissions risk analysis and it is a common term used in risk assessment.

Subpart 39. Socioeconomic impact
Subpart 39 defines the term "socioeconomic impact." This term is needed to help clarify the scope of the information that regulated parties need to provide as part of a cumulative impacts analysis. This term is also needed to clarify the information the MPCA will evaluate as part of determining whether to issue or deny a permit as required under Minn. Stat § 116.065, subd. 5(b). Socioeconomics refers to how economic activity and social behaviors influence and interact with each other, focusing on how factors like income, education, occupation, and social standing impact quality of life and opportunities. Socioeconomics examine the intersection of societal structures, cultural values, and economic outcomes and are often used to inform policy, actions, decisions. It is reasonable to define this term to provide additional clarity regarding the information that is provided and evaluated as part of a cumulative impacts analysis.

Subpart 40. Subchronic health endpoint
Subpart 40 defines the term "subchronic health endpoint." Subchronic health endpoint defines the target organ or system, such as neurological, respiratory, reproductive for subchronic inhalation risk. Subchronic health endpoint includes subchronic noncancer health endpoint. It is reasonable to define this term to distinguish between the different exposure health endpoints. This helps ensure that the health endpoints are investigated over a subchronic exposure, which is a time period greater than 24 hours to one year.

[11] *Air aware labs, evidence linking air pollution to different areas. Athletes, December 8, 2025. Retrieved from https://www.airawarelabs.com/evidence/athletes*

Subpart 41. Subchronic inhalation risk
Subpart 41 defines the term "subchronic inhalation risk." Subchronic inhalation risk defines the risk from multiple exposures occurring over an extended period of an individual's lifetime, such as greater than 24 hours to one year, that is evaluated using the modeled highest monthly ambient air concentration over a five-year period, up to and at the stationary source's fence line. This definition is used when evaluating the acceptable risk levels. It is reasonable to define this term to distinguish between the different exposure inhalation risks, and it is a common term used in risk assessments.

Subpart 42. Urban gardener cancer multipathway risk
Subpart 42 defines the term "urban gardener cancer multipathway risk." Urban gardener cancer multipathway risk defines the multipathway cancer risk for the urban gardener scenario. An "urban gardener" exposure scenario assumes a hypothetical person inhales air, incidentally ingests soil, ingests home-grown produce, and eats home-raised chicken eggs that could be affected by a stationary source's emissions. Cancer multipathway risk is the cancer risk from different exposure routes, some examples are inhalation, oral and dermal. This definition is used when evaluating the acceptable risk levels. It is reasonable to define this term to distinguish between the different multi-pathway risks, and it is a common term used in risk assessments.

Subpart 43. Urban gardener noncancer multipathway risk
Subpart 43 defines the term "urban gardener noncancer multipathway risk." Urban gardener noncancer multipathway risk defines the multipathway noncancer risk for the urban gardener scenario. An "urban gardener" exposure scenario assumes a hypothetical person inhales air, incidentally ingests soil, ingests home-grown produce, and eats home-raised chicken eggs that could be affected by a stationary source's emissions. Noncancer multipathway risk is the noncancer risk from different exposure routes, some examples are inhalation, oral, and dermal. This definition is used when evaluating the acceptable risk levels. It is reasonable to define this term to distinguish between different multipathway risks, and it is a common term used in risk assessments.

PART 7007.6020 – APPLICABILITY AND PROCEDURES

Justification for part 7007.6020

The intent of this part is to provide clarity regarding how the MPCA will implement and apply the requirements of Minn. R. 7007.6000 to 7007.6120. Minn. Stat. § 116.065, subd. 6(a) specifies broadly that the commissioner must adopt rules that govern cumulative impacts analyses and permit decisions for affected regulated parties. The MPCA found that additional requirements were needed to clearly identify and reference the rule language that implements different portions of Minn. Stat. § 116.065.

Minn. R. 7007.6020 establishes when the cumulative impacts rules contained in parts 7007.6000 to 7007.6120 apply to owners and operators, including exemptions to the applicability of parts 7007.6000 to 7007.6120, and how owners and operators must determine applicability of parts 7007.6000 to 7007.6120 when there are changes in information used to determine applicability. This part also identifies how often information on EJ areas are updated, what information the Agency will provide regarding environmental stressors, and a procedural overview of parts 7007.6000 to 7007.6120.

In general, it is reasonable to provide clarity in rule regarding how the MPCA implements and applies the proposed rules so that all interested persons have a common understanding of how the rules function.

Subpart 1. Applicability
Subpart 1 establishes the proposed rules apply to owners and operators seeking a requested permit action for a stationary source that is or will be located in, or within one mile of, an EJ area. The stationary source must also be located in the Twin Cities seven-county metropolitan area or a city of the

first class as defined in Minn. Stat. § 410.01. This subpart is needed to clearly identify when the proposed rules apply to owners and operators. This requirement is similar to the language found in Minn. Stat. § 116.065, subd. 2, but provides additional detail by specifying the rules are applicable when a source will be located in, or within one mile of, an EJ area to account for permit applications that are for construction of a new stationary source. The proposed rule language also provides a reference to the definition of a city of the first class. It is reasonable to specify the locations where the proposed rules apply such that owners and operators, interested persons, and the commissioner can determine rule applicability for a source.

Subpart 2. Exemptions

Subpart 2 identifies when Minn. R. 7007.6000 through 7007.6120 does not apply. It is reasonable to clearly identify both when rules apply and when they do not apply.

Subpart 2, item A identifies that the proposed rules do not apply to permit applications for other types of air permits the MPCA issues to stationary sources. The MPCA issues other air permits, not subject to the proposed rule, including registration permits issued under Minn. R. 7007.1110 through 7007.1130, capped permits issued under Minn. R. 7007.1140 through 7007.1148, and general permits issued under Minn. R. 7007.1100. Each of these permit types have their own portion of Minnesota Rules that identify the provisions for issuing those types of permits. Since these parts of Minnesota Rules are not identified in the definition of "permit" in Minn. Stat. § 116.065, the proposed rules identify that those permit types would not be subject to the requirements of Minn. R. 7007.6000 through 7007.6120.

Subpart 2, item B identifies that the proposed rules do not apply to permit applications that were complete for review prior to the effective date of the rule. These applications would have already been submitted and considered complete prior to the promulgation of the rule. It is reasonable to specify that the proposed rules do not apply to complete permit applications submitted before the rules were promulgated since the owners and operators would otherwise be out of compliance with the rules upon promulgation. However, it is reasonable to establish that owners or operators who submit their complete application before promulgation of the rule do not need to comply with the rule because it would not be possible for the owners and operators of a stationary source otherwise required to submit documents and analyses required by the proposed rule to know what the requirements are and develop the necessary materials until after promulgation.

Subpart 2, item C specifies that the proposed rules do not apply to applications for a permit reissuance for permits with expiration dates within 24 months after the effective date of the rule, meaning there will be a period after the effective date of the rule, in which permit reissuances are not subject to the rule. Reissuance applications are generally due at least six months prior to the expiration date of the permit. In the MPCA's experience and in requesting input during the public participation process, the reissuance application process begins anywhere between 6 to 12 months prior to the application submittal date. Reissuance applications are the only air permit applications potentially subject to the proposed rules that have predetermined due dates. The proposed rules establish a number of new requirements and potentially require new analysis and documentation for reissuance permit applications. For these applications, owners and operators will need adequate lead time to prepare permit application materials that meet the proposed rules. Therefore, the proposed rules include a 24 month delay in the applicability for reissuance applications. Owners and operators whose reissuance permit application is due shortly after the rules are effective will not have the time to gather, prepare and submit appropriate information needed to comply with the proposed rules. The 24 month delay to the applicability of reissuance applications ensures that owners and operators will have adequate time to prepare their applications. It is reasonable to delay the implementation of the proposed rules for reissuance applications so that owners and operators have enough time to prepare the needed documents and analyses to comply with the proposed rules.

Subpart 3. Cities of the first class

Subpart 3 establishes when changes in classification of a city are effective for determining the applicability of the proposed rules. Minn. Stat. § 116.065 specifies that the proposed rules will apply in cities of the first class, but city classification can change as a result of the decennial census. There is already a process identified in the statute that defines city classifications and when changes due to the census take effect. It is reasonable to identify in rule when those changes in classification are effective for determining applicability to provide clarity regarding when the proposed rules apply to owners and operators. It is also reasonable for the change in classification to take effect at the same time the change is effective as described in Minn. Stat. § 410.01 to provide consistency across requirements that depend on when changes in classification are effective.

Subpart 4. Environmental justice areas

Subpart 4 establishes requirements regarding when changes in EJ areas are effective for determining the applicability of the proposed rules and the frequency of updates to EJ areas.

Minn. Stat. § 116.065, subd. 5(e) establishes that the commissioner must publish and maintain a list of EJ areas. While Minn. Stat. § 116.065, subd. 2 provides that EJ areas are part of determining applicability of this rule, it does not specify when changes to that information are effective for determining applicability of this rule. This subpart references Minn. Stat. § 116.065, subd. 5(e) to locate requirements regarding updates to EJ areas and the applicability of the proposed rules in one location. Items (A) and (B) describe how owners and operators must use that list of EJ areas to determine applicability of the proposed rules and how often that information will be updated. It is reasonable for the proposed rules to place applicability requirements in one rule part and provide clarity regarding when the proposed rules apply. Doing so prevents confusion and provides clarity so that all interested persons can easily locate and understand how the proposed rules function.

Subpart 4, item (A) establishes that owners and operators must use the EJ area information available on the date of permit application submittal. This is needed to clearly identify when changes in EJ areas are effective for determining the applicability of the proposed rules. It is reasonable to specify that owners and operators must use the information available on the date of application submittal since that information may change over the course of the MPCA reviewing the application. It is reasonable for the proposed rules to provide clarity regarding what version of information is required. Doing so prevents confusion and provides clarity so that all interested persons can easily understand how the proposed rules function.

Subpart 4, item (B) establishes when and how often the MPCA will publish updates to the list of EJ areas. Demographic data provided through the United States Census Bureau and census tract level data is available only through the five-year American Community Survey (ACS) for all demographic characteristics used in the definition for EJ area in Minn. Stat. § 116.065, subd. 1(e). The US Census Bureau releases updates to the 5-year ACS data annually with the data sets generally being available by the end of the following calendar year (e.g., data sets for calendar year 2020 were available on March 17, 2022, and data sets for calendar year 2024 were available on January 29, 2026).[12, 13]

On October 11, 2024, the MPCA released statewide EJ area maps that were updated to align with those from the U.S. EPA and mirror the approach used in other states, including an update sent through the GovDelivery email list for the proposed rules. In this update, the MPCA stated that these maps are important tools used to help the MPCA make decisions about grant funding, community engagement,

[12] *United States Census Bureau. 2020 Data Release Schedule. https://www.census.gov/programs-surveys/acs/news/data-releases/2020/release-schedule.html (last accessed March 1, 2026)*

[13] *United States Census Bureau. 2024 Data Release Schedule. https://www.census.gov/programs-surveys/acs/news/data-releases/2024/release-schedule.html (last accessed March 1, 2026)*

and permitting decisions to reduce the impact of pollution on EJ areas. The update also noted that the MPCA had released EJ area maps earlier in 2024 for the three areas of the state where the proposed rules apply and acknowledged the challenges associated with frequent updates to this information. As these maps are used for multiple purposes, the MPCA also announced in the GovDelivery message that future updates to the EJ maps would occur every five years to reflect the latest demographic data.

Item B formalizes that announcement by stating that updates will occur at least every five years with updates beginning on October 31, 2027. This schedule and time of year were chosen to allow the MPCA time to update the demographic data in the statewide EJ area maps and align with future decennial census anticipated release dates. For example, the MPCA anticipates that the 5-year ACS data for 2026-2030 would be available roughly by late 2031 or early 2032, which provides the MPCA roughly 6-10 months to incorporate those changes into the statewide EJ area maps before October 31, 2032. Using a five year schedule also provides for a mid-point update between decennial census data releases to account for any shifts in demographic data. For example, the MPCA expects that the 5-year ACS data for 2021-2025 would be available roughly by late 2026 or early 2027, which provides the MPCA roughly 6-10 months to incorporate those changes into the statewide EJ area maps.

This schedule and time of year also allows the MPCA to account for unexpected delays that may occur as the U.S. Census Bureau collects, processes, and releases the updates to demographic data that the MPCA must use to generate and maintain these maps. It is reasonable to set a schedule for when the MPCA will update to provide clarity regarding when the applicability of the rules may change. Additionally, setting a planned update schedule but allowing the flexibility to provide updates more frequently (i.e., at least every five years) is needed and reasonable to enable the MPCA to maintain the statewide EJ area maps as required by Minn. Stat. § 116.065, subd. 5(e).

Subpart 5. Environmental stressors database

Subpart 5 establishes requirements regarding what environmental stressor information the commissioner must include in a database of environmental stressors. Minn. Stat. § 116.065, subd. 5(f) establishes that the commissioner must maintain an updated database of environmental stressors in census tracts and make this database accessible to the public. However, the MPCA found that it was needed to identify in rule what kind of information regarding environmental stressors would be included in that database. As described in the Statement of General Need section for CI-MAP, this information is needed to enable a methodology for considering environmental stressors as part of determining whether a cumulative impacts analysis is needed. This information is used in determining whether a permit, if issued, would substantially impact the environment or the health of the residents of an EJ area. Additionally environmental stressors are considered in determining whether a permit would have substantial adverse impact on the environmental or health of the EJ area and its residents, and if so, requires the commissioner and facility owner or operator to enter into a CBA prior to permit issuance.

Items A through E identify what information the MPCA must make available in the database of environmental stressors. This information is used to provide reference and comparison points to understand how an EJ area compares to other census tracts in the same county and other census tracts statewide. This information helps provide a comparison point to facilitate a better understanding of whether an EJ area has adverse environmental stressors, considering stressors both individually and cumulatively. It is reasonable to provide comparison points to aid in determining whether a cumulative impacts analysis is needed, and if a cumulative impacts analysis is required, to aid in conducting a cumulative impacts analysis. It is also reasonable to clarify the information that the MPCA will provide related to environmental stressors because owners and operators need to know what information is provided for environmental stressors as part of determining when a cumulative impacts analysis is needed and when issuing a permit would have a substantial adverse impact.

Subpart 6. Procedural overview
Subpart 6 establishes a procedural overview of Minn. R. 7007.6000 through 7007.6120. Items A through E identify the general steps of the proposed rule. Item A identifies how owners and operators must obtain information on environmental stressors. Item B identifies when owners and operators must prepare and submit an initial assessment. Items C and D identify when owners and operators must comply with the public participation requirements. Item C identifies when owners and operators must prepare and submit a cumulative impacts analysis. Item D identifies when owners and operators must prepare and submit a CBA. Item E identifies when the commissioner determines whether to issue or deny a permit. Items A through E also identify the steps where the commissioner must determine if a cumulative impacts analysis is needed, if issuing a permit would have a substantial adverse impact, and whether to issue or deny a permit. It is reasonable to provide an overview of the proposed rules to provide clarity so that all interested persons can more easily understand how the proposed rules function.

PART 7007.6030 – TRIBAL CONSIDERATIONS

Justification for part 7007.6030

The intent of this part is to fulfill the requirements of Minn. Stat. § 116.065, subd. 6(c)(6), which requires the MPCA to establish a process by which a Tribal government can elect to apply this section to a permit application, as provided under Minn. Stat. § 116.065, subd. 2. Additionally, the intent of this part is to establish a portion of the content of a cumulative impacts analysis, as required under Minn. Stat. § 116.065, subd. 6(c)(2), specific to Tribal considerations. While these rules cannot establish obligations for Tribes in Minnesota, they are intended to provide opportunities for Tribes to provide information and to provide clarity to regulated parties regarding when that information must be included in a cumulative impacts analysis.

Minn. R. 7007.6030 establishes the process for Tribal governments in Minnesota to both consult and coordinate with the MPCA as part of the cumulative impacts rules. This part identifies the process that Tribal governments can use to apply the cumulative impacts rules to a permit application for a stationary source located in Indian Country. This part also identifies additional information that must be included in a cumulative impacts analysis if a Minnesota Tribal government identifies impacts, as a result of the source, to areas and resources relevant to the Tribal government. This part includes how the Agency will provide the information regarding Tribal concerns to the owners and operators for inclusion in a cumulative impacts analysis.

In general, it is reasonable to establish the necessary requirements in rule to fulfill the statutory obligations specified in Minn. Stat. § 116.065. It is also reasonable to establish additional requirements that provide support for meeting the statutory obligations specified in Minn. Stat. § 116.065.

It is also reasonable to provide specific opportunities for Tribes in Minnesota to participate in the cumulative impacts analysis process, given the unique government-to-government relationship between the State of Minnesota and the federally recognized Tribal Nations in Minnesota, and when owners and operators must incorporate information provided into a cumulative impacts analysis.

Subpart 1. Applicability
Subpart 1 establishes the applicability of this part and clearly differentiates the process for Minnesota Tribal governments to elect to apply the cumulative impacts rules for sources located in Indian Country and the coordination efforts for sources not located in Indian Country. Item A identifies that subpart 2 of this part establishes the process for a Minnesota Tribal government to elect to apply the cumulative impacts rules to sources located in Indian Country. Item B identifies that subparts 2 through 4 establish the methods the MPCA must use to coordinate with Minnesota Tribal governments for sources located

outside Indian Country. It is reasonable to identify the requirements that apply in different circumstances so it is clear what requirements in this part are applicable.

Subpart 2. Tribal consultation; sources in Indian Country
Subpart 2 establishes the process that Minnesota Tribal governments can use to elect to apply the cumulative impacts rules to permit applications for stationary sources located in Indian Country. The rule language in subpart 2 is similar to the language found in Minn. Stat. § 116.065, subd. 2(b), but clarifies that the stationary source, not the permit application, must be located in Indian Country and that the rules apply to the owners and operators of the stationary source. Permit applications are submittals; they are not structures or activities that have physical locations. Permit applications are submitted by owners and operators seeking to construct or modify a stationary source that does have a physical location. It is reasonable to clarify that the source, not a permit application, must be located in Indian Country and that the rules apply to the owners and operators seeking the permit application for the stationary source.

Item A establishes that this subpart only applies to stationary sources located in Indian Country. Item B requires the commissioner to enter into consultation when requested by a Minnesota Tribal government consistent with both Minn. Stat. § 10.65 and Minn. Stat. § 116.065, subd. 2(b). Item C specifies that after consultation, a Minnesota Tribal government may elect that the owners and operators of a stationary source located in Indian Country be subject to the cumulative impacts rules and that they must notify the commissioner of the election. Using the existing consultation process identified in Minn. Stat. § 10.65 maintains the existing government-to-government relations between the State of Minnesota and Minnesota Tribal governments where an individual Minnesota Tribal government may initiate consultation. It is reasonable to use the existing consultation process identified in Minn. Stat. § 10.65 as the process Tribes can use to elect to apply the cumulative impacts rules to permit applications for stationary sources located in Indian Country, as allowed by Minn. Stat. § 116.065, subd. 2(b).

Subpart 3. Tribal coordination; sources not in Indian Country
Subpart 3 establishes how the MPCA will coordinate with Minnesota Tribal governments regarding the cumulative impacts rules broadly. The MPCA already informally coordinates with Tribes across multiple areas of the Agency's work, including the process of reviewing and issuing air permits for stationary sources across Minnesota. However, to support the addition of Tribal considerations in the cumulative impacts rules, as described in subpart 4, the MPCA found it was necessary to provide additional clarity in rule.

Item A establishes when the commissioner must notify Minnesota Tribal governments after the receipt of an air permit application that meets the applicability criteria of the cumulative impacts rules. The MPCA must provide this notification to Minnesota Tribal governments when the stationary source is located in a county of interest identified by the Minnesota Tribal government. It is reasonable to require notification so that Minnesota Tribal governments are aware of opportunities to provide input regarding air permit applications subject to the cumulative impacts rules.

Item B, subitems (1) through (8) establishes what the commissioner must include in the notification to Minnesota Tribal governments. The notification must include contact information for the point of contact for both the stationary source and the MPCA; an offer to meet and share information, including the permit application, schedule, initial assessment, cumulative impacts analysis, and CBA; and invitations to visit the stationary source, participate in public meetings, meet during public comment periods, and provide information for inclusion in a cumulative impacts analysis, if required.

Subitems (1) and (2) establishes that the notification must provide the name and contact information for both the stationary source and the Agency. It is reasonable to provide contact information so that the

Minnesota Tribal government knows who to contact regarding the permit application for the stationary source subject to the cumulative impacts rules.

Subitem (3) establishes that the notification must include an offer to meet and share information regarding information described in units (a) through (e). Unit (a) identifies the permit application, unit (b) identifies the project schedule documents, and units (c) through (e) describe the initial assessment, cumulative impacts analysis, and CBA portions of the cumulative impacts rules. It is reasonable to meet and share information regarding multiple topics with Minnesota Tribal governments given the unique government-to-government relationship between the State of Minnesota and the federally recognized Tribal Nations in Minnesota described earlier.

Subitem (4) establishes that the notification must include an invitation to visit the stationary source alongside the Agency or directly with the owners and operators of the stationary source. The MPCA sometimes visits a stationary source as part of the permitting process to better understand the operations undergoing permitting. It is reasonable to extend this invitation to Minnesota Tribal governments to foster a shared understanding of the stationary source.

Subitem (5) establishes that the notification must include an invitation to participate in public meetings required by the cumulative impacts rules. It is reasonable to extend this invitation to Minnesota Tribal governments given that the public meetings are open to anyone to participate, but providing a specific invitation recognizes the unique government-to-government relationship between the State of Minnesota and the federally recognized Tribal Nations in Minnesota described earlier.

Subitem (6) establishes that the notification must include an invitation to meet with the MPCA during the public comment periods required by the cumulative impacts rules. It is reasonable to meet and share information during the public comment periods with Minnesota Tribal governments given the unique government-to-government relationship between the State of Minnesota and the federally recognized Tribal Nations in Minnesota described earlier.

Subitem (7) establishes that the notification must include an invitation to provide information regarding concerns about impacts to a variety of topics of interest to Tribes. These were topics identified by Tribes as examples of information that could be provided to evaluate the cumulative impacts of stationary sources undergoing environmental review as part of the NEPA, specifically with Tribal considerations in mind. It is reasonable to establish the scope of information requested to clearly identify what information could be considered in a cumulative impacts analysis.

Subitem (8) establishes that the notification must also include a statement that specifies a timeline for the Minnesota Tribal government to provide information regarding concerns about impacts to a variety of topics of interest to Tribes for it to be included in a cumulative impacts analysis under part 7007.6090. It is reasonable to specify a timeline so that it is clear when the information provided must be included in a cumulative impacts analysis. Additionally, when the MPCA receives a permit application subject to the cumulative impacts rules, the MPCA will not have determined whether a cumulative impacts analysis is needed at that point in time. The timeline specified is the end of a public notice period that is required only when the MPCA has determined a cumulative impacts analysis is necessary. This public notice period is associated with the public meeting that must be held before the owners and operators conduct a cumulative impacts analysis and is intended to provide opportunity for the public to provide input on what a cumulative impacts analysis should evaluate. It is reasonable to specify a timeline for providing information for the cumulative impacts analysis that is based on the end of a public notice period that is required only when the MPCA has determined a cumulative impacts analysis is necessary.

Overall, the contents of this notification is structured in a similar way to the notifications that the MPCA already provides to Minnesota Tribal governments after receipt of an air permit application. This information should be readily available to the commissioner and should not be a burden to collect. As

stated above, this requirement is needed to have an identifiable methodology for coordinating with Minnesota Tribal governments regarding the cumulative impacts rules. It is reasonable to provide specific opportunities for Minnesota Tribal governments to provide input on information considered in a cumulative impacts analysis given the unique government-to-government relationship between the State of Minnesota and the federally recognized Tribal Nations in Minnesota described earlier. For these reasons, it is reasonable to require this information in the notification.

Item C establishes that the commissioner must notify the owners and operators of the stationary source if a Minnesota Tribal government provides a response to the notification described in items A and B within 15 calendar days from the receipt of the response. Item C also establishes that the commissioner must notify the owners and operators of the Minnesota Tribal government's response to the invitations in the notification described in items A and B. Item D establishes the information that the notification must include. This includes statements that the owners and operators must provide opportunities for the Minnesota Tribal government to visit the stationary source, participate in public meetings, meet during public comment periods, and provide information described by item B, subitems (7) and (8) that needs to be included in a cumulative impacts analysis if provided. It is reasonable to require notification so that owners and operators are aware of the opportunities they must provide and that there may be information that must be included in a cumulative impacts analysis if provided by a Minnesota Tribal government.

Subpart 4. Tribal supplement to cumulative impacts analysis content

Subpart 4 establishes that owners and operators must supplement a cumulative impacts analysis required under part 7007.6090 with a description of the geographic area of interest to the Minnesota Tribal government and consideration of impacts to various topics from the current and proposed operations of the stationary source, including construction, installation, and operation of the current and proposed operations of the stationary source. These were topics identified by Tribes as examples of information that could be provided to evaluate the cumulative impacts of stationary sources undergoing environmental review as part of the NEPA, specifically with Tribal considerations in mind. As described in the Statement of General Need, section v. cumulative impacts, there are similarities between how cumulative impacts are considered in other regulatory programs such as NEPA. It is reasonable to establish a scope of information similar to the suggestions provided by Tribes for the NEPA process, which would be evaluated in a cumulative impacts analysis required by this rule, as it provides for consistency between how a Minnesota Tribal government may provide information for both regulatory programs. It is reasonable to establish the scope of information requested to clearly identify what information could be considered in a cumulative impacts analysis.

Additionally, each Minnesota Tribal government may have varying interests, different concerns about impacts to natural/cultural resources, different geographic areas that are relevant such as federally recognized Indian Reservations, trust lands, lands where Tribes hold reserved resource rights, access to these geographic areas, different Tribal uses/rights, and other geographic and timeframe considerations. It is reasonable to provide specific opportunities for Minnesota Tribal governments to provide input on information considered in a cumulative impacts analysis given the unique government-to-government relationship between the State of Minnesota and the federally recognized Tribal Nations in Minnesota described earlier.

PART 7007.6040 – GENERAL REQUIREMENTS

Justification for part 7007.6040

The intent of this part is to establish and clarify general requirements of the proposed rules. The MPCA found that additional requirements were needed to clearly identify and reference the rule language that implements different portions of Minn. Stat. § 116.065 as well as requirements that generally support

the implementation of Minn. R. 7007.6000 to 7007.6120.

Minn. R. 7007.6040 establishes general requirements for sources subject to parts 7007.6000 to 7007.6120. This part identifies requirements for owners and operators regarding submittal certifications, information requests, record keeping, accuracy, and duties to supplement or correct information. This part also identifies the process for owners and operators to request to consolidate public meeting requirements specified in part 7007.6080, requirements to incorporate permit conditions for any measures assumed for the purposes of parts 7007.6000 to 7007.6120, and additional details regarding in-person meetings that the Agency may require the owners and operators to hold.

It is reasonable to provide requirements to clarify how various parts of the rule will work, such as requiring owners and operators to certify submittals with regard to the truth, accuracy and completeness of the information provided. It is also reasonable to establish general requirements to support the various activities in the rule and provide clarity in rule regarding how the MPCA implements and applies the proposed rules so that all interested persons have a common understanding of how the rules function.

Subpart. 1. Certifications
Subpart 1 establishes a certification requirement for submittals and reports. This is needed to ensure that the information submitted is truthful, accurate and complete. This certification requirement is similar to that for permit applications under part 7007.0500, subp. 3. Any information submitted with the original permit application, such as the initial assessment, will be certified with the application as required under part 7007.0500, subpart 3. However, if additional information is needed to comply with parts 7007.6000 to 7007.06120, such as additional information for the initial assessment, a cumulative impacts analysis plan, a cumulative impacts analysis report, or additional information supporting these submittals will also need to be certified. It is reasonable for owners and operators to certify information submitted to comply with the proposed rule in the same way they do for permit applications because the information is part of the permit application even if the information is submitted under separate cover.

Subpart 2. Information requests
Subpart 2 requires owners and operators to submit information when requested by the commissioner by a time specified by the commissioner. This is needed for the commissioner to obtain information necessary to make decisions and determine compliance with Minn. R. 7007.6000 through 7007.6120. Requiring the submittal of information and reports on a timeline ensures that the commissioner is able to make decisions in a timely manner. It is reasonable to require owners and operators to submit information and reports in a timely manner, so that the commissioner may make decisions.

Item A establishes that owners and operators must submit information and reports needed to take action on any part of the proposed rules. It is reasonable to require owners and operators to provide the information needed to comply with the various steps of parts 7007.6000 to 7007.6120 so that the commissioner can take action required by the proposed rules.

Item B establishes that owners and operators must submit information to demonstrate compliance with the proposed rules. It is reasonable to require owners and operators to submit information needed so that the commissioner can determine compliance with the proposed rules.

Item C establishes that owners and operators must submit information and reports needed to evaluate potential impacts or the processes and products at the stationary source. It is reasonable to require owners and operators to submit information needed so that the commissioner may evaluate potential impacts and processes and products of the stationary source.

Item D establishes that owners and operators must submit information and reports related to records

maintained by the owners and operators so that the commissioner can review them. It is reasonable to require submittal of information and reports so that the commissioner can review records maintained by the owners and operators to make decisions.

Subpart 3. Record keeping
Subpart 3 establishes requirements for maintaining records required by the cumulative impacts rule. Item A establishes that the owners and operators must comply with requirements in this subpart for all records required by the proposed rules. This is needed to identify how long records must be maintained, where the records must be maintained, and when the owners and operators must produce those records for the MPCA. Air permits and various air permitting rules require recordkeeping for various activities, such as maintaining monitoring and reports at the source. It is reasonable to require owners and operators to maintain records related to complying with the rule so that the owners and operators can document their activities and operations with respect to the proposed rules.

Item B establishes that owners and operators must maintain records for five years. The length of time is set at the same length required for many records required under the air permitting rules in chapter 7007. It is reasonable to provide a retention requirement that is consistent with other air permitting requirements.

Item C establishes that records must be maintained at the stationary source unless the commissioner specifies a different location. This is similar in nature to records retention for air permits, where records must be maintained at the stationary source unless a different location is specified in the permit. It is reasonable to provide consistency in record retention requirements.

Item D establishes that the owners and operators must produce the records when requested by the commissioner. This is needed when the commissioner needs to review the records for compliance or other purposes. It is reasonable to require submittal of records needed for the commissioner to review.

Subpart 4. Accuracy
Subpart 4 establishes requirements for the owners and operators to be accurate. This is needed because owners and operators are not allowed to knowingly provide false information. This is reasonable because it aligns with the existing general permit content submittals under Minn. R. 7007.0800, subp. 16(K).

Subpart 5. Duty to supplement or correct
Subpart 5 establishes requirements for owners and operators to correct information required by the proposed rule. Complete and correct information is needed for the commissioner to make determinations. If incomplete or incorrect information is submitted by owners and operators, then the commissioner is not able to make meaningful decisions on the requested permit action. This is a reasonable because it is based on the existing rule Minn. R. 7007.0600, subp. 2 which establishes the duty to supplement or correct an application.

Subpart 6. Consolidating public meeting requirements for requested permit actions
Subpart 6 establishes that owners and operators may request to consolidate public meeting requirements under parts 7007.6000 to 7007.6120 when they have submitted multiple requested permit actions, as allowed in Minn. Stat. § 116.065, subd. 4(f). This is needed to clarify what information owners and operators need to provide in the request, and that the commissioner makes the decision about whether public meetings can be consolidated. It is reasonable to establish a process for owners and operators to request to consolidate public meeting requirements because it is required by the statute.

Item A indicates the information needed in the request for consolidating the public meeting

requirements. Subitem (1) identifies that the owners and operators must identify all requested permit actions that are a part of the consolidation request and subitem (2) identifies that the owners and operators must include a rationale for why it is reasonable to consolidate the public meeting requirements. This is needed to indicate what information the owners and operators must submit to make the request. It is reasonable to require submitting this information so that the commissioner understands what meetings and actions the owners and operators would like to combine and why.

Item B requires the commissioner to approve or deny the request for consolidation and that the commissioner will make this decision by considering the rationale submitted by the owners and operators in their request. This is needed to clarify that the commissioner makes the decision on whether the requested permit actions can be consolidated, as identified in Minn. Stat. § 116.065, subd. 4(f). It is reasonable to clarify who makes the decision on whether the requested permit actions can be consolidated to avoid confusion. Additionally, while the statutory language identifies that the commissioner may approve or deny a request to consolidate the public meeting requirements, it is reasonable to also include this in this subpart, so that all consolidation requirements can be found in the same rule. Doing so provides clarity to the reader.

Subpart 7. Incorporating permit conditions

Subpart 7 establishes that emission limits, operational conditions, control measures or other measures used in any analysis for, or assumed to avoid the applicability of parts 7007.6000 to 7007.6120 must be included in the permit. This is needed to clarify for the owner or operators that any proposed measures used in the review, or to avoid applicability of, the parts 7007.6000 to 7007.6120 will be included as permit requirements. If owners and operators assume emission limits, operational conditions, control measures or other measures as described in this subpart, the MPCA needs a methodology to have a reasonable assurance of compliance. It is reasonable to establish these permit terms as enforceable requirements, with associated compliance demonstration requirements, as it provides the MPCA with assurance of compliance and is the common practice the MPCA uses in the air permitting process for other regulatory programs as well.

Subpart 8. Permit conditions; in-person community meetings

Subpart 8 identifies that the commissioner may incorporate conditions in a permit for the owners and operators to hold in-person meetings as provided by Minn. Stat. § 116.065, subd. 4(g) and establishes the records that owners and operators must keep for those meetings. This is needed to clarify what information owners and operators because the statutory language provides that the commissioner may require the owners and operators to hold meetings but not other information related to these meetings.

Minn. Stat. § 116.065, subd. 4(g) identifies that the commissioner may incorporate conditions in a permit that require owners and operators of a stationary source located in or affecting an EJ area to hold multiple in-person meetings with residents of the impacted EJ area to share information and discuss community concerns. Sharing information and discussing concerns outside of conducting a cumulative impacts analysis provides opportunities to address concerns and share information early. Doing so potentially prevents those concerns from becoming larger or more significant, when there is not a specific time pressure such as construction considerations associated with a permit issuance that grants construction authorization.

Subpart 8 is added to clarify that for any meetings held according to Minn. Stat. § 116.065, subd. 4(g), the owners and operators of the stationary source must maintain records, and items A through D specify what those records must contain. Items A through D requires the owners and operators to maintain records that contain a description of the information shared and concerns discussed, dates, times, and locations of meetings, meeting summaries, and copies of comments received during the meeting. It is reasonable to clarify that owners and operators must maintain records for any meeting held and to

specify the records that must be maintained because it prevents confusion by clearly identifying what information owners and operators must maintain and have available to demonstrate compliance with the rule. Additionally, owners and operators may use this information in support of actions they propose as part of a permit application or as part of a cumulative impacts analysis required under part 7007.6090. It is reasonable to require record keeping so that owners and operators can demonstrate why proposed actions may already address concerns raised by the residents in communities surrounding the stationary source and MPCA can verify that this demonstration is true and accurate.

PART 7007.6050 – INITIAL ASSESSMENT

Justification for part 7007.6050

The intent of this part is to fulfill the requirements of Minn. Stat. § 116.065, subd. 3(a) and 6(c)(1), which requires the MPCA to determine whether a permit may substantially impact the environment or health of the residents of an EJ area, determine whether a cumulative impact analysis is needed, and establish benchmarks to assist the commissioner's determination regarding the need for a cumulative impacts analysis. This part clarifies the information necessary for the MPCA to determine whether a cumulative impacts analysis is needed, additional requirements were needed to clearly identify information needed under Minn. Stat. § 116.065, subd. 6(c)(1) to make the cumulative impact determinations under Minn. Stat. § 116.065, subd. 3(a).

Minn. R. 7007.6050 establishes the information that owners and operators must provide to the Agency to aid in determining if a cumulative impacts analysis is necessary. This part identifies when it applies to owners and operators, when owners and operators must submit the initial assessment, and what information owners and operators must include in the initial assessment submittal. This part also establishes the benchmarks the Agency will use as part of determining when a cumulative impacts analysis is required.

In general, it is reasonable to establish the necessary requirements in rule to fulfill the statutory obligations specified in Minn. Stat. § 116.065. It is also reasonable to establish additional requirements that provide support for meeting the statutory obligations specified in Minn. Stat. § 116.065.

Subpart 1. Applicability

Subpart 1 requires that owners and operators submit an initial assessment when applying for a requested permit action that meets the applicability requirements in part 7007.6020. This is needed to clarify that applicable owners and operators are subject to the requirement to prepare and submit an initial assessment. It is reasonable for applicable owners or operators to submit an initial assessment when applying for a requested permit action because new construction, facility expansion, or reissuance permits have the potential to impact the environment or human health of residents in an EJ area, and as such, are included as applicable permit types under Minn. Stat. § 116.065, subd. 1(h). Owners or operators need to be aware of the circumstances under which they must submit an initial assessment so it is reasonable to clarify applicability of the rule to reduce confusion, and to provide the MPCA and the owners and operators the information necessary to prepare and review applications, and to anticipate the scope of the permit application process.

Subpart 2. Submission

Subpart 2 establishes requirements for the submittal of the initial assessment. Item A specifies that the initial assessment must be submitted with the permit application. This is needed because Minn. Stat. § 116.065, subd. 3(b) requires the applicant to include additional information with the permit application for the commissioner to review when making a determination of need for a cumulative impacts analysis. It is reasonable to submit the initial assessment with the permit application to provide the commissioner with the information that must be reviewed. Reducing the number of submittals

allows for the commissioner to make considered permitting and cumulative impacts decisions in a timely manner.

Item B establishes the additional information that must be contained in the initial assessment. Items B, subitems (1) and (2) are needed to meet the statutory requirement of Minn. Stat. § 116.065, subd. 3(c) while subitems (3) and (4) are needed to ensure information required elsewhere under this subpart is included in the initial assessment. This is needed to specify the information needed in the initial assessment. It is reasonable specify the required information to reduce confusion.

Subpart 3. Initial assessment contents

Subpart 3 establishes the contents of the initial assessment. The initial assessment needs to contain information that may be used by the commissioner for making a determination on whether a cumulative impacts analysis is required. The initial assessment reflects the requirements listed in Minn. Stat. § 116.065, subd. 3(b), which include the applicant's determination of whether the permit action sought is likely to impact the environment or the health of residents, the data used to make the determination, and information and data necessary for the commissioner to determine whether the potential impact of issuing the permit exceeds any benchmarks for requiring a cumulative impacts analysis. The initial assessment clarifies the information the applicant needs to include with the permit application. It is reasonable to clarify the contents of the initial assessment to allow owners or operators to plan ahead and include the initial assessment as part of the air permit application submittal.

The required contents for the initial assessment are listed in Items A through L, which are described below:

Item A requires that the applicant to include an executive summary of the information in the initial assessment. The executive summary is meant to be a brief summary of the content of the initial assessment, such as the applicant's determination of whether a cumulative impacts analysis is needed and the type of data used to make the decision. An executive summary is needed to provide a concise format for presenting the key elements of the initial assessment. It is reasonable to require an executive summary as a way to convey the key elements of the applicant's initial assessment.

Item B establishes the information that owners and operators need to include in the initial assessment to describe the area surrounding the stationary source. This is needed to provide an understanding of the area and locations surrounding a stationary source. It is reasonable to require the submittal of information that describes the surrounding area because it helps the commissioner make an informed cumulative impacts analysis determination, and without it the commissioner would be unable to make that determination. Subitems (1) through (4) details the information needed.

Item B, subitem (1) requires the applicant to provide the stationary source location and property boundary on a site plan or equivalent map. This is needed to clarify the location and property boundary of a stationary source. It is reasonable to require the submittal of a site plan or equivalent map because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unable to make that determination.

Item B, subitem (2) requires a map indicating a one mile distance around the property boundary. This is needed to identify locations that are near the source property. It is also needed because property boundaries are not always contiguous, or obvious, and may extend well beyond the source facility. One mile is reasonable because it represents a commonly understood distance when considering what is near a source. It is reasonable to require a map that indicates a one mile distance from the property because it helps the commissioner make an informed determination on whether a on whether a cumulative impacts analysis is needed, and without it the commissioner would be unable to make that determination.

Item B, subitem (3) requires owners and operators to identify the location and proximity of the source to sensitive locations and other permitted sources in the surrounding area. This is needed to identify permitted sources that may contribute impacts in the area, and to identify sensitive locations where people that may be more susceptible to impacts gather. Sensitive locations include public places, residential dwellings, nursing homes, daycares, and prisons. It is expected these locations have people, who due to their age, health status, or overall exposure, may be more likely to be impacted. It is reasonable to require the submittal of the location and proximity to other permitted sources and sensitive locations in the area surrounding a stationary source because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination.

Item B, subitem (4) requires a description of the zoning and geography of the surrounding area. Zoning information is needed to indicate the types of the residential, commercial, and industrial activity in the surrounding area. Socioeconomic conditions can be related to the type of zoning in an area that needs to be considered under Minn. Stat. § 116.065, subd. 1(d)(2) as well as be an indicator of potential impacts due to industrial and commercial activities allowed by zoning decisions in an area. Geographical information is needed to clarify the setting of a stationary source and how residents are potentially exposed to impacts due to the location and geography of an area. It is reasonable to require the submittal of zoning and geographical information because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination.

Item C requires a description of the stationary source's current and proposed operations. This is needed to clarify existing activities at the source as well as the proposed operations at the stationary source. Current and future operations at the source have the potential to impact an area. Cumulative impacts, as defined under Minn. Stat. § 116.065, subd. 1(c), includes past and current pollution to which current residents are exposed. It is reasonable to require the submittal of current and proposed operations because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination. Subitems (1) through (4) below list the specific information needed in the description.

Item C, subitem (1) requires a description of the purpose of the requested permit action. This is needed to clarify the purpose of a requested permit action. It is reasonable to require the submittal of the purpose because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination.

Item C, subitem (2) requires a description of how the current and proposed operations benefit the residents of the impacted EJ area. This is needed to clarify how current and proposed operations will benefit residents. It is reasonable to require the submittal of information related to how the operations at the source will benefit residents because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination.

Item C, subitem (3) requires a description of the current and proposed operations of the stationary source. This is needed to clarify current and proposed operations at the stationary source. This is also needed because cumulative impacts, as defined under Minn. Stat. § 116.065, subd. 1(c), includes past and current pollution to which current residents are exposed. It is reasonable to require the submittal of operational information because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination.

Item C, subitem (4) requires a description of construction activities related to new construction or facility expansion permits. This is needed to clarify construction activities for a requested permit action. Construction activities for a requested permit action may impact the environment or health of residents. It is reasonable to require the submittal of construction information because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination.

Item D requires a list of all Federal, State, and local permits that are required, or will be required, for construction or operation of the stationary source. This is needed to identify the regulatory obligations of the stationary source and requested permit action. Permits from other regulatory entities may indicate types and sources of potential impacts that are not otherwise included in an air permit application. It is reasonable to require the submittal of a list of permits required because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination.

Item E requires evidence of compliance with local EJ or cumulative impact analysis ordinances, as applicable. This is needed to understand the owners and operators compliance with local ordinances specific to EJ and cumulative impacts. Complying with local ordinances may reduce the impacts on the environment or health of residents. It is reasonable to require the submittal of evidence of compliance with local ordinances because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination.

Item F requires the environmental stressor information for the impacted EJ area that is obtained pursuant to part 7007.6020, subp. 6, item A. This is needed to identify environmental stressors in the area of the stationary source. Environmental stressors include factors that may cause residents of an EJ area to be more susceptible to harm from exposure to pollutants. Stressors include environmental effects on health from exposure to past and current pollutants, socioeconomic factors, pollution, and environmental influences. Owners or operators must use the stressor database established by the commissioner under 7007.6020, subp. 5 for the purposes of this item. It is reasonable to require the submittal of environmental stressor information because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination.

Item G requires an assessment of the impacts of the requested permit action, both positive and negative, to the environment or the health of residents. This assessment is needed to clarify both positive and negative impacts for a requested permit action. It is reasonable to require the submittal of information on the positive and negative impacts because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination. Subitems (1) through (4) below list the specific information needed for the Item G assessment.

Item G, subitem (1) requires the identification of processes, including the amounts and pathways of pollution associated with the processes, that have the potential to impact the environmental or health of residents. Item G, subitem (2) requires this identification to consider potential impacts under worst case conditions. This information is needed to identify the sources of potential impact at the stationary source under worst case conditions. Worst case conditions are needed to clarify the maximum potential impact from a process that is allowed by a permit. It is reasonable to require the submittal of pollution information related to processes that have the potential to impact because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination.

Item G, subitem (3) requires an assessment to correlate the potential impacts from a requested permit action to various stages of construction and operation of the stationary source. This is needed to clarify how the impacts from construction will vary with the various stages of construction and operation because construction activities will have different potential impacts to an area than the operations of the stationary source covered by the permit. It is reasonable to require the submittal of this assessment because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination.

Item G, subitem (4) requires the assessment to consider how each environmental stressor identified in Item F may increase the magnitude of adverse effects from the requested permit action. This is needed to clarify how stressors may contribute to the cumulative impact of a requested permit action, and to clarify how residents of an EJ area may be more susceptible to the impact from the requested permit action. It is reasonable to require the submittal of these considerations in the assessment because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination.

Item H requires potential emission calculations for facility expansion permits. Potential emission calculations are needed to demonstrate whether an increase of potential emissions due to facility expansion exceeds any of the benchmarks indicated in 7007.6050, subp. 4. If potential emissions are above the benchmarks, the owner or operator must conduct a cumulative impacts analysis. It is reasonable to require the submittal of potential emission calculations because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination.

Item I requires a description of any current or proposed emission or operating limits, operational conditions, controls, or other measures that will reduce impact or provide a benefit. This is needed to clarify enforceable measures that avoid, minimize, or reduce negative impacts. It is reasonable to require the submittal of information on limits and reductions because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination.

Item J requires a detailed and complete compliance history for the stationary source for the three years preceding the date of the permit application. For reissuance permits, this is needed to demonstrate whether an enforcement action meets or exceeds any of the benchmarks indicated in 7007.6050, subp. 4. This is also needed to identify potential problems at a source that could contribute to potential impacts. It is reasonable to require the submittal of three years of compliance history because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination.

Item K requires a description of any changes that have occurred at the stationary source. This is needed to identify changes that have occurred at the stationary source that is not otherwise identified in the permit application. This includes changes such as insignificant modifications, changes in raw materials, new processes, increasing hours of operation, new buildings or structures, or changes in traffic pattern. It is reasonable to require the submittal of information on any changes or modifications at the source because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination.

Item L requires a summary of the most recently approved cumulative impacts analysis and a description of any changes or proposed changes to data and information used to support the previously approved cumulative impacts analysis. This is needed to identify previous cumulative impacts analyses and any changes that may have occurred related to them. It is reasonable to require the submittal of a previous cumulative impacts analysis and a description of any changes because it helps the commissioner make

an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination.

Subpart 4. Benchmarks for requiring a cumulative impacts analysis

Subpart 4 establishes benchmarks for determining when owners and operators applying for permits for new construction, facility expansion, and reissuance must conduct a cumulative impacts analysis. This is needed because Minn. Stat. § 116.065, subd. 6(c)(1) requires the MPCA to establish benchmarks to assist the commissioner in determining the need for a cumulative impacts analysis. Minn. Stat. § 116.065, subd. 3(c)(2) and (d), requires the commissioner to determine if the requested permit action would result in exceeding any benchmarks and, if so, must require the owner or operator to conduct a cumulative impacts analysis. It is reasonable to establish benchmarks for determining when owners and operators must be required to conduct a cumulative impacts analysis because it helps the commissioner make an informed determination on whether a cumulative impacts analysis is needed, and without it the commissioner would be unbale to make that determination.

Item A establishes a benchmark for determining when owners or operators applying for a new construction permit are required to conduct a cumulative impacts analysis, as directed by the statute. The benchmark is new construction, as defined under part 7007.6010. If a requested permit action includes new construction, the owners or operators must conduct a cumulative impacts analysis. It is reasonable for the benchmark to be new construction because a new construction permit is required by Minn. Stat. § 116.065, subd. 1(h) to be a major source air permit, defined in part 7007.0200, or a state air permit defined in part 7007.0250, subparts 5 or 6. A major source air permit is for a major stationary source of air pollutants. Major stationary sources are significant sources of air pollution with a potential to emit greater than: 100 tons per year of any air pollutant, 100,000 tons per year of greenhouse gases, 25 tons of total HAPs, or 10 tons per year of individual HAPs. New state permits and waste combustors are also considered significant sources of air pollution that have the potential to emit up to those major stationary source thresholds. Stationary sources with less potential to emit typically qualify for lower-level permits that are not subject to these rules. This means new construction has the potential to impact the environment or health of residents in an EJ area due to the introduction of significant potential emissions from a source that was not previously permitted or analyzed. As such, it is reasonable to require a cumulative impacts analysis for new construction permits so that the commissioner can make an informed determination on whether there is a substantial adverse impact, and without a cumulative impacts analysis the commissioner would be unable to make that determination.

Item B establishes benchmarks for determining when owners and operators applying for a facility expansion permit are required to conduct a cumulative impacts analysis, as directed by the statute. The benchmarks for facility expansion include pollutant thresholds identified in item B, subitems (1) and (2). If a facility expansion results in an emission increases above the pollutant thresholds in item B, subitem (1) or (2), a cumulative impacts analysis is required. Subitem (1) and (2) thresholds are described below.

Subitem (1) establishes pollutant thresholds to be used as benchmarks for facility expansion permits. Emission thresholds will be used to determine whether owners or operators applying for a facility expansion permit are required to conduct a cumulative analysis. Thresholds for nitrogen oxides (NO_X) sulfur dioxide (SO_2) volatile organic compounds (VOCs), particulate matter with an aerodynamic diameter less than or equal to 10 micrometers (PM_{10}), carbon monoxide, and lead are based on the thresholds for insignificant modifications in Table 1 of Minn. R. 7007.1250. An insignificant modification is a change that can be made without a permit amendment. The MPCA originally established these hourly thresholds for insignificant modifications based on 25% of the significant emission rates for applicability of Prevention of Significant Deterioration (PSD) rules under 40 CFR § 52.21(b)(23)(i). Since the MPCA wanted stricter rates for determining when a permit amendment is required, the MPCA set

the thresholds in Table 1 of Minn. R. 7007.1250 at 25% of the federal rates but on an hourly basis for selected criteria pollutants. If the change is above the thresholds in Table 1 of Minn. R. 7007.1250, it is no longer considered insignificant, and a permit amendment is needed. It is reasonable to set the threshold for facility expansions at the level for when a permit amendment is needed because it has been previously established that emissions above those thresholds are not insignificant, and therefore may substantially impact the environmental or health of residents of an EJ area. As such, this impact needs to be assessed by a cumulative impacts analysis to determine whether there is a substantial adverse impact. The thresholds based on Table 1 of Minn. R. 7007.1250 are reasonable because emission above these rates are not considered insignificant and should be evaluated further.

MPCA is following a similar methodology for establishing thresholds in item B, subitem (1) for the following pollutants: particulate matter; particulate matter with an aerodynamic diameter less than or equal to 2.5 micrometers ($PM_{2.5}$), fluoride; sulfuric acid mist; hydrogen sulfide (H_2S); total reduced sulfur including H_2S; total reduced sulfur compounds including H_2S; municipal waste combustor organics; municipal waste combustor metals; municipal solid waste landfill gas; and carbon dioxide equivalent (CO_2e). These pollutants have significant emission rates for PSD applicability under 40 CFR § 52.21(b)(23)(i). For this rule, these ton per year thresholds are converted to lb/hr emission rates by multiplying by 2,000 pounds per hour and dividing by 8,760 hours per year. Thresholds for these PSD pollutants are needed because they provide a comprehensive assessment of common regulated pollutants for cumulative impact purposes, and because PSD pollutants are used for determining when a change at a stationary source may result in a significant deterioration of air quality that needs to be prevented. It is reasonable to develop thresholds for PSD pollutants because these pollutants are known to impact air quality. Additionally, it is reasonable to set these PSD pollutant thresholds as specified in the proposed rule because it is consistent with the original method used for the subset of PSD pollutants that already have thresholds in the insignificant modification rule (Minn. R. 7007.1250, table 1).

Similarly, item B, subitem (1), unit (r) establishes a total HAP emission threshold at 25% of one ton per year. This is based on the total HAP threshold for actual emissions in Minn. R. 7007.1300, subp. 4(C)(2) to determine whether an emissions unit qualifies as an insignificant activity for purposes of an initial application for a Part 70 permit. Although Minn. R. 7007.1300, subp. 4(C)(2) is a threshold for actual emissions, the threshold in this rule is being set for potential emissions, making it more conservative than the threshold in Minn. R. 7007.1300, subp. 4(C)(2). Potential emissions are needed because owners or operators are allowed to emit up to their potential, unless otherwise limited by the permit, and the commissioner is responsible for assessing the potential impacts of permit issuance. The addition of a total HAP threshold is needed to ensure a broad set of pollutant benchmarks for assessing impact. It is reasonable to set thresholds for assisting the commissioner in determining whether a cumulative impacts analysis is needed for a facility expansion.

Item B(2) establishes thresholds for individual HAPs at the same level that is used for determining whether an emissions unit qualifies as an insignificant activity for purposes of an initial application for a part 70 permit under Minn. R. 7007.1300, subpart 4(C)(1). The threshold for each HAP is 25% of the threshold listed in Minn. R. 7007.1300, subpart 5. Thresholds for individual HAPs are needed to ensure a broad set of pollutant benchmarks for assessing the need for a cumulative impacts analysis. It is reasonable to set facility expansion thresholds for individual HAPs at the level used to determine that an emissions unit qualifies as an insignificant activity because an increase in excess of those thresholds is no longer insignificant and is required to be further evaluated and permitted by the Agency. It is reasonable to set thresholds for assisting the commissioner in determining whether a cumulative impacts analysis is needed for facility expansion.

Item C establishes benchmarks for determining when owners or operators applying for a reissuance

permit are required to conduct a cumulative impacts analysis, as directed by the statute. The benchmarks for reissuance include enforcement actions issued to the stationary source for any environmental media that occur within the three years prior to the application. It is reasonable to use enforcement actions as benchmarks for reissuances because reissuance permits are a reauthorization of existing operations and do not introduce new emissions. For facility expansions and new construction permits, the rule sets benchmarks based on new or increased emissions that may impact the environment and health of the impacted EJ area. Since reissuances do not authorize new emissions, it is reasonable to set a benchmark based on other recent actions at the stationary source that may have the potential for substantial adverse impacts on the community. Therefore, the MPCA will assess the potential impact of reauthorizing existing operations that have been subject to enforcement actions for violations that may have impacted the environment or health of residents.

The enforcement actions must be issued within the three years preceding the reissuance application submittal to ensure they are relevant to the impact of operations reauthorized by a reissuance permit. Minne. Stat. § 541.075 also has a three-year limit for imposing penalties for violations, and assessing enforcement actions within the three years preceding the reissuance application provides consistency across statutes and rules. The MPCA does not intend for every enforcement action to trigger a cumulative impacts analysis upon reissuance, but rather focuses on enforcement actions for violations that may have a substantial adverse impact on the environment or health of residents. Item C, subitems (1) through (4) establish a list of specific enforcement actions that the MPCA considers significant enough to need further assessment before reissuing the permit. Item C, subitems (1) through (4) are explained below.

Item C, subitem (1) establishes violations for failed performance tests as a benchmark for reissuance permits. Failed performance tests demonstrate an actual exceedance of an emission limit or standard which may result in increased exposure to emissions by the public, so it is reasonable to establish failed performance tests as a benchmark to assist the commissioner's determination regarding the need for a cumulative impacts analysis.

Item C, subitem (2) establishes violations that include criminal enforcement as a benchmark for reissuance permits. Criminal enforcement violations identify criminal conduct that may impact the environment or health of residents, so it is reasonable to establish criminal enforcement violations as a benchmark to assist the commissioner's determination regarding the need for a cumulative impacts analysis.

Item C, subitem (3) establishes violations that include a forgivable or non-forgivable monetary penalty as a benchmark for reissuance permits. Monetary penalties for violations of environmental rules may indicate a higher level of potential impact to the environment or health of residents, so it is reasonable to establish monetary penalty violations as a benchmark to assist the commissioner's determination regarding the need for a cumulative impacts analysis.

Item C, subitem (4) establishes violations that result in an administrative order as a benchmark for reissuance permits. Administrative orders without consent do not contain penalties, but are for violations of environmental rules and regulations that may indicate a higher level of potential impact to the environment or health of residents, so it is reasonable to establish administrative order violations as a benchmark to assist the commissioner's determination regarding the need for a cumulative impacts analysis.

The enforcement actions listed are needed because they identify violations that prevent the MPCA from fully understanding the impact of operations at the stationary source. It is reasonable to require a cumulative impacts analysis for a reissuance permit that has been issued one of these enforcement actions so that the commissioner can make an informed determination on whether reissuing the permit

would have a substantial adverse impact, and without a cumulative impacts analysis the commissioner would be unable to make that determination.

Subpart 5. Notice of the initial assessment
Subpart 5 establishes the notice procedures for the initial assessment. This is needed because Minn. Stat. § 116.065, subd. 3(f) requires the commissioner to prepare a written document containing the reasons for the commissioner's decision regarding the need for a cumulative impacts analysis. The document must describe the information that was considered in making the decision and how the information was weighed. The commissioner must post the document on the MPCA website within 30 days of the determination.

Item A requires the commissioner to post the notice of receiving an initial assessment on the MPCA website, and that any person may request to receive notification of petitions received. This is needed to notify the public of when a requested permit action has been received and is available to be petitioned or has already been petitioned. It is reasonable to post notice when an initial assessment is received because it helps the public make an informed decision on a petition, and without the notice the public would be unaware of when a requested permit action is received and would not have access to the information in the notice.

Item B requires the commissioner to include: the name and location of the stationary source, the name and address of owners or operators, the name and address of the Agency, the activities involved in the requested permit action, contact information for obtaining additional information, and a statement that persons may file a petition. This is needed to provide general information and context to the public when they are considering the notice of the initial assessment. It is reasonable to provide this information and notice of the initial assessment to the public so that they are aware they may petition for a cumulative impact analysis and request more information.

PART 7007.6060 – PETITION PROCESS

Justification for part 7007.6060

The intent of this part is to fulfill the requirements of Minn. Stat. § 116.065, subd. 6(c)(5), which requires the MPCA to establish a petition process and form to be submitted to the Agency by EJ area residents to support the need for a cumulative impact analysis.

Minn. R. 7007.6060 establishes the petition process that can be used by EJ area residents to support the need for a cumulative impacts analysis. This part identifies the information that a petition must include, how petitioners must file the petition, and how the Agency will review and decide whether to grant or deny the petition. This part also identifies when the Agency must post documents related to the petition process.

In general, it is reasonable to establish the necessary requirements in rule to fulfill the statutory obligations specified in Minn. Stat. § 116.065.

Subpart 1. Petition
Subpart 1 establishes that any person may request that the commissioner require a cumulative impacts analysis for a requested permit action by filing a petition. Item A identifies that the petition must contain the signatures and mailing addresses of 100 individuals who reside or own property in the impacted EJ area. The rule language in subpart 1 is similar to the language found in Minn. Stat. § 116.065, subd. 3(e)(2) that identifies a petition as one way the commissioner may determine that a cumulative impacts analysis is required. It is reasonable to identify that the petition must include the signatures and mailing addresses because it provides a methodology to meet the requirements specified in Minn. Stat. § 116.065, subd. 3(e)(2) that requires that the petition is signed by individuals who reside or own

property in the impacted EJ area. This is reasonable because it makes it clear the obligations for a petition that were established in Minn. Stat. § 116.065, subd. 3(e)(2). Doing so prevents confusion and provides clarity so that all interested persons can easily locate and understand how the proposed rules function.

Item B identifies that petitions must be submitted to the commissioner on or before the date the public notice and comment period for the requested permit action required under Minn. R. 7007.0850, subp. 2 ends. This is needed to specify a timeframe for when petitions can be submitted to clearly identify when the commissioner will consider a petition. The public notice and comment period specified in Minn. R. 7007.0850, subp. 2 is when the commissioner provides a draft permit and technical support document, which includes the legal and factual basis for the draft permit conditions, for review by any interested persons. It is reasonable to set the end of the public notice and comment period as the latest date a petition could be submitted because that is when the MPCA is preparing to issue or deny a permit. Doing so provides interested parties with the relevant information (i.e., the draft permit and technical support document) for the requested permit action that the commissioner has determined is enough to make a decision to issue or deny a permit, which may inform the reason an interested person may want to file petition.

Subpart 2. Content

Subpart 2 establishes what a petition must include. In general, these requirements parallel the requirements for the petition process established in existing rules for environmental review in Minn. R. 4410.1100. In general, it is reasonable to establish new requirements that define the necessary content of a petition to provide consistency in the information provided to MPCA and to ensure the inclusion of adequate information to enable prompt action on the petition from the MPCA when the petition is submitted.

It is reasonable for the content of a petition to request a cumulative impacts analysis align with the petition content requirements in Minn. R. 4410.1100, subp. 2. Using similar processes to evaluate petitions provides for a common understanding of what is expected and facilitates compliance. It is reasonable to provide consistency across similar requirements. Item A, subitems (1) to (6) establish what a petition must include.

Subitem (1) establishes that a petition must include a description of the requested permit action. The intention of this item is to enable the MPCA to determine the subject of the petition by requiring the inclusion of enough information that describes the requested permit action to avoid ambiguity. It is reasonable to require that a petition include information that describes the subject of the petition. Additionally, it is reasonable that the petitioners will have this information because the Agency is required to post information about requested permit actions and provide notice to interested persons under part 7007.6050, subp. 5.

Subitem (2) establishes that a petition must identify the owners and operators of the stationary source that is the subject of the petition. The intention of this item is to enable the MPCA to easily determine the subject of the petition, and ensure the petitioners provide notice under subpart 3, item B to the correct owners and operators of the stationary source, by requiring the petition identify the owners and operators of the stationary source that is the subject of the petition. This item is also included to help assure that the correct owners and operators are informed of the petition promptly. It is reasonable for the petition to require information that assists the MPCA in determining the stationary source that is the subject of the petition and verifying that the correct owners and operators of the stationary source were notified by petitioners as required by subpart 3, item B. Additionally, it is reasonable that the petitioners will have this information because the Agency is required to post information about requested permit actions and provide notice to interested persons under part 7007.6050, subp. 5.

Subitem (3) establishes that a petition must include the name and contact information for the representative of the petitioners. The intention of this item is to enable the MPCA to easily identify how to contact the petitioners. Requiring contact information also helps assure that the MPCA can promptly contact or notify the petitioners of any action take on the petition. It also provides a singular point of contact for the Agency versus notifying all persons who signed the petition. It is reasonable to require contact information be included in a petition because the MPCA needs a way to contact petitioners regarding the petition. Additionally, it is reasonable that the petitioners will have this information because the Agency is required to post information about requested permit actions and provide notice to interested persons under part 7007.6050, subp. 5.

Subitem (4) establishes that the petition must include the name, mailing address, and signatures of the individuals who sign the petition. The intention of this item is to establish in rule criteria specified in Minn. Stat. § 116.065, subd. 3(e)(2) that requires a petition include this information for 100 individuals who own property or reside in the impacted EJ area. Requiring this information is reasonable because it provides the Agency a methodology to confirm that the petition meets the requirements established in statute. It also provides a way for the Agency to contact all the petitioners should the need arise.

Subitem (5) establishes that the petition must include a description of the potential impacts to the environment or health of residents of an impacted EJ area. This information is necessary for the Agency to adequately evaluate the potential merits of the petition. The applicable standard to grant or deny a petition is a demonstration that the requested permit action may have the potential to substantially impact the environment or health of the residents of the impacted EJ area. Due to this standard, it is necessary that the petitioners identify the potential impacts they anticipate will occur if the permit for the requested permit action is issued. This description is not intended to be an exhaustive list, nor is it intended to limit the issues discussed relating to the requested permit action. The intent is solely to demonstrate that there may be the potential for health and environmental impacts. It is reasonable to require the petition include this information because it provides the Agency the basis on which to determine if the requested permit action may have the potential to substantially impact the environment or health of the residents of the impacted EJ area.

Item A, subitem (6) establishes that the petition must include material evidence that demonstrates the requested permit action may have the potential for health or environmental impacts. Item B establishes that the material evidence must be submitted with the petition. The intention of item A, subitem (6) and item B is to establish in rule the criteria specified in Minn. Stat. § 116.065, subd. 3(e)(2) that requires a petition include material evidence that demonstrates a potential adverse cumulative impact to the impacted EJ area. The statute requires the submittal of material evidence, and that the information physically accompany the petition, so that petitions include information that the Agency can evaluate. The Agency is later required to evaluate the petition and information included to determine if the requested permit action may have the potential to substantially impact the environment or health of the residents of the impacted EJ area. It is reasonable to require the petition include this information because it provides the Agency the information needed to determine if the requested permit action may have the potential to substantially impact the environment or health of the residents of the impacted EJ area.

This item also specifically uses the modifier “may have” to indicate that the petitioners themselves do not have to demonstrate that issuing a permit would have the potential to substantially impact the environment or the health of residents of an EJ area. This is similar to the wording used in Minn. R. 4410.1100, subp. 2(E). The intent of this item is not to require a comprehensive analysis of scientific evidence demonstrating potential environmental or health impacts. Rather, the intent is to require a presentation by the petitioners that are relevant to any potentially substantial environmental or health impacts that may result from the requested permit action and the MPCA’s cumulative impact

determination of need. The phrase material evidence is not defined in Minn. Stat. § 116.065 nor in Minn. R. ch. 4410, but the function of the material evidence requirement is to bring credible concerns to the attention of the MPCA. It is the responsibility of the MPCA to appropriately consider whether the information presented demonstrates that issuing a permit may result in substantial environmental or health impacts.

It is clear that the MPCA has a statutory obligation to determine whether issuing a permit would potentially cause environmental or health impacts and determine whether a cumulative impacts analysis is needed. Under Minn. Stat. § 116.065, subd. 3(a), the MPCA is required to determine, "(1) whether a proposed permit action may substantially impact the environment or health of the residents of an EJ area; and (2) whether a cumulative impacts analysis is required."

While petitioners themselves do not need to demonstrate that issuing the permit would have a substantial adverse impact, or adverse cumulative impact, the effect of item A, subitem (6) and item B is the same as the statutory language of 116.065, subd. 3(e)(2). This item establishes that petitioners need to provide material evidence that the MPCA evaluates and determines whether there is enough that supports the need for a cumulative impacts analysis. It is reasonable to require the petition include this information because it provides the Agency the information needed to determine if the requested permit action may have the potential to substantially impact the environment or health of the residents of the impacted EJ area.

Subpart 3. Filing

Subpart 3 is established to identify the process for filing a petition. This subpart is included to establish that all petitions must be submitted to the MPCA and how owners and operators of a stationary source are notified of the petition submittal. In general, it is reasonable to establish new requirements that define process of filing a petition to provide consistency in the way information is provided to MPCA and provide clarity regarding where that information must be provided. It is reasonable to provide clarity for all interested persons regarding how petitions must be filed with the MPCA.

Additionally, these requirements generally parallel the requirements for the petition process established in existing rules for environmental review in Minn. R. 4410.1100. Using similar requirements as other rules that establish a petition process provides common understanding and facilitates compliance.

Subpart 3, item A is established to specify that petitioners must submit the petition in a predetermined format to the address specified by the commissioner. This provides a standardized submittal process for all petitions to follow. Additionally, under Minn. Stat. § 116.065, subd. 6(c)(5), the MPCA is required to create a form to be submitted to the Agency by EJ area residents to support the need for a cumulative impact analysis. Establishing that petitions must be submitted in a format specified by the commissioner is reasonable because the MPCA is required by statute to create these forms specifically for use in the petition process. It is also reasonable for the commissioner to provide a format so that it is clear and easy for interested persons to know what information they need to provide for the MPCA to evaluate a petition. It is reasonable to provide clarity for all interested persons regarding the format of petitions, and the address where they must be submitted.

Subpart 3, item B is established to specify that petitions must notify the owners and operators of the applicable stationary source at the time they submit the petition to the commissioner. The intent of this item is to allow the owners and operators to become involved early in the petition process to attempt to resolve concerns of the petitioners and to provide information to the MPCA. This also encourages direct contact between all parties early in the petition process. It is reasonable to also require petitioners to notify owners and operators that are the subject of the petition as it enables the MPCA to determine whether a cumulative impacts analysis is required for the requested permit action in a timely manner. Additionally, it is reasonable that the petitioners will have this information because the Agency is

required to post information about requested permit actions and provide notice to interested persons under part 7007.6050, subp. 5.

Subpart 4. Completeness review

Subpart 4 is established that identifies the process the MPCA will use to determine if all the necessary information is included in a submitted petition, the process for notifying petitioners and owners and operators, what happens if a petition does or does not comply, and when the commissioner must return the petition. It is reasonable to clearly identify the process the MPCA will use to evaluate whether a petition can be acted on or not.

Subpart 4, item A is established to identify that the commissioner must determine whether the petition contains the required information identified in subparts 1 to 3. This item was included to establish a non-substantive evaluation of the petition to determine whether it meets the signature and content requirements and can move forward to the substantive evaluation of the material evidence included in the petition. It is reasonable to verify that a petition contains all the required information prior to evaluating the information included with the petition.

Additionally, these requirements generally parallel the requirements for the petition process established in existing rules for environmental review in Minn. R. 4410.1100. Those rules establish a similar process as part of determining which RGU to send the petition to for evaluation, including returning the petition to petitioners when it fails to include all the required information. Using similar requirements as other rules that establish a petition process provides common understanding and facilitates compliance.

Subpart 4, item B is established to identify that the commissioner must complete the review identified in item A and notify the petitioners and owners and operators of whether the petition contains the required information. It is reasonable to provide a notification so that all interested persons understand whether a petition contains all the required information prior to evaluating the information included with a petition.

Subpart 4, item C establishes what the notification in item B must contain if the commissioner determines that the petition contains the required information. If applicable, item C requires that the notification identify that the petition complies with the requirements of subparts 1 to 3 and that the commissioner will review the petition to determine whether to grant or deny the petition. It is reasonable to provide notification of this information so that the petitioners and owners and operators are aware of the results of the completeness review. Doing so also provides clarity to petitioners and owners and operators regarding the next step in the petition process.

Subpart 4, item D establishes what the notification in item B must contain if the commissioner determines that the petition does not contain the required information. If applicable, item D requires that the notification must state that the petition does not comply with the requirements of subparts 1 to 3, identify all deficiencies, advise the petitioners on how the deficiencies can be remedied, and identify the timeframe the petitioners have to remedy the deficiencies before the commissioner must return the petition. It is reasonable to provide notification of this information so that the petitioners and owners and operators are aware of the results of the completeness review. Doing so also provides clarity to petitioners and owners and operators regarding the next step in the petition process. It is also reasonable to provide a methodology in rule for how to petitioners may remedy a deficient petition instead of returning a deficient petition outright. The MPCA chose a 15 calendar day timeframe, to correct deficiencies, to provide petitioners sufficient time to remedy a deficient petition and require the petitioners to provide this information in a timely manner. Fifteen calendar days is reasonable as it provides petitioners time to make necessary changes, while not significantly delaying the MPCA permitting process. It is reasonable to provide a timeframe to correct any deficiencies so that all

interested persons understand the maximum time period associated with this part of the completeness review.

Subpart 4, item E is established to identify what happens when a petition is deficient and the petitioners do not remedy the identified deficiencies within the 15 calendar day period. If a petition is deficient and corrections are not provided, the commissioner is required to void the petition and return the petition to the petitioner's representative. It is reasonable to establish a process that identifies what happens when a petition does not comply with the requirements of subparts 1 to 3. If the petition does not have all the required information, the MPCA will not be able to properly evaluate whether to grant or deny the petition. If the MPCA will not be able to properly evaluate the petition, it is reasonable to return it to the petitioners and cease review. Identifying when the commissioner will return an incomplete petition provides clarity for all interested persons. It is reasonable to provide clarity in rule so that all interested persons can more easily understand how the proposed rules function.

Subpart 5. Commissioner's decision

Subpart 5 is established to identify the decision-making process the MPCA will use in determining whether to grant or deny a petition. This subpart provides the conditions where the MPCA must grant or deny a petition, the information that the MPCA will consider in that determination, the criteria the MPCA must use to evaluate the impacts that may be reasonably expected to occur if the permit is issued for the requested permit action, and that the MPCA must prepare a document that describes how the decision was made. It is reasonable to clearly identify the process the MPCA will use to evaluate whether to grant or deny a petition.

Additionally, these requirements generally parallel the requirements for the decision-making process established in existing rules for environmental review petition process in Minn. R. 4410.1100. Using similar requirements as other rules that establish a petition process provides common understanding and facilitates compliance.

Subpart 5, item A is established to identify when the MPCA will grant a petition and require the owners and operators to conduct a cumulative impacts analysis. This item identifies that the MPCA will grant the petition when the information considered demonstrates that the requested permit action may have the potential to substantially impact the environment or health of the residents of an EJ area if the permit was issued. As described previously in the specific reasonableness for part 7007.6060, subpart 2, item F, the MPCA requires petitioners to include material evidence as part of their petition. Item A identifies a logical outcome if that information, and other information available to the commissioner, demonstrates issuing the permit may have the potential to substantially impact the environment or health of residents. It is reasonable to clearly identify when the MPCA will grant a petition. Doing so prevents confusion and provides clarity in rule so that all interested persons can more easily understand how the proposed rules function.

Subpart 5, item B is established to identify when the MPCA will deny a petition. This item identifies that the MPCA will deny the petition when the information considered fails to demonstrate that the requested permit action may have the potential to substantially impact the environment or health of the residents of an EJ area if the permit was issued. As described previously in the specific reasonableness for part 7007.6060, subpart 2, item F, the MPCA requires petitioners to include material evidence as part of their petition. Item B identifies a logical outcome if that information, and other information available to the commissioner, fails to demonstrate issuing the permit may have the potential to substantially impact the environment or health of residents. It is reasonable to clearly identify when the MPCA will deny a petition. Doing so prevents confusion and provides clarity in rule so that all interested persons can more easily understand how the proposed rules function.

Subpart 5, item C is established to clearly identify the scope of information that the MPCA must consider

in determining whether to grant or deny a petition. This item identifies that the MPCA must consider material evidence provided by petitioners, owners and operators, and other persons; the initial assessment required under part 7007.6050 if required; material evidence known to the MPCA; and other information and data the commissioner deems relevant. The intent of this item is to clearly identify that the MPCA will consider multiple sources of information in evaluating a petition. Doing so provides for a more complete understanding of potential impacts and avoids a possible scenario where multiple petitions are submitted. For example, if the MPCA was restricted to only evaluate material evidence submitted by petitioners, there could be multiple rounds of petitions that introduce different material evidence that the commissioner would then potentially evaluate. Allowing the commissioner to consider all known sources of relevant information is reasonable so that they can make a fully informed decision. If the commissioner were not able to consider material evidence provided by owners and operators, other interested parties, or otherwise known to the MPCA, the commissioner might ignore mitigating or strengthening information that potentially demonstrates there is or is not the potential for environmental or health impacts.

Additionally, item C identifies that the MPCA must consider the initial assessment required under part 7007.6050 if required, material evidence known to the MPCA, and other information and data the commissioner deems relevant as the commissioner is already required to consider that information in determining whether a cumulative impacts analysis is needed as identified in Minn. Stat. § 116.065, subd. 3(c)(1) and (c)(3). This information is repeated here to clearly identify that the MPCA must fully consider the information provided to, or known by, the Agency alongside any material evidence provided by petitioners, owners and operators, and other persons. Information already provided or known may intersect with material evidence provided by others and demonstrate the potential for environmental or health impacts or may demonstrate there is no potential for adverse environmental or health impacts.

Providing that the MPCA must consider multiple sources of information in determining whether to grant or deny a petition is reasonable because it avoids potential delays associated with multiple petitions for the same requested permit action, it provides for a more complete understanding of potential impacts, and clearly establishes the scope of information that the MPCA must consider.

These requirements also generally parallel the requirements for the petition process established in existing rules for environmental review in Minn. R. 4410.1100. The petition process in those rules also establish that the RGU will not only consider material information submitted by petitions, but information submitted by project proposers, information submitted by other persons, and information otherwise known to the RGU. Using similar requirements as other rules that establish a petition process provides common understanding and facilitates compliance.

Subpart 5, item D is established to identify how the MPCA must consider the information described in item C. This item requires the MPCA to evaluate the impacts that may be reasonably expected to occur from the requested permit action using the same criteria established in the proposed determination of need section in Minn. R. 7007.6070, subpart 4. The reasonableness of those criteria are described in the specific reasonableness section for that rule part. It is reasonable to clearly identify the criteria the MPCA must use in determining whether to grant or deny a petition. Doing so prevents confusion and provides clarity in rule so that all interested persons can more easily understand how the proposed rules function. Additionally, it is reasonable to establish a consistent methodology that defines the way information is evaluated by the MPCA in determining whether a cumulative impacts analysis is needed, no matter the source of the information—petition or initial assessment. It is reasonable to provide clarity for all interested persons regarding how determinations to grant or deny a petition are made.

Subpart 6. Notice of petition

Subpart 6 is established to identify when the MPCA must post notice related to the petition process on

the Agency website. The intent of this subpart is to provide clarity to any interested persons regarding the petitions the MPCA receives and the decisions to grant or deny a petition.

Subpart 7, item A is established to require the MPCA to post notice of receiving a petition, including that any person may request to receive notice of petitions received. As discussed previously, the MPCA must consider a variety of information sources in determining whether to grant or deny a petition, including information that is provided by other persons. Other persons need to know when this opportunity to provide information is available to them. It is reasonable to provide notice through the Agency website as a general methodology to share information. This is a methodology already used by the MPCA in multiple circumstances where public notice of various actions is required. It is reasonable to provide notice of receiving a petition so that any interested persons are made aware of the opportunity to participate in the petition process.

Subpart 7, item B is established to identify the information the notice described by item A must contain. Subitems (1) through (5) identify that the notice must contain identifying information for the stationary source and MPCA, information regarding the permit application that is the focus of the petition, and where interested parties may obtain additional information regarding the petition and other supporting materials. It is reasonable to provide this information in a notice as it provides the information needed in general for interested parties to understand whether the petition may be of interest to them and so they are made aware of the opportunity to participate in the petition process.

PART 7007.6070 – DETERMINATION OF NEED

Justification for part 7007.6070

The intent of this part is to provide clarity regarding how the commissioner makes determinations regarding the need for a cumulative impacts analysis. While Minn. Stat. § 116.065, subd. 3(c) specifies what the commissioner must review and assess in determining whether a cumulative impacts analysis is required under Minn. Stat. § 116.065, the Agency found that additional requirements were needed to clearly identify and reference the rule language that implements different portions of Minn. Stat. § 116.065.

Minn. R. 7007.6070 establishes the requirements for the MPCA's determination of need for a cumulative impacts analysis. This part identifies the circumstances when the commissioner must require owners or operators to conduct a cumulative impacts analysis, circumstances when the Agency may require owners or operators to conduct a cumulative impacts analysis, the standards and criteria or information the commissioner will use to determine whether issuing a permit may substantially impact the environment or health of the residents of an EJ area. This part also identifies the process for addressing when there is insufficient information to make a determination of need for a cumulative impacts analysis, and when the Agency must post documents related to the determination of need.

In general, it is reasonable to establish the necessary requirements in rule to fulfill the statutory obligations specified in Minn. Stat. § 116.065. It is also reasonable to establish additional requirements that provide support for meeting the statutory obligations specified in Minn. Stat. § 116.065.

Subpart 1. Mandatory cumulative impacts analysis

Subpart 1 establishes when it is mandatory for the commissioner to require a cumulative impacts analysis to be conducted. This is needed because Minn. Stat. § 116.065, subd. 3(d) states the commissioner must require a cumulative impact analysis if:

> *(1) the potential impacts of the permit issuance exceed any of the benchmarks for conducting a cumulative impacts analysis established in rules adopted under subdivision 6; or*
>
> *(2) the commissioner determines that issuance of the permit may substantially impact the*

environment or health of the residents of an environmental justice area.

Item A requires a mandatory cumulative impacts analysis for a requested permit action that meets or exceeds any of the benchmarks proposed in Minn. R. 7007.6050, subpart 4. The intent of the benchmarks proposed in 7007.6050, subpart 4 is to assist the commissioner's determination regarding the need for a cumulative impacts analysis by identifying the requested permit actions that may impact the environment or health of the residents of an EJ area. The statute states that the commissioner must require a cumulative impacts analysis if the permit issuance would exceed any of the benchmarks. Therefore, a mandatory cumulative impacts analysis is reasonable for a requested permit action that exceeds any of the benchmarks proposed in Minn. R. 7007.6050, subpart 4.

Item B requires a cumulative impacts analysis if the commissioner determines that the issuance of the permit may substantially impact the environment or health of the residents of an EJ area. This is needed as indicated by Minn. Stat. § 116.065, subd 3(d)(2) for requested permit actions that do not exceed a benchmark in 7007.6050, subpart 4, but still may have the potential to substantially impact the environment or health of the residents of an EJ area. Minn. Stat. § 116.065, subd. 3(d)(2) specifies that the commissioner must require a cumulative impacts analysis if they determine that a permit action may substantially impact the environment or human health. It is reasonable to include the statute requirements in the rule to ensure the commissioner can require a cumulative impacts analysis for those permit actions that may substantially impact the environment or health of the residents of an EJ area.

Subpart 2. Discretionary cumulative impacts analysis

Subpart 2 establishes when the commissioner has discretion to require a cumulative impacts analysis to be conducted. This is needed because Minn. Stat. § 116.065, subd. 3(e) states the commissioner may require a cumulative impact analysis if:

(1) the facility is below all the benchmarks established for conducting a cumulative impacts analysis and the commissioner determines that a cumulative impacts analysis is necessary and supported by material evidence; or

(2) a petition requesting that a cumulative analysis be conducted is signed by at least 100 individuals who reside or own property in the environmental justice area impacted by the facility and is supported by material evidence that demonstrates a potential adverse cumulative impact to the impacted environmental justice area if the permit is issued.

Item A establishes that the commissioner may require a cumulative impacts analysis if the commissioner determines the analysis is necessary and supported by material evidence as specified in Minn. Stat. § 116.065, subd. 3(e)(1). This is needed because material evidence to support requiring a cumulative impact analysis may exist outside of the mandatory criteria set forth in part 7007.6070, subp. 1 or the information required to submitted as part of the initial assessment under part 7007.6050, subp. 3. It is reasonable that if the commissioner is aware of such material evidence, that the commissioner has the discretion to require a cumulative impacts analysis.

Item B establishes that the commissioner may require a cumulative impacts analysis to be conducted if it is determined by the petition process set forth in part 7007.6060. This is needed to meet the statute's stated intent of including a petition process. It is reasonable to allow the commissioner to require a cumulative impacts analysis based on a petition for a requested permit action.

Item C establishes that the commissioner may require a cumulative impacts analysis when it is requested by the owner or operator. This is needed to provide a process for an owner or operator to volunteer to conduct a cumulative impacts analysis for a requested permit action, provide the commissioner with a rule process for making a determination for whether to require the cumulative impacts analysis based on owner or operator request. It is reasonable to provide owners and operators

with an option for a conducting a voluntary cumulative impacts analysis.

Subpart 3. Determining need for cumulative impacts analysis
Subpart 3 establishes the information the commissioner must consider when determining whether a cumulative impacts analysis is required on a mandatory or discretionary basis. This is needed to identify specific information that must be reviewed and considered as part of the determination.

Item A, subitems (1) through (6) establish what the commissioner must consider when requiring a mandatory or discretionary cumulative impacts analysis under new subparts 1 and 2. Items A(1) through (3) requires the consideration of the requested permit action, the initial assessment, and whether the requested permit action meets any of the benchmarks. Items A(4) through (6) requires the consideration of material evidence accompanying a petition, other known material evidence, and any other information the commissioner deems relevant. These items are needed to clarify the information considered by the commissioner when making a determination of need for a mandatory or discretionary analysis. It is reasonable to require these considerations because they are consistent with the standards under new subparts 1 and 2 for when the commissioner must require a mandatory cumulative impact analysis or may require a discretionary cumulative impact analysis.

Item B requires the evaluation of reasonably expected impacts from the information identified in Item A using the criteria listed in 7007.6070, subpart 4. This is needed to identify the information the commissioner must consider and evaluate when determining if a requested permit action may substantially impact the environment or health of residents of an EJ area under new subparts 1 and 2. It is reasonable to require an evaluation of impacts using the criteria listed in subpart 4 because it helps the commissioner make an informed, impact focused, determination for when a requested permit action may substantially impact, and without this evaluation the commissioner would be unable to make that determination.

Subpart 4. Determining substantial impact
Subpart 4 establishes criteria the commissioner must consider for determining if a requested permit action may substantially impact the environment or health of residents of an EJ area. This is needed because Minn. Stat. § 116.065, subd. 3(d)(2) requires a cumulative impacts analysis if the commissioner determines that issuance of a permit may substantially impact. The criteria for this determination include evaluating potential impacts based on the information described in 7007.6070, subpart 3(A). The criteria are based on the criteria from the Decision of Need for Environmental Impact Statement rules under Minn. R. 4410.1700, subp. 7 that apply when the commissioner is deciding whether a project has the potential for significant environmental effects in determining whether the project requires an Environmental Impact Statement. It is reasonable to base the criteria for determining substantial impacts on the Environmental Impact Statement rules because of a similar focus on considering the significance of cumulative potential effects from a project.

Item A requires the commissioner to consider the type, extent, and reversibility of potential impacts. This item is needed to identify the type and scope of potential impacts by considering the type, extent, and reversibility of potential impacts in a way that is similar in concept to Minn. R. 4410.1700, subp. 7 under the environmental review rules. It is reasonable to identify the scope of potential impacts to determine whether a cumulative impacts analysis is required. Environmental and health impact types are needed to distinguish between environmental or human health risk for proper consideration. This is needed because environmental or health impacts vary in the severity of damage depending on the type, extent or reversibility. For example, the negative impacts of chemical stressors on human health and the environment are primarily dependent on the chemical type, extent (dose or concentration) and exposure (time). The reversibility of chemical stressors is important to consider because some chemicals

may bioaccumulate or persist in the environment for long periods of time before breaking down or changing form, resulting in potentially longer exposure times or increased concentrations over time. The type, extent and reversibility of all impacts is needed for complete consideration of the total impact of issuing the permit.

Item B adds cumulative potential impacts as one of the criteria to be considered for determining the need for a cumulative impacts analysis. This is needed because potential impacts are included in the statute as part of the commissioner's determination of whether the requested permit action may substantially impact the environment or health of residents. It is reasonable to describe the criteria for determining the need for a cumulative impacts analysis.

Items B establishes specific elements of cumulative potential impacts that need to be considered as part of determining the need for a cumulative impacts analysis.

Subitem (1) requires consideration of whether the potential impacts may be significant. This is needed so the commissioner can evaluate the potential impacts. It is reasonable to consider whether the potential impacts may be significant.

Subitem (2) requires consideration of whether the contribution for a requested permit action to the potential impacts is significant when compared to other contributions in the area. This is needed to provide context for potential impacts of the requested permit action within the area. It is reasonable to provide context of the area for determining whether a requested permit action will need to conduct a cumulative impacts analysis.

Subitem (3) requires consideration of measures proposed in the requested permit action to eliminate, minimize, or mitigate potential cumulative impacts. This is needed to provide context for the requested permit action and whether the owners or operators will be implementing proposed measures, and if so, how well these measures will reduce potential impacts. It is reasonable to consider control measures and how they will reduce contributions to potential impacts.

Subitem (4) requires consideration of the actions of the owners and operators to eliminate, minimize, or mitigate the cumulative potential impact in addition to the measures indicates in item B(3). This is needed because the owners and operators may take other actions to reduce potential impacts, and those actions may impact the potential cumulative impacts of the requested permit action. It is reasonable to consider the actions of the owners and operators that may reduce potential impacts.

Item C requires consideration of other mitigation required by ongoing public regulatory authority. This is needed to provide a broad context of potential impacts, across environmental media, and how the impacts may be affected by other regulatory authorities. It is reasonable to consider all of the mitigation efforts involved in evaluating potential impacts of the requested permit action. Item C also establishes that the commissioner may only rely on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified impacts of the requested permit action. This is necessary as it requires that any mitigation strategies proposed must be subject to mitigation by ongoing public regulatory authority to ensure fairness, safety, and compliance with laws, monitoring activities, and enforcement of standards to protect the public and promote good governance. This is reasonable as the ongoing public regulatory authority has the ability and responsibility to participate in the mitigation process in order to ensure compliance.

Item D requires the commissioner to consider how potential impacts can be anticipated and controlled based on available environmental or health studies or from other cumulative impact analyses. Environmental or health studies can identify potential health effects, stressors, and other information. Other cumulative impacts analyses can also be a source of information specific to an area. This is needed to include consideration of additional sources of information to inform the decision. It is reasonable to require consideration of additional information to determine whether a cumulative impacts analysis is

required. This is necessary to ensure that the impacts are understood as completely as possible by utilizing the best science and information currently available. It is necessary and reasonable to require as complete an understanding as possible of the impacts that is available from current scientific knowledge to support a fair determination of if a substantial adverse impact would occur. Additionally, this is reasonable to ensure that all possible sources are considered to aid in understanding conflicting information, interpretations and conclusions that may occur.

Subpart 5. Insufficient information
Subpart 5 establishes two options for the commissioner to use when the MPCA lacks the information necessary for a reasoned decision regarding the need of a cumulative impact analysis.

Item A provides the commissioner the authority to require the owner or operator to obtain and include the lacking information while conducting a cumulative impacts analysis. This is needed to ensure all required information is received by the commissioner. It is reasonable to require owners or operators to conduct a cumulative impacts analysis and obtain the missing information when there is enough information for the commissioner to determine that the need for a cumulative impacts analysis is likely. This is reasonable to prevent delays and ensure a determination is made in a timely manner.

Item B requires owners or operators to submit the lacking information by a time specified in a notice by the commissioner. This is needed to ensure all required information is received by the commissioner. It is reasonable to provide a notice and deadline when the lacking information is identified as crucial to the determination. This is reasonable to prevent delays and ensure a determination is made in a timely manner.

Subpart 6. Decision document
Subpart 6 establishes the creation and posting of a document that contains the commissioner's determination regarding the need for a cumulative impacts analysis, and the reasons for the determination. This is needed to meet Minn. Stat. § 116.065, subd. 3(f) and to ensure any determination of need and associated reasoning is shared publicly. It is reasonable to document, share, and provide notice of such a determination to residents of the area, the public, owners or operators, and any other interested parties.

PART 7007.6080 – PUBLIC PARTICIPATION

Justification for part 7007.6080

The intent of part 7007.6080 is to fulfill the requirements of Minn. Stat. § 116.065, subd. 6(c)(7), which requires the MPCA to establish methods for holding public meetings and handling public comments as required under Minn. Stat. § 116.065, subd. 4. As mandated in Minn. Stat. § 116.065, subd. 4, any public meeting under the subdivision must provide opportunities for robust public and Tribal engagement. Additionally, the intent of this part is to also support the requirement of Minn. Stat. § 116.065, subd. 6(c)(4)(i), which requires the MPCA to establish active outreach to residents of the impacted EJ area designed to achieve significant community participation as part of the procedures for entering into a CBA.

Part 7007.6080 establishes the requirements surrounding public participation broadly including methods for outreach to, and engagement with, residents of EJ areas, methods for holding public meetings, and methods for handling public comments. This part identifies the requirements for public participation plans, when public meetings are required, requirements for those public meetings, and how to provide notice of those public meetings. This part also identifies requirements for public comment periods, requirements to accept comments and provide a response to those comments, requirements for when the owners and operators must provide materials relevant to the public

participation process and when the Agency must post those documents. Additionally, this part identifies record keeping requirements and the ability to conduct additional outreach and engagement not specified in this part.

Since public engagement is a substantial component of Part 7007.6080, it is reasonable and needed to describe public engagement in further detail to ensure owners or operators can comply with the requirements stated in the statute and rule. Differing from outreach that relies on sharing information without the expectation of response, engagement is characterized by dialogue, discussion, or collaboration. Minnesota's Department of Administration states that, "public engagement involves the intentional effort to facilitate meaningful dialogue with the public and specific communities in policy and program work"[14]. The United Nations also describes civic and public engagement as a process that requires dialogue and communication.[15] Minnesota's Department of Education does not mention "dialogue" but has collaboration as a key facet of public engagement.[16] These institutions' descriptions emphasize the communication and involvement required to achieve public engagement. Part 7007.6080 requires actions like responding to public comments and providing descriptions of how public comments informed any portion of the cumulative impacts analysis and CBA to achieve public engagement and thereby meet the requirements in Minn. Stat. § 116.065, subd. 4(c) and Minn. Stat. § 116.065, subd. 6(c)(4).

In general, it is reasonable to establish the necessary requirements in rule to fulfill the statutory obligations specified in Minn. Stat. § 116.065. It is also reasonable to establish additional requirements that support meeting the statutory obligations specified in Minn. Stat. § 116.065.

Subpart 1. Applicability

Subpart 1 identifies the applicability of part 7007.6080 and the parties responsible for fulfilling the public participation requirements and guidelines listed in this part.

Minn. Stat. § 116.065, subd. 6(c)(7) requires the MPCA to:

(i) "establish methods for holding public meetings and handling public comments…"

Minn. Stat. § 116.065, subd. 6(c)(4) requires the MPCA to establish procedures for owners and operators entering into a CBA, which must include:

(i) "active outreach to residents of the impacted environmental justice area designed to achieve significant community participation."

Minn. Stat. § 116.065, subd. 4(a) requires the permit applicant or permit holder who must conduct a cumulative impact analysis to:

(i) "hold at least two public meetings in the environmental justice area impacted by the facility"

Minn. Stat. § 116.065, subd. 4(d) requires the permit applicant or permit holder, at any public meeting to:

(ii) "provide an opportunity for robust public and Tribal engagement."

---

[14] *Public Engagement. Retrieved from: https://mn.gov/admin/ocdr/toolkit/public-engagement/*
[15] *Civic Engagement. Retrieved from: https://www.undp.org/governance/civic-engagement*
[16] *Public Engagement. Retrieved from: https://education. mn.gov/MDE/about/public/*

Minn. Stat. § 116.065, subd. 5 requires the commissioner to consider the cumulative impacts analysis conducted, testimony presented, and comments submitted in public meetings while deciding whether or not to issue a permit.

To comply with the statutory requirements and allow the MPCA to receive the materials needed to assess the cumulative impacts and enter into a CBA, if required, the MPCA identified the applicability of part 7007.6080 and the responsible parties for fulfilling the public participation requirements.

Subpart 2. Cumulative impacts analysis public participation plan

Subpart 2, items A through D are added to establish requirements for public participation plans for the cumulative impacts analysis if one is required. The public participation plan described in this subpart will apply to the requirements before, during, and after the meeting held before the cumulative impacts analysis is completed and the meeting held after the cumulative impacts analysis. It is reasonable to require owners and operators to develop a plan and submit it to the commissioner for approval because the public participation plan ensures owners and operators comply with the requirements of Minn. Stat. § 116.065, subd. 4(d)(1) and Minn. Stat. § 116.065, subd. 4(a). The public participation plan will allow the MPCA to ensure compliance without creating strict requirements that may not apply across all EJ areas. In addition to providing the MPCA with the ability to monitor and advise the owner and operator's plan for public engagement, the document will further the public's ability to understand and participate in the process.

Item A requires owners and operators to submit a public participation plan for the cumulative impacts analysis process, in a format specified by the commissioner. Subitems (1) through (4) specify what the public participation plan must include. It is reasonable to clarify when owners and operators must prepare and submit a cumulative impacts analysis public participation plan because it prevents confusion and clearly identifies when owners and operators must comply with this subpart. It is also reasonable to specify what information the public participation plan must include so it is clear to owners and operators how to comply with the rule and clear to the public what they should expect to see in a plan.

Item A, subitem (1) states that the materials submitted must include a summary of the initial assessment. Requiring the owners and operators to include a summary of the initial assessment is needed and reasonable because the initial assessment determines the need for a cumulative impact analysis and is likely to have information that helps determine the content of the public participation plan, including the plans for complying with subparts 4 through 11 of this part.

Item A, subitem (2) states that owners and operators of a stationary source must include a description of how they plan to comply with subparts 4 through 11. Subparts 4 through 11 are essential to demonstrating compliance with the statutory requirements listed in Minn. Stat. § 116.065, subd. 4(b) through 4(e) and the public participation plan will allow the MPCA to understand how the owners and operators will comply before they begin this work. The public participation plan will allow the MPCA to ensure compliance without creating strict requirements that may not apply across all EJ areas. Item A, subitem (3) states that the owners and operators must provide a description of expected timelines for public meetings, public noticing, and public comment periods. Providing the timeline in the public participation plan will ensure that the owners or operators have a plan to meet the timeframe requirements in this part. Also, including a timeline will allow the Agency to prepare for their responsibilities in the process, including posting determination documents and attending public meetings. The timeline will give the public a greater ability to participate in public meetings and comment periods since they will have key dates and know what to expect.

Item B states that the owners and operators must prepare and submit the cumulative impacts analysis public participation plan within 30 calendar days of the commissioner posting the decision document requiring the owners and operators to conduct a cumulative impacts analysis. It is reasonable to set a deadline for the submission of the cumulative impacts analysis public participation plan so it is clear to all parties when the plan is due and the MPCA can plan for the review of this public participation plan by staff. Thirty days is consistent with other submittal deadlines in the rule and is reasonable to accomplish with guidance and submission instructions from the MPCA. It provides enough time for the owners and operators to develop and submit a plan that demonstrates how they will comply with this part without including every detail of how they will conduct their outreach and engagement.

Item C states that the commissioner must review and approve the cumulative impacts analysis public participation plan prior to the owners and operators providing public notice pursuant to subpart 7. The commissioner must identify any deficiencies, notify the owners and operators and advise them on how to remedy all identified deficiencies. Requiring the commissioner to review the cumulative impacts analysis public participation plan helps to ensure that the requirements for the plan, as detailed in item A, have been met before the first required public meeting has been noticed to the public, preventing timeline delays and confusion with the public.

It is also reasonable to require that the commissioner must identify any deficiencies, notify the owners and operators, and advise the owners and operators on how to remedy all identified deficiencies because this is consistent with other rule chapters that also require the MPCA to specify the portions of or reason for an application or plan having deficiencies requiring amendments and remedies. One such chapter is 7007.0502, which requires the MPCA to identify and notify owners or operators of an existing mercury emission source of any mercury reduction plan deficiencies in subpart 5, item B. By requiring the MPCA to provide this information, it reduces confusion for the owners and operators because they are made aware of the deficiencies that need to be remedied and can focus only on items that need remedying. It is reasonable to require a timeline for the remedies to be provided to the owners and operators so there is a shared understanding between the owners and operators and the MPCA of how the permitting process will progress. The desire for a permitting process that is not drawn out has been heard from members of EJ communities and representatives for industry during engagement by the MPCA during the Cumulative Impacts rulemaking.

Item D allows owners and operators to hire a third party to assist in developing and/or implementing the public participation plan. It is reasonable to allow this because some owners and operators may not have the expertise or resources to develop and conduct effective outreach that results in meaningful community engagement. Additionally, during the MPCA's outreach and engagement during the Cumulative Impacts rulemaking, participants expressed concerns with owners and operators planning and facilitating outreach but support for the importance of conducting this outreach with impacted communities. To address the concerns with owners and operators planning and facilitating outreach, the rule allows hiring a third party to plan and facilitate outreach. Stating that owners and operators may hire a third party to conduct outreach and engagement, but are not required to do so, allows the owners and operators flexibility in determining the best approach for conducting outreach and engagement in the impacted EJ area.

Subpart 3. Community benefit agreement public participation plan

Minn. Stat. § 116.065, subd. 6(c)(4)(i) to (iii) requires the MPCA to establish procedures and considerations for entering into a CBA. To comply with this, the MPCA proposes requiring owners and operators to develop a CBA public participation plan prior to developing a CBA, if applicable, to ensure owners and operators establish methods for outreach with residents of the impacted EJ area and

comply with meeting requirements to encourage participation in the development of the CBA.

Minn. Stat. § 116.065, subd. 4(d)(1) requires owners and operators to "provide an opportunity for robust public and Tribal engagement" at any public meeting held. Requiring owners and operators to develop and submit a public participation plan is reasonable because it allows the commissioner to verify that owners and operators have established methods to provide opportunities for robust public and Tribal engagement meeting rule and statutory requirements.

Subpart 3, items A through D are added to clarify the requirements and procedures for a CBA public participation plan. The public participation plan required in this subpart meets Minn. Stat. § 116.065, subd. 6(c)(4) and (7). Minn. Stat. § 116.065, subd. 6(c)(7) provides the MPCA with the authority to establish methods for holding public meetings and Minn. Stat. § 116.065, subd. 6(c)(4) addresses the owners and operator's need to conduct active outreach, engagement, and public participation. By requiring the owners and operators to describe how they will comply with the requirements for the meetings required pursuant to subpart 4, the MPCA can review their ability to create a plan and process that meets the requirements in the rule created to fulfill these statutory mandates.

Item A is added to clarify when owners and operators must prepare and submit a CBA public participation plan, in a format specified by the commissioner, and subitems (1) through (4) specify what that public participation plan must include. It is reasonable to clarify when owners and operators must prepare and submit a CBA public participation plan because it prevents confusion by clearly identifying that owners and operators must comply with this subpart when a CBA is required. It is also reasonable to specify what information the public participation plan must include so it is clear to owners and operators about how to comply with the rule. Additionally, requiring owners and operators to submit a CBA public participation plan prior to conducting public outreach and engagement for the CBA allows MPCA staff to verify that the plan complies with rule.

Item A, subitem (1) states that the public participation plan must include a summary of the substantial adverse impacts identified in the commissioner's determination of substantial adverse impacts required under part 7007.6100. It is reasonable to require that a summary of the substantial adverse impacts identified be included in the public participation plan so that participants in the development of the CBA understand how the residents of the impacted EJ area will be affected by the requested permit action and why a CBA is being developed. Providing a summary of the substantial adverse impacts will allow the public to research the impacts and develop comments to engage and participate in the process, leading to a more productive meeting between owners and operators and community participants.

Item A, subitem (2) requires owners or operators to include, in the public participation plan, a description of how they plan to comply with the requirements of subparts 4 through 11**.** One of the primary purposes of the CBA public participation plan is for the owner and operator to explain to the MPCA how they will fulfill the following statutory requirements listed in Minn. Stat. § 116.065, subd. 4(b) through (e) and Minn. Stat. § 116.065, subd. 6(c)(4)(i) and (iii). The public participation plan will allow the MPCA to ensure compliance without creating strict requirements that may not apply across all EJ areas.

Item A, subitem (3) states that the public participation plan must include a description of how owners and operators will comply with the requirements of part 7007.6110, subpart 2. It is reasonable to require a description of how owners and operators will comply with the requirements of part 7007.6110, subpart 2 because it ensures compliance with the additional engagement and outreach required by Minn. Stat. § 116.065, subd. 6(c)(4)(i) and (iii) for owners and operators that must enter into a CBA. The public participation plan allows the MPCA to ensure compliance without creating strict requirements that may not apply across all EJ areas and provides owners and operators with the flexibility to make community specific plans for their engagement.

Item A, subitem (4) states that the public participation plan must include a description of expected timelines the public meetings required under subpart 4, item B and associated public comment periods required under subpart 8. It is reasonable to require a description of expected timelines be included in the public participation plan so the MPCA is notified as early as reasonably possible of when to expect the CBA public meetings and associated public comment periods to occur. Requiring owners and operators to provide this information allows the MPCA time to plan and allocate resources to participate in this process, including attending the public meetings. Providing the timeline in the public participation plan will also ensure that the owners or operators have a plan to meet the timeframe requirements for publishing notices, informing the commissioner of public meetings, and handling public comments listed in Minn. Stat. § 116.065, subd. 4(b(1) and (3) and Minn. Stat. § 116.065, subd. 4(e) are met.

Item B states that owners and operators must submit a CBA public participation plan to the commissioner within 30 calendar days from the date the commissioner posts the decision document, as described in part 7007.6100, subp. 5. It is reasonable to set a deadline for owners and operators to submit a CBA public participation plan so it is clear to all parties when the plan is due. Thirty days is consistent with other submittal deadlines in the rule and provides enough time for the owners and operators to develop and submit a CBA public participation plan. Additionally, requiring a 30-day deadline keeps the permitting process moving while also leaving the public enough time to engage in the process.

Item C states that the commissioner must review and approve the CBA public participation plan prior to the owners and operators providing public notice for the first community benefits agreement public meeting. Additionally, item C requires the commissioner to identify any deficiencies, notify the owners and operators of the deficiencies, and advise the owners and operators on how to remedy all identified deficiencies. It is reasonable to clarify that the commissioner must review and approve the CBA public participation plan prior to providing public notice so that it is clear to both owners and operators and the MPCA that the public notice for the first CBA public meeting cannot be issued without plan approval by the commissioner. Requiring the commissioner to review the CBA public participation plan helps to ensure that community is provided the opportunity to be actively involved in the development of the CBA and the plan complies with subparts 4 through 11.

It is also reasonable to require that the commissioner must identify any deficiencies, notify the owners and operators of the deficiencies, and advise the owners and operators on how to remedy all identified deficiencies because this is consistent with other rule parts, such as Minn. R. 7001.0090; Minn. R. 7007.0700; Minn. R. 7035.5900, subp. 4; Minn. R. 7037.1100, subp. 2; and Minn. R. 9210.0160, subp. 2, that also require the MPCA to specify the portions of, or reason for, an application, or plan, having deficiencies requiring amendments and remedies. By requiring the MPCA to provide this information, it reduces confusion for the owners and operators because they are made aware of the deficiencies that need to be remedied and it reduces the workload for owners and operators by allowing them to focus only on items that need remedying. It is reasonable to require a timeline for owners and operators to remedy deficiencies in order to create more certainty on how the permitting process will progress, for all parties. The desire for a permitting process that is not drawn out has been heard from members of EJ communities and representatives for industry during outreach and engagement conducted by the MPCA during the Cumulative Impacts rulemaking.

Item D states that owners and operators may hire a third party to assist in developing and/or implementing the public participation plan. It is reasonable to allow owners and operators to hire a third party to assist in developing and/or implementing the public participation plan because some owners and operators may not have the expertise or resources to develop and conduct effective outreach that results in meaningful community engagement. Additionally, during MPCA's outreach and engagement conducted as part of the rulemaking process, participants expressed concerns with owners and

operators planning and facilitating outreach, but supported the need for this engagement during the process. In stating that owners and operators may hire a third party to conduct outreach and engagement, owners and operators have the flexibility to determine the best approach for conducting outreach and engagement in the impacted EJ area, without being required to hire a third party.

Subpart 4. Public meetings

Subpart 4 identifies the public meetings that owners and operators are required to hold before the commissioner issues or denies a permit. In general, the requirements in items A and B parallel the requirements found in Minn. Stat. § 116.065, subd. 4 and the directive to establish methods for holding public meetings found in Minn. Stat. § 116.065, subd. 6(c)(7). It is reasonable to clearly identify the public meeting requirements in this part because it makes it clear to the owners and operators when they must conduct public meetings. It is reasonable to extend the requirements established by these subdivisions to the meetings for the CBA to create consistency for the owners and operators that must comply and consistency between all of the meetings.

Item A identifies the public meetings that owners and operators must hold when they are required to conduct a cumulative impacts analysis under part 7007.6090. Item A requires the owners and operators to hold at least two public meetings on the cumulative impact analysis in the impacted EJ area, one before a cumulative impact analysis is conducted, and one after a cumulative impact analysis is conducted. It is reasonable to require these meetings be held because it meets the requirements of Minn. Stat. § 116.065, subd. 4, which requires that a permit applicant or permit holder required to conduct a cumulative impact analysis must hold at least two public meetings in the EJ area impacted by the facility. Subd. 4 further specifies that the first public meeting must be held before conducting a cumulative impacts analysis, and the second meeting must be held after conducting the cumulative impacts analysis. Requiring the owners and operators to hold one public meeting before conducting a cumulative impact analysis provides the opportunity for the experiences and input from impacted EJ area residents to inform the analysis and the information it contains. It also provides impacted EJ area residents the opportunity to learn about the cumulative impact analysis rule and the stationary source. It is reasonable to require the owners and operators to hold one public meeting after conducting a cumulative impact analysis because impacted EJ area residents may have additional experiences and input that could inform the MPCA's review of the cumulative impact analysis and the final determination on whether the cumulative impact analysis demonstrates substantial adverse impacts on the environment and/or health of the EJ area and its residents.

Item B identifies the public meetings that owners and operators must hold when they are required to enter into a CBA, per part 7007.6110. Item B requires the owners and operators to hold at least two public meetings on the CBA in the impacted EJ area. Item B, subitem (1) states that one public meeting must be held before the owners and operators draft a CBA. Item B, subitem (2) states that one public meeting must be held after the owners and operators draft a CBA.

Minn. Stat. § 116.065, subd. 6(c)(4)(i) through (iii) requires the MPCA to establish procedures for entering into a CBA, with a specific requirement to hold at least one public meeting on a CBA. It is reasonable to mirror the requirement established by Minn. Stat. § 116.065, subd. 4 for two required public meetings on the cumulative impact analysis, one before it is drafted and one after it is drafted, to two required public meetings on the CBA, one before it is drafted and one after it is drafted. This requirement creates consistency for both owners and operators and interested parties, including residents of the impacted EJ area. It is reasonable to establish more than one public meeting on a CBA to accomplish the active outreach required by Minn. Stat. § 116.065, subd. 6(c)(4)(i). Two public meetings on CBAs provide residents of the EJ area with more opportunities to participate. Owners and operators and the MPCA will have the opportunity to hear from residents of the impacted EJ area about their needs and wants before they begin drafting the CBA, and the opportunity to share the draft CBA with

impacted EJ area residents and get their feedback. The requirement for the owners and operators to hold at least two public meetings on the CBA is proposed to provide multiple opportunities for community to participate in the drafting and review of the CBA. It is reasonable to require the owners and operators to require at least two public meetings because the owners and operators need at least one opportunity to hear from impacted EJ area residents' about their needs before they begin drafting the CBA and at least one opportunity to share with hear from impacted EJ area residents on the draft CBA and get their feedback. It is reasonable to establish more than one public meeting on a CBA to accomplish the active outreach required in statute.

Furthermore, it is reasonable to require more than one public meeting as part of the procedures for entering into a CBA because it provides an opportunity for the owners and operators and the commissioner to understand community support, concerns, and questions from impacted EJ area residents. Understanding the support, concerns, and questions on the CBA drafted by the owners and operators is important to achieving a CBA that prioritizes direct impacts to residents of the impacted EJ area, as required by Minn. Stat. § 116.065, subd. 6(c)(4)(ii), and allows the permitting process to move forward.

Some members of the CBA community input panel, organized by the MPCA, expressed concerns about the owners and operators being required to hold any additional meetings beyond those required in the statute and expected instances where owners and operators would feel more than one public meeting was not necessary to engage impacted EJ area residents. Additionally, community members with experience in developing CBAs indicated that one public meeting to discuss the development of a CBA would not be sufficient as these agreements typically take months, or years to develop. Other members of the CBA community input panel expressed concerns about the MPCA requiring the owners and operators to hold so few meetings and felt that a requirement for five public meetings during the CBA process would allow for education, alignment, drafting, feedback and discussion between the owners and operators and impacted EJ area residents.

The MPCA considered requiring the owners and operators to host three public meetings to discuss a CBA, with the third meeting taking place after the 30-day public comment period for the draft CBA. However, requiring a public meeting to be held after the 30-day public comment period would likely be duplicative as the intent of the second CBA public meetings is to provide impacted residents opportunity to comment on the draft CBA. Additionally, a third public meeting may unnecessarily add to the timeline for developing a CBA and would further prolong the permitting process. It is reasonable to establish two meetings as the minimum required because it balances the time needed to provide sufficient opportunity for input on a CBA, without restricting owners and operators from holding more meetings if desired, and considers the time required to complete the required meetings to allow the permitting process to move forward.

Subpart 5. Public meeting requirements

Subpart 5 establishes public meeting requirements that the owners and operators and the MPCA must comply with for all required public meetings, as identified in subpart 4. The requirements in this subpart fulfill the requirement for the MPCA to establish methods for holding public meetings on the cumulative impact analysis found in Minn. Stat. § 116.065, subd. 6(c)(7), and for permit applicants or holders to provide robust engagement in Minn. Stat. § 116.065, subd.4(d)(1). It is reasonable to extend the requirement to establish methods for holding public meetings to the public meetings on CBAs to create consistency for the owners and operators who must comply, and to create consistency between all public meetings and how they are held. It is reasonable to clearly identify specific requirements for all public meetings held by the owners and operators, and identify other subparts that contain requirements relating to public meetings, in one subpart to make it easy for the owners and operators to understand the requirements and comply with them.

Subpart 5, item A, subitem (1) states that the owners and operators must satisfy all of the requirements in this subpart when they are required to host a public meeting under subpart 4. Item A, subitems (2) through (4) specify that the owners and operators must comply with subparts 6 through 8 for all public meetings required in subpart 4. These requirements include meeting-specific requirements for each required meeting, requirements for publishing notices, and requirements for accepting and responding to written and oral comments.

Minn. Stat. § 116.065, subd. 4(b) outlines the requirements a permit applicant or permit holder must satisfy before holding a required public meeting, including publishing notice in a newspaper of general circulation and posting physical signage in the impacted EJ area. Minn. Stat. § 116.065, subd. 4(d) then dictates the requirements a permit applicant or permit holder must follow when holding a public meeting, including providing an opportunity for robust public and Tribal engagement and accepting all written and oral comments, according to requirements set by the MPCA. As such, Minn. Stat. § 116.065, subd. 6(c)(7) requires the MPCA to establish the methods for holding all required public meetings and handling public comments.

It is reasonable for the MPCA to require the owners and operators to follow certain requirements before and during all required public meetings held as part of the cumulative impact analysis and CBA process, because the statute requires the MPCA to do so. It is reasonable to identify what an owner and operator must do, and the requirements they must comply with for required public meetings, in one subpart to provide clear requirements and prevent confusion for owners and operators.

Subpart 5, item B requires the owners or operators of a stationary source to hold all required public meetings under subpart 4 in the impacted EJ area and in a location that is convenient for expected attendees, but allows for an alternate location with commissioner approval. Minn. Stat. § 116.065, subd. 6(c)(7) requires the MPCA to establish the methods for holding all required public meetings. It is reasonable for the MPCA to require the owners or operators to hold all required public meetings in the impacted EJ area because residents of that area are most likely to attend a public meeting and be impacted by the cumulative impacts to that geographic area. An example of similar statutory authority exists in Minn. R. 4410.7908, subp. 4, which requires certain applicants or permittees for a drilling permit to hold required public information meetings “in a facility centrally located within the potentially impacted area.” Furthermore, it allows that “if no adequate facility exists within the potentially impacted area, the meetings shall be held in an adequate facility near the potentially impacted area.” It is reasonable to build upon these requirements in Chapter 4410 to include demonstration of the owners and operators inability to find a meeting space in the impacted EJ area because the statute applies only in densely populated urban areas with existing public spaces. The impacted EJ area will also never be less than one census tract, and will often be more than one census tract, based on the definition in part 7007.6010, subpart 15. These large urban areas should provide plenty of appropriate facilities for a public meeting, such as recreation centers, schools, and libraries, but the opportunity to show that an appropriate space could not be found provides flexibility for owners and operators to find a space outside of this area.

Subpart 5, item C requires the owners or operators to follow specific requirements for how they hold the required public meetings, described in subpart 4. These requirements fit within Minn. Stat. § 116.065, subd. 6(c)(7) which requires the MPCA to establish the methods for holding all required public meetings. The requirements established in item C, subitems (1) through (3) are based upon feedback received from community members on how the MPCA should hold meetings and other engagement activities during the Cumulative Impacts rulemaking. They are also based on the best practices and feedback from EJ area residents and advocates as part of the CBA community input panel. They emphasized the need for community-friendly meeting times and the importance of removing barriers to participation by providing services such as childcare, interpretation, and food. The MPCA

prioritized requiring owners and operators to provide translation and interpretation, upon request, because it is necessary for non-English speaking residents to participate, and left the flexibility for owners and operators to provide any additional services they would like.

Item C, subitem (1) requires the owners or operators to hold all required public meetings on a weekday and with a start time between 5:30 PM and 7:30 PM central time. It is reasonable for the MPCA to require each public meeting to be held on a weekday that is not a public holiday because it will increase the availability of public spaces for hosting a public meeting and is more accessible for meeting attendees. Owners and operators are required to hold public meetings in a public space in the impacted EJ area, per item B, and more public spaces are likely to be open and available for rent or use during the week, versus the weekend or a public holiday. Residents of impacted EJ areas, and other interested parties, are also more likely to have access to public transit to access these public spaces on a weekday, versus the weekend when public transit routes and times are often reduced.

It is reasonable for the MPCA to require each public meeting start between 5:30 PM and 7:30 PM central time because based on our experience and conversations with the public, it is most likely to allow participation by residents of the impacted EJ area, and other interested parties, with a standard workday that begins at 9 AM central time and ends at 5 PM central time. An example of similar statutory authority exists in Minn. R. 4410.7908, subp. 4 which requires a meeting start time no earlier than 7:00 pm for information meetings held by applicants or permittees for drilling permits. It is reasonable for the MPCA to build upon this requirement with a window of 2 hours for the start time to balance accessibility for attendees with flexibility for the owners and operators.

Item C, subitem (2) requires the owners and operators to provide a video and audio recording of the entire public meeting to the public until at least the end of the public comment for the draft permit. This requirement is an important measure to provide residents of the impacted EJ area with the ability to fully participate if they are not able to attend a public meeting in-person. It is reasonable to assume that not all interested parties can attend a public meeting; yet the information presented at each public meeting is important for anyone who wants to participate in a public comment period or in the ongoing process; therefore, it is reasonable to provide interested persons access to meeting recordings. By positing a recording of the meeting, the owners or operators will be better able to fulfill the statutory requirements to “provide an opportunity for robust public and Tribal engagement” and accept comments as described in Minn. Stat. § 116.065, subd. 4(d).

Item C, subitem (3) requires the owners and operators to provide language interpretation and translation services for all of the public meetings required under subpart 4, upon request. The definition of environmental justice area in Minn. Stat. § 116.065, subd. 1(e) includes census tracts in which “40 percent or more of the population over the age of five has limited English proficiency.....” Based on this, it is reasonable to require translation and interpretation services to be provided because they are necessary for some EJ area residents to participate. This item only requires these services to be provided if they are requested by a member of the public because not all EJ areas have a high percentage of residents with limited English proficiency and there may be instances where members of the public do not require these services. It is reasonable to require the owners or operators to provide these services by request because they are not expected to be responsible for the cost of complying with this requirement if the services are not needed in a specific EJ area and/or at a specific public meeting.

Subpart 5, item D requires the owners or operators to provide information at the public meetings to keep the public informed regarding the permit action, the comment process, and applicable requirements. Providing the information listed in item D(1) through (4) ensures the facility will meet the public meeting and engagement requirements in Minn. Stat. § 116.065, subd. 4(d)(1) and (2) with robust engagement and consistent methods for collecting public comments because the requirements are necessary to ensure interested parties are engaged and can provide feedback effectively.

Subpart 5, item D, subitem(1) requires the owners or operators to provide a statement that persons may request to be on the required mailing list to stay informed of future proceedings. This requirement is based upon the requirement in Minn. R. 7001.0200 which requires the MPCA to establish a mailing list for public notices on permit applications and for the mailing of public notices to those who have registered for that mailing list. Beyond the requirements of Minn. Stat. § 116.065, subd. 4(d)(1), it is also reasonable to require the statement advertising the availability of the mailing list to meet the statutory requirements in Minn. Stat. § 116.065, subd. 6(c)(4)(i) to include "active outreach to residents of the impacted environmental justice area designed to achieve significant community participation" in the development of a CBA. The mailing list is a form of active outreach owners and operators will use to achieve and maintain community participation. It is reasonable to require a notification to public meeting attendees of the way to stay involved in the permitting process over time. This method does not require additional effort from residents of the impacted EJ area, and other interested parties, who have already begun participating in the cumulative impact process.

Subpart 5, item D, subitem (2) requires a description of the comment procedures in subpart 8 be shared by the owners and operators at all required public meetings. By requiring owners or operators to share the information related to the comment periods, the public can understand how to respond to the information presented and stay engaged in the permitting process on an ongoing basis. It is reasonable to require the presentation of the dates and details for the public comment period associated with each public meeting be included at each meeting so residents of the impacted EJ area, and any interested party, can choose to participate effectively.

Subpart 5, item D, subitems (3) and (4) requires the owners or operators to provide a summary of the stationary source and requested permitting actions, and a concise description of applicable requirements of parts 7007.6000 to 7007.6120. It is reasonable for the owners and operators to provide this information at each required public meeting because it is all information they either have access to already, or that will be provided by the MPCA as part of the cumulative impact process. Providing the public with information about the stationary source, requested permitting actions, and applicable requirements, increases awareness and knowledge that the general public may not have so they can respond to the information with questions and input during public comment periods. The public needs this information to gain greater understanding of the facility and the cumulative impacts process, and therefore have more insight into what feedback could help inform the cumulative impact analysis, and a CBA, if one is required. The commissioner needs this information from residents of the impacted EJ area, and other interested parties, to approve or deny a permit as described in Minn. Stat. § 116.065, subd. 5(a).

Subpart 5, item E requires the MPCA to have Agency representation at all the public meetings owners and operators are required to hold in subpart 4. It is reasonable for the MPCA to be required to attend because the Agency is responsible for determining if the owners or operators need to complete a cumulative impact analysis, if the permit issuance would result in substantial adverse impacts, if the CBA should be executed, and if the permit should be issued or denied. MPCA staff regularly interface with owners and operators and it is reasonable that MPCA staff should also interface with residents of the impacted EJ area, and directly understand the perspectives from all parties. Also, EJ area residents and advocates have emphasized the importance of MPCA representation at these meetings to hear directly from them and understand their perspectives, at engagement events during the Cumulative Impacts rulemaking. The MPCA needs to attend all public meetings that are held so they have the information from the owners and operators and residents of the impacted EJ area to make these determinations and decisions.

Subpart 5, item F requires the owners or operators to prepare a fact sheet for each public meeting required under subpart 4. The development and contents of a fact sheet in support of community

engagement on a draft permit is similar to requirements found in Minn R. 7001.0100, subp. 3. In some cases, this fact sheet is prepared due to the proposed draft permit being of widespread public interest, as the Cumulative Impacts rulemaking has been and the cumulative impacts process will be. It is reasonable to require the owners or operators to prepare a fact sheet that will help residents of the impacted EJ area participate in public meetings by making relevant information readily available. Opportunities for robust engagement at the public meetings, as required by Minn. Stat. § 116.065, subd. 4(d)(1), begin with access to information in accessible formats, that can be accessed at and taken from a public meeting, and those that can be shared between residents of the impacted EJ areas.

Subpart 5, item F, subitems (1) through (4) require the owners or operators to provide a summary of the stationary source, requested permitting actions, and potential impacts to the environment; a description of applicable requirements of 7007.6000 to 7007.6120; and a summary of the information to be presented at the public meeting. It is reasonable for the owners and operators to produce this information in a printable format so residents of the impacted EJ area, and other interested parties, can understand the information informing the cumulative impact analysis and use it to educate other members of the public. Providing this information in a printable format increases the accessibility and use of this information ahead of and during the meeting to learn and ask questions. The public needs this information to gain greater understanding of the facility and the cumulative impacts process and therefore have more insight into what feedback could help inform the cumulative impact analysis, and a CBA, if one is required. The commissioner needs this information from residents of the impacted EJ area, and other interested parties, to approve or deny a permit as described in Minn. Stat. § 116.065, subd. 5(a).

Subpart 5, item F, subitems (5) and (6) requires the fact sheet to include the dates the associated public comment period will start and finish, and contact information for obtaining additional information or submitting comments. By requiring owners or operators to share the information related to the comment periods in the fact sheet, the public can understand how to respond to the information presented and stay engaged in the permitting process on an ongoing basis. It is reasonable to require the presentation of the dates and details for the public comment period associated with each public meeting be included at each meeting so residents of the impacted EJ area, and any interested party, can choose to participate effectively. It is reasonable to require the fact sheet to contain contact information so residents of the impacted EJ area, and other interested parties, can access more information needed to understand a cumulative impact analysis, CBA, if required, and how to offer feedback. As the host of the required public meetings and the contact for the stationary source, it is reasonable that the owners and operators would provide this contact information. The public will be more equipped to provide the commissioner and owners or operators of the stationary source with the information needed to conduct a cumulative impacts analysis, create a CBA, and approve or deny a permit as described in Minn. Stat. § 116.065, subd. 5(a).

Subpart 5, Item G requires the owners or operators to complete specific actions 45 days before a required public meeting under subpart 4. This requirement and timeline of at least 45 days before each public meeting ensure compliance with subpart 9, which requires the MPCA to post certain documents to the MPCA website in coordination with the public meetings, and subpart 5, which requires representatives for the MPCA to attend all required public meetings.

Item G, subitems (1) and (2) requires the owners or operators to provide written notice of each public meeting to the MPCA and any municipalities where the impacted EJ area is located. It is reasonable for the MPCA to require this notice to the MPCA, as the regulating agency, and the governing bodies for the area 45 days beforehand so they can plan to attend the public meeting, share information where necessary, and provide resources at the meeting, as needed. It is also important for the MPCA to have access to the written notice beforehand in case residents of the impacted EJ area, or other interested

parties, have questions for the MPCA as the regulator of the stationary source. Item G, subitem (3) require the owners or operators to provide the commissioner of the MPCA with a copy of the fact sheet required in subpart 5, item F. It is reasonable for the MPCA to require the owners or operators to provide this document 45 days before the public meeting so the MPCA can ensure their compliance with subpart 5, item F and so the MPCA can comply with subpart 9, which requires the posting of certain documents, including the fact sheet, ahead of each public meeting. It is also important for the MPCA to have access to the written notice beforehand in case residents of the impacted EJ area, or other interested parties, have questions for the MPCA as the regulator of the stationary source.

Subpart 6. Meeting-specific requirements

Subpart 6 defines what owners and operators must present on and provide for each required public meeting. These meeting-specific requirements are based upon Minn. Stat. § 116.065, subd. 6(c)(7) which requires the MPCA to establish the methods for holding the two required public meetings on the cumulative impact analysis. It is reasonable for the MPCA to establish methods for all required public meetings in subpart 4, including two on the CBA, to provide consistency for owners and operators who must comply and ensure consistency across all meetings throughout the cumulative impacts process.

The requirements for each of the four public meetings are different because they are required at different stages of the rule process and are designed to cover different material. It is reasonable to establish. It is reasonable for the MPCA to include specific requirements for each required public meeting so all parties—the MPCA, the owners and operators, residents of the impacted EJ area, and other interested parties—have shared expectations for what information will be provided at a public meeting. It is important that residents in any impacted EJ area have the necessary information to participate in the cumulative impact process and to meet the requirements of Minn. Stat. § 116.065, subd. 4(d)(1) for cumulative impact public meetings and Minn. Stat. § 116.065, subd. 6(c)(4)(i) for CBA public meetings.

Subpart 6, item A specifies what the owners and operators must present on at the required public meeting before a cumulative impact analysis is conducted, as specified in subpart 4, item A, subitem (1). Subitems 1 through 3 require the owners and operators to include a summary of the initial assessment, the reasons why a cumulative impact analysis is required, and the information needed to conduct the cumulative impact analysis in a presentation to meeting attendees. Presenting on this information at the meeting is needed because it will allow meeting attendees, including residents of the impacted EJ area, to ask questions in real time and generate discussion between owners and operators and meeting attendees. It is reasonable for the MPCA to require this because at this stage in the process the owners and operators or the MPCA have already drafted and submitted the documents these summaries are based on, and so a limited amount of additional work is required to summarize this information in a presentation. It is reasonable to require a summary of these materials because interested parties need access to that information at the public meeting in a more accessible format in order to submit meaningful and informed comments on what information should go into a cumulative impact analysis.

Subpart 6, item A, subitem (4) requires the owners and operators to provide an opportunity for meeting attendees to ask questions, discuss the information to be included in the cumulative impact analysis, and provide their comments. This is needed because it meets the requirements of Minn. Stat. § 116.065, subd. 4(d)(2) which requires the permit applicant or permit holder to accept written and oral comments at each required public meeting. It is reasonable for interested parties to ask questions of owners and operators at the first meeting so they can provide meaningful and well-informed comments to owners and operators, and the MPCA, on the contents of the cumulative impact analysis that will be conducted. Subpart 6, item B specifies what the owners and operators must present on at the required public meeting after a cumulative impact analysis is conducted, as specified in subpart 4, item A, subitem (2). Subitems 1 and 3 require the owners and operators to include a summary of the comments received

during the first public meeting and public comment period, a summary of owners and operators responses to those comments, and an explanation of how these comments informed the cumulative impact analysis in a presentation to meeting attendees. It is reasonable to require this information to be included in the presentation by owners and operators at the second public meeting, after the cumulative impact analysis has been drafted by the owners and operators, because all of this information will generate discussion and impact the comments offered by the residents of the impacted EJ area, and other interested parties, during this public meeting and associated public comment period. They need to understand how their previous comments, and comments from others, were utilized by the owners and operators to inform the cumulative impact analysis, and a summary of this information provides a more accessible format for understanding that. Summarizing this information at the second meeting also allows interested parties to ask questions of the owners and operators at the meeting and expands the opportunity for robust engagement per Minn. Stat. § 116.065, subd. 4(d)(2).

Subpart 6, item B, subitem (2) requires the owners and operators to include a summary of the information included in the cumulative impact analysis in a presentation. It is reasonable to require the owners and operators to present a summary of the cumulative impact analysis because the document will be lengthy and technical in nature and residents of the impacted EJ area, and other interested parties, need access to understandable information to weigh in on the analysis and what information they think should be included.

Subpart 6, item B, subitem (4) requires the owners and operators to present their determination regarding whether the permit, if issued, would have a substantial adverse impact. This requirement is reasonable because residents of the impacted EJ area need to understand this determination by the owners and operators so they can ask questions and submit meaningful comments for the owners and operators, and for the MPCA, to consider before the final determination on substantial adverse impacts is made. The commissioner is required to consider the comments received during the public meetings and public comment periods in this part when determining if a permit will have substantial adverse impacts per part 7007.6100, subpart 1, item B, subitem (4).

Subpart 6, Item B, subitem (5) requires the owners and operators to provide an opportunity for meeting attendees to ask questions, discuss the cumulative impact analysis and owners and operators' determination on substantial adverse impacts, and provide their comments. This is needed because it meets the requirements of Minn. Stat. § 116.065, subd. 4(d)(2) which requires the permit applicant or permit holder to accept written and oral comments at each required public meeting. It is reasonable for interested parties to ask questions of owners and operators at the first meeting so they can provide meaningful and well-informed comments to owners and operators on the contents of the cumulative impact analysis and preliminary determination by the owners and operators on substantial adverse impacts. It is also reasonable because this is the last required meeting before the MPCA makes a determination on whether issuing the permit would have substantial adverse impacts, and residents may have important information and perspectives to contribute for that determination. The commissioner is required to consider the comments received during the public meetings and public comment periods in this part when determining if a permit will have substantial adverse impacts per part 6100, subpart 1, item B, subitem (4).

Subpart 6, item C specifies what the owners and operators must present on at the first public meeting on a CBA, if one is required. This meeting, if required, is the third public meeting for the entire cumulative impacts analysis process and occurs before a CBA is drafted, as specified in subpart 4, item B, subitem (1). Item C, subitem (1) requires the owners and operators to include a summary of the comments received during the public meeting and public comment period and a summary of owners and operators responses to those comments in a presentation at the meeting. It is reasonable to require this information to be presented on at this public meeting, after the commissioner has determined that

issuing the permit would have a substantial adverse impact, because all of this information will impact the questions asked and comments offered by residents of the impacted EJ area, and other interested parties, on the CBA that will be drafted. Providing a summary of this information in a presentation at this meeting gives interested parties a more accessible and condensed format of the information and increases the ability to achieve significant community participation per Minn. Stat. § 116.065, subd. 6(c)(4)(i).

Item C, subitems (2) and (3) require the owners and operators to include a summary of the reasons why a CBA is required and the information needed to draft the CBA in a presentation. It is reasonable for the MPCA to require this information at the first CBA meeting, before the agreement is drafted, because it will inform the contents of the draft CBA and the comments residents of the impacted EJ area, and other interested parties, will offer during this public meeting and the associated public comment period.

It is reasonable to require the owners and operators to provide a summary of the reasons why the CBA is required because that requirement is based upon the determination that there will be a substantial adverse impact, which is highly technical. This may also be many peoples first introduction to the requirements associated with developing a CBA and it is reasonable to provide a high-level summary of that complex information. Residents of the impacted EJ area, and other interested parties, need accessible information to participate in the public meetings, understand where their input is needed in the development of a CBA, and leave comments within the allocated timeframes. It is also reasonable for the MPCA to require this because at this stage in the process the owners and operators or the MPCA have already drafted and submitted the documents these summaries are based on, and so a limited amount of additional work is required to summarize these materials in a presentation.

Subpart 6, item C, subitem (4) requires the owners and operators to provide examples of benefits that could be included in a CBA. Minn. Stat. § 116.065, subd. 6(c)(4)(i) and (ii) requires the MPCA to "establish the content of a community benefit agreement and procedures for entering into community benefit agreements" and for these procedures to include outreach "designed to achieve significant community participation" from residents of the impacted EJ area. Providing the public with examples of what benefits may be included in a CBA will prompt discussions at the public meetings and contribute to achieving significant community participation. Clear discussions between residents of the impacted EJ area and owners and operators with examples of potential benefits will help achieve a CBA that includes "considerations that directly impact the residents of the environmental justice area," as required by Minn. Stat. § 116.065, subd. 6(c)(4)(ii). Subpart 6, Item C, subitem (5) requires the owners and operators to provide an opportunity for meeting attendees to ask questions, discuss the CBA, and provide comments. It is reasonable for this meeting to include an opportunity for discussion and questions in order to satisfy the requirements of Minn. Stat. § 116.065, subd. 6(c)(4)(i) and (ii). Feedback from residents of the impacted EJ area is necessary to understanding the benefits they want included in a CBA and prioritize those that directly impact them, as required by statute. It is reasonable to extend the requirements for the cumulative impacts analysis public meetings, as listed in Minn. Stat. § 116.065, subd. 4(d)(2) to create consistency for owners and operators who must comply and consistency between meetings. Maintaining similar processes and requirements throughout the cumulative impacts analysis process improves the public's ability to stay engaged and participate in the entirety of the process.

Subpart 6, item D specifies what the owners and operators must present on at the second public meeting on a CBA, if one is required. This meeting, if required, is the fourth public meeting for the entire cumulative impacts analysis process and occurs after a CBA is drafted, as specified in subpart 4, item B, subitem (2).

Item D, subitems (1) and (3) requires the owners and operators to include a summary of the comments received during the public meeting and public comment period, a summary of owners and operators

responses to those comments, and how those comments informed the draft CBA in a presentation at the meeting. It is reasonable to require this information to be shared at this public meeting, after the owners and operators have drafted a CBA, because this information will impact the comments offered by residents of the impacted EJ area, and other interested parties, on the CBA that has been drafted. Specifically, understanding owners and operators' responses to the comments submitted before the CBA was drafted will inform the comments they offer this time. Residents of the impacted EJ area, and other interested parties, need to understand how their previous comments, and comments from others, were utilized by the owners and operators to inform the draft CBA. Providing a summary of this information provides a more accessible format for understanding that and increases the ability to achieve significant community participation per Minn. Stat. § 116.065, subd. 6(c)(4)(i). It is reasonable for owners and operators to share how comments have informed the draft CBA because they have an obligation to give priority "to considerations that directly impact the residents of the environmental justice area" per Minn. Stat. § 116.065, subd. 6 (c)(4)(ii), which requires owners and operators to understand how residents view the draft agreement.

Item D, subitem (2) requires the owners and operators to include a summary of the draft CBA in a presentation at this meeting. It reasonable for the MPCA to require this information to be shared at the second public meeting on CBAs because comments from residents of the impacted EJ area during this public meeting and the associated public comment period will be specific to this document. It is reasonable to require the owners and operators to include a summary of the draft CBA in the presentation because it is likely to be lengthy and complex, and simultaneously, the focus of all questions and comments at this meeting. Residents of the impacted EJ area, and other interested parties, need access to understandable information to weigh in on the draft agreement and what benefits and other information they think should be included.

Subpart 6, Item D, subitem (4) requires the owners and operators to provide an opportunity for meeting attendees to ask questions, discuss the draft CBA, and provide their comments. It is reasonable for this meeting to include an opportunity for discussion and questions in order to satisfy the requirements of Minn. Stat. § 116.065, subd. 6(c)(4)(i) and (ii). Feedback from residents of the impacted EJ area is necessary to understand the benefits they want included in a CBA and prioritize those that directly impact them, as required by statute. It is reasonable to extend the requirements for the cumulative impacts analysis public meetings, as listed in Minn. Stat. § 116.065, subd. 4(d)(2) to create consistency for owners and operators who must comply and consistency between meetings. Maintaining similar processes and requirements throughout the cumulative impacts analysis process improves the public's ability to stay engaged and participate in the entirety of the process.

Discussions and submitting comments and questions are essential elements of the engagement between the owners and operators and the residents of the impacted EJ area after a draft CBA has been drafted and shared with the public. Comments from residents of the impacted EJ area at this public meeting, and during the associated public comment period, are also essential to the MPCA's assessment of the CBA and the commissioner's determination of whether the owners or operators have met the requirements in part 6100, subpart 8, item D.

Subpart 7. Public notices

Subpart 7 details how and when the owners and operators of a stationary source must provide public notice for any public meeting they are required to hold, per subpart 4, at least 30 days beforehand. Public notices are an important method of providing information to interested parties, including residents of impacted EJ areas, so they are able to attend and effectively participate in public meetings and provide comments throughout the cumulative impacts process. Establishing consistent methods for owners and operators to share information about public meetings and public comment periods allows interested parties to plan how they would like to be involved beforehand. Similarly, Minn. R. 7007.0850,

subpart 2 generally establishes the public noticing requirements for air permits by the MPCA and details the exact items that must be included in these public notices. Minn. R. 7007.0850 has given the MPCA an understanding of best practices for noticing public meetings, which can be adapted for this rule and provide consistent noticing requirements for the MPCA and owners and operators across rules.

It is reasonable for the MPCA to expand upon the statutory requirement to hold and notice two public meetings on the cumulative impact analysis, as described in Minn. Stat. § 116.065, subd. 4(b), to also include two public meetings specific to the CBA. These additional public meetings ensure consistency between all public meetings and that residents of the impacted EJ area, and other interested parties, have access to the information needed to participate throughout the entire process. Requiring these public notices for the two meetings on CBAs also aligns with the requirement for active outreach in Minn. Stat. § 116.065, subd. 6(c)(4)(i).

Subpart 7, item A specifies how and when the owners and operators must provide public notices for a required public meeting. The requirements in item A are based upon the noticing requirements in Minn. Stat. § 116.065, subd. 4(b) 30 days before the two public meetings on the cumulative impacts analysis one before and one after the cumulative impact analysis is conducted. All the specified public notice methods are required for all required public meetings in subpart 4 and must be completed at least 30 days beforehand. Expanding these noticing requirements to include the two public meetings on CBAs and to include additional methods of noticing public meetings meets the requirements established in Minn. Stat. § 116.065, subd. 4(d)(1) to provide robust engagement at public meetings on the cumulative impact analysis and Minn. Stat. § 116.065, subd. 6(c)(4)(i) to conduct active outreach when entering into a CBA. Requiring the same public notice methods and that all public notice requirements be completed at least 30 days before a public meeting creates consistency for owners and operators, and consistent expectations for residents of the impacted EJ area who want to attend a public meeting. Residents and other interested parties need the opportunity to view a public notice for each individual meeting in order to have the necessary information to attend and participate in the public meeting.

Subpart 7, item A, subitems (1) and (2) require the owners or operators to publish a notice for a required public meeting through physical signs in the impacted EJ area and in a newspaper available in the impacted EJ area, as required in Minn. Stat. § 116.065, subd. 4(b)(1) and (2). It is reasonable to require the physical signs to be maintained and in legible condition because residents of the impacted EJ area must be able to read the information posted and have access to accurate information for it to serve as useable notice for that public meeting.

Item A, subitem (3) requires the owners and operators to publish a notice for a required public meeting in a non-English publication in the impacted EJ area, if one exists. This is a reasonable requirement as it meets the requirement in Minn. Stat. § 116.065, subd. 4(b)(1) to publish a notice in a newspaper while expanding the outreach and opportunities for engagement to include residents with limited English proficiency, who are included in the populations that define an “environmental justice area” per Minn. Stat. § 116.065, subd. 1(e). It is reasonable to require that public notices for required public meetings in EJ areas be accessible to the residents that make it an EJ area, by definition. Furthermore, it is reasonable to require the use of “languages representative of the impacted environmental justice area” rather than dictating specific languages in rule because this rule applies across many EJ areas where many different languages are spoken. The requirements for owners and operators to submit public participation plans in subparts 2 and 3 provide an opportunity for owners and operators to choose a language or multiple languages based on the specific geographic area where their stationary source is located.

Item A, subitem (4) requires owners and operators to provide a public notice for required public meetings to any persons who signed up for the electronic mailing list established in subpart 7, item D. It is reasonable to require the use of the electronic mailing list for this purpose so interested persons can

receive notices for future public meetings directly rather than looking for newspaper publications and/or physical signage in the entirety of the impacted EJ area. While newspaper publications and physical signage are important methods of informing the public of meetings, an electronic mailing list is a more direct method for informing those who have previously been made aware of a public meeting. The MPCA regularly uses electronic mailing lists to provide updates and information for public meetings to interested community members and has had success with it as a low-cost, accessible form of noticing.

Item A, subitem (5) requires owners or operators to identify and select other methods of noticing reach persons in the impacted EJ area. This subitem provides owners or operators with the flexibility to expand their noticing methods for public meetings based on their knowledge of the communities in the impacted EJ area while establishing that those noticing methods must also remain consistent with the requirements of items A and B of this subpart.

Subpart 7, item B stipulates the information that must be included in the physical signs and public notices described in Item A, subitems (1) through (5). It is reasonable for the MPCA to specify what information must be included in physical signs and public notices because it ensures consistency from all owners or operators who are required to host public meetings during the cumulative impacts process. Additionally, residents of the impacted EJ area, and other interested persons, need access to the appropriate information to attend the public meeting that is being noticed, or to seek out additional information. It is also reasonable for the commissioner to specify the format for each public notice by providing a template and guidance to make it easier for owners and operators to comply with this part and provide accurate and understandable information to interested parties.

Item B, subitems (1), (4), and (5) require these notices to include information on the stationary source, such as the name of the source, the requested permit action, and the general purpose of the public meeting being noticed. It is reasonable for the MPCA to require all public notices to include this information because it is basic background information that residents of the impacted EJ area residents, and other interested parties, will need to decide if they would like to attend the public meeting being noticed.

Item B, subitems (2), (3), and (8) require public notices to include contact information, including the name and address for both the permittee and the MPCA, and contact information that can be used to obtain additional information. It is reasonable for the MPCA to require all public notices to include this information because EJ area residents, and other interested parties, will need information on who to contact, and how, should they have questions or be seeking more information. It is not reasonable to assume that the average person has pre-existing knowledge of the stationary source or the MPCA.

Item B, subitems (6) and (9) require public notices to include information on offering public comments, including a solicitation of public comments specific to the preparation of a cumulative impact analysis or CBA, and a brief description of comment procedures. It is reasonable for the MPCA to require all public notices to include this information because residents of the impacted EJ area, and other interested parties, may be unaware of the public comment period and/or lack the technology to access this information elsewhere. It is important that the dates and details for the public comment period associated with each public meeting are included so any interested party can choose to participate effectively. Including this information also gives interested persons the information they need to submit a public comment during the public comment period without attending the public meeting.

Item B, subitem (7) requires public notices to include information on how persons can request to be placed on an electronic mailing list, as required by subpart 7, item D. It is reasonable to require all public notices to include information on how to sign up for this mailing list, so that interested persons can be aware of and choose whether or not to participate in future public meetings and public comment periods. Including this information also gives interested persons the information they need to receive

public notices for future public meetings, without attending a public meeting. Providing regular access to additional information, without additional effort from interested persons, helps meet the statutory requirements in Minn. Stat. § 116.065, subd. 4(c) and subd. 6(c)(4) to provide opportunities for robust public engagement and conduct active outreach. It is reasonable to establish a regular and meaningful use for a communication and outreach method required by item D of this subpart. Item B, subitem (10) requires public notices to include the date, time, and location of the public meeting being noticed. The information is needed in all public notices so people have the information needed to attend the required public meeting being noticed. It is reasonable to require that a public notice for a public meeting would include the information needed to attend that public meeting, without requiring interested parties to seek out additional information elsewhere. Elsewhere in rule, Minn. R. 7007.0850, subp. 2(A)(2)(j) requires the MPCA to provide a time and place for a public meeting for an air permit in a public notice for that public meeting, and the use of this requirement in Item B, subitem (10) provides consistent noticing requirements for the MPCA and owners and operators across rules.

Item B, subitem (11) requires public notices to include the procedures a person may use to request interpretation and/or translation services for the public meeting being noticed. It is reasonable for all public notices to include this information, so any interested person understands that access to the meeting in other languages or formats is available to them, and how they can make that request. Providing this information in all public notices 30 day ahead of a public meeting is needed so interested persons have the time to request the services and the owners and operators have time to plan to provide the requested services at a public meeting, as required by subpart 5, item C, subitem (3). This is needed and especially important for any notice being provided in a non-English language, as required by item A, subitem (3) and item C, subitem (4), because they are more likely to require language access accommodations to attend and participate in the public meeting.

Subpart 7, item C dictates where and how the physical signs required by item A, subitem (1) must be used to notice the public meetings required in subpart 4. While newspapers have specific circulation numbers and interested parties are responsible for signing up to receive notices through the electronic mailing list, any number of physical signs can be posted in any number of locations. It is reasonable for the MPCA to create additional requirements for where and how the physical signs must be posted to create clarity and consistency for owners or operators, and residents of the impacted EJ area. It is also reasonable for the MPCA to establish these additional requirements for physical signs to ensure that they serve their intended purpose as a public notice for a public meeting. These specifications also provide the owners and operators with the ability to further meet the requirements in Minn. Stat. § 16.065, subd. 6(c)(4)(i) to conduct active outreach when entering into a CBA.

Item C, subitems (1) and (2) provide general requirements for where physical signage must be posted in the impacted EJ area. It is reasonable for the MPCA to provide general requirements for the location and number of physical signs that must be posted to create clear expectations for owners or operators while maintaining flexibility for the posting of this signage in different EJ areas. It is reasonable to require that a physical sign be posted at the stationary source because it is where the requested permit actions would take place and a location where residents of the impacted EJ area will look for information if they are familiar with the stationary source. It is reasonable to require physical signage to be posted in a minimum of four public spaces in each EJ area within the impacted EJ area because it provides a reasonable balance between the scope of outreach and engagement needed to reach residents of the impacted EJ area, and other interested parties, and the effort and cost of this outreach to owners and operators.

Item C, subitem (3) requires the minimum size of all physical signs posted, as required by item A(1). It is reasonable for the MPCA to establish a minimum size for the required signs because it ensures the signs will be legible to a passersby while creating flexibility for owners and operators depending on the length

of the information required to be included on the signs and the location of each sign. It is reasonable that the minimum size for signs be 8.5 inches by 11 inches because that is the standard size of paper used for printing and a regular size used to share information in public spaces, such as on community boards.

Item C, subitem (4) requires the physical signs be posted in English and one or more non-English languages that are representative of the residents of the impacted EJ area. This is a reasonable requirement as it meets the requirement in Minn. Stat. § 116.065, subd. 4(b)(2) to post physical signage while expanding the outreach and opportunities for engagement to include residents with limited English proficiency, who are included in the populations that define an "environmental justice area" per Minn. Stat. § 116.065, subd. 1(e). It is reasonable to require that public notices for required public meetings in EJ areas be accessible to the residents that make it an EJ area, by definition. In order to request language access accommodations, as required by item B(11), and access the information needed to attend the public meeting, as required by item B(10), residents with limited English proficiency need to be able to access the signage in a language they can accurately read. Furthermore, it is reasonable to require the use of "languages representative of the impacted environmental justice area" rather than dictating specific languages in rule because this rule applies across many EJ areas where many different languages are spoken. The requirements for owners and operators to submit public participation plans in subparts 2 and 3 provide an opportunity for owners and operators to choose a language or multiple languages based on the specific geographic area where their stationary source is located.

Subpart 7, item D requires owners or operators who are required to host any public meeting, per subpart 4, to create and maintain an electronic mailing list and provide the public with opportunities to sign up to receive notices for public meetings via this method. Creating and maintaining a mailing list is needed and reasonable so interested persons can be made aware of the information needed to attend public meetings and participate in public comments during the entirety of the cumulative impacts process. An electronic mailing list creates an accessible method for people to receive information regarding future public meetings without requiring them to search for notices in newspapers and on physical signs, while providing a low cost and less time intensive form of providing public notices for owners and operators. The creation of the mailing list meets the statutory requirements in Minn. Stat. § 116.065, subd. 4(c) and Minn. Stat. § 116.065, subd. 6(c)(4) to provide opportunities for robust public engagement and conduct active outreach.

Subpart 8. Public comments

Subpart 8 determines and defines the requirements for accepting and handling public comments, which the MPCA is required to establish by Minn. Stat. § 116.065, subd. 6(c)(7). It is reasonable for the MPCA to establish these requirements because it provides consistent guidelines for owners and operators who must comply, and for residents of the impacted EJ area, and other interested parties, who want to participate in the process and submit comments. Public comments are a key consideration for the commissioner when determining whether or not to issue a permit for a facility that has gone through the cumulative impacts process, per Minn. Stat. § 116.065, subd. 5. Therefore, it is important that the MPCA set requirements for all owners and operators so interested persons have consistent and accessible opportunities to provide comments.

Item A requires the owners and operators to host a public comment period for each public notice required by subpart 7. The public comment period must be at least 30 calendar days in total and remain open for 15 calendar days after the associated public meeting.

While public meetings are one method of allowing interested parties to provide written or oral comments, those meetings are inherently held at a discrete date and time, which may not provide an adequate opportunity for all interested parties to provide comments. Providing a public comment

period for each public notice is reasonable because it allows interested parties to submit comments outside of the specific date and time a meeting is held. This is needed to allow interested parties to participate in the cumulative impacts process even when they are not able to attend a public meeting.

Also, public meetings are meant to help inform and provide interested parties with relevant information regarding the purpose of the meeting. A public meeting may be an interested party's first interaction with the owners and operators and/or the MPCA regarding the purpose of the public meeting. An interested party may need additional time, beyond the duration of the public meeting itself, to contemplate and understand the information provided and to fully form their comments on the matter at hand.

Alternatively, the MPCA considered requiring additional public meetings, beyond those required in subpart 4, to provide additional opportunities for interested parties to submit comments. However, representatives for industry, who participated in public meetings and the CBA community input panel during the Cumulative Impacts rulemaking, shared concerns over requiring all owners and operators to host more meetings than those required by Minn. Stat. § 116.065, subd. 4 and subd. 6(c)(4)(iii). Establishing four required meetings in subpart 4 and providing opportunities to submit comments for 30 days per meeting, instead of requiring additional public meetings beyond the four specified, resolves that lack of opportunity and provides a way for all interested parties to provide comments, even if they are unable to attend the specific public meeting.

Providing the public with 30 calendar days for the public comment period is reasonable because interested parties will need to read or otherwise process the information provided and then construct a response. Additionally, when the MPCA provides a public notice and opportunity for public comment on other regulatory actions, interested parties are able to provide comments both at a public meeting, when held, and during a public comment period of at least 30 days. It would be unreasonable to limit interested parties to provide comments only during a public meeting. It is reasonable to maintain a consistent approach for how interested parties are able to provide comment across regulatory actions within the MPCA's purview.

Requiring that a public comment period must extend at least 15 days after a public meeting is also reasonable because interested parties need time to contemplate and understand the information provided at the public meeting and fully form their comments on the subject. When a public meeting is held by the MPCA as part of a regulatory action with a public comment period, the MPCA regularly sets the duration of the public comment so that it starts before, and ends after, the date of the public meeting.

Item B states that owners and must accept written and oral comments at any required public meeting and provide enough time for all interested persons to do so. Owners and operators are required to "accept written and oral comments, as directed by the commissioner, from any interested party" at the two required public meetings specific to the cumulative impacts analysis, per Minn. Stat. § 116.065, subd. 4(d)(2). It is reasonable to require owners and operators to accept public comments at the meetings specific to the cumulative impact analysis, per statute, and to expand upon these requirement to also require owners and operators to accept public comments at the two public meetings specific to the CBA, in order to ensure consistency throughout the cumulative impacts process and to ensure that the public has the ability to share feedback with owners and operators at every step of the process. The procedures established by the MPCA for entering into a CBA must include "active outreach to residents of the impacted environmental justice area designed to achieve significant community participation" as required by Minn. Stat. § 116.065, subd. 6(c)(4)(i), and the requirement to accept comments at the public meetings for CBAs helps provide opportunities for more community participation in the meetings and in the development of a CBA.

It is important that residents of the impacted EJ area, and other interested parties, are given the opportunity to share their feedback at meetings specific to the CBA because owners and operators must consider public comments in the development of a draft community, per part 7007.6110, subpart 7, item B, subitem (2), and the commissioner must consider public comments when determining whether or not to enter into a CBA, per part 6110, subpart 8, item C, subitem (5). Understanding the support, concerns, and questions on a CBA drafted by the owners and operators is also important to achieving an agreement that prioritizes direct impacts to residents of the impacted EJ area, as required by Minn. Stat. § 116.065, subd. 6(c)(4)(ii).

This item includes the requirement that owners and operators must provide enough time for all interested persons to offer oral comments at a required public. This requirement is reasonable because it provides owners and operators with the flexibility to establish the length of a meeting without being required to host a meeting of a certain length. This requirement is also needed to establish that all interested persons should have the ability to share their feedback in person and at a public meeting with other interested persons, and ensure that all interested persons are given the ability to do so regardless of their opinions on the permit application or results of the cumulative impacts analysis. This requirement also helps support Minn. Stat. § 116.065, subd. 4(d)(1) which requires opportunities for robust engagement at public meetings by ensuring everyone can meaningfully participate.

Subpart 8, item c states that owners and operators must provide an electronic copy of all written comments and a transcript of all oral comments within 30 calendar days of a public meeting to the commissioner. Providing the commissioner with a copy of all comments received at a public meeting will provide the commissioner with an opportunity to stay informed of the public's opinions, concerns, and questions, which may help inform the commissioner's determinations on the cumulative impacts analysis and the CBA, if applicable. This requirement matches Minn. Stat. § 116.065, subd. 4(e) which establishes this requirement for public meetings specific to the cumulative impacts analysis and expands it to include the two meetings specific to CBAs. It is needed and reasonable to extend this requirement to all required public meetings to create consistency across all meetings during the process and so the commissioner can consider this feedback in the review of a draft CBA and in the final determination on whether to issue the permit.

Subpart 8, item D states, in part, that owners and operators must respond to all comments that raise issues. This requirement is reasonable because it fulfills the requirement for robust engagement at public meetings under Minn. Stat. § 116.065, subd. 4(d)(1) and ensuring active outreach in the development of a CBA under Minn. Stat. § 116.065, subd. 6(c)(4)(i). Responding to public comments helps ensure that the comments have been actively and fully considered by owners and operators in the development of the cumulative impact analysis and/or CBA. It is reasonable to require owners and operators to respond to comments that "raise issues" to ensure that comments that are on topic are considered and responded too, while not requiring them to respond to comments that are not on topic.

Responding to comments also provides interested parties with insight into how the owners and operators have considered their comments and ideas, which can help inform their participation in future public meetings and the comments they submit. Without a response to each comment that raises issues, interested parties and the MPCA will not understand how owners and operators view the individual comments and ideas, which is equally as important as understanding the comments and ideas themselves. To this end, part 7007.6100, subpart 1, item B, subitem (5) requires the commissioner to consider responses to comments as part of the determination on substantial adverse impacts while part 7007.6110, subpart 8, item C(6) requires the commissioner to consider these responses as part of the determination on whether to enter into a CBA. The requirement that owners and operators respond to all comments, and that these responses be considered by the commissioner when making

determinations, ensures that owners and operators can share why feedback was or was not used in their decision making.

Item D also requires owners and operators to develop a record of the public participation process, including for each public meeting. It is reasonable to require owners and operators to create this record because it helps establish what information owners and operators need to record at each meeting to ensure they comply with all of subpart 8 and to create one place where all parts of the public commenting process are recorded. Similarly, Minn. R. 7007.0850, subp. 2(A) establishes this requirement for air permits, where the commissioner must develop a record of the participation process. informs the rule language and requirements in Subpart 8, item D. It is reasonable to mirror language in Minn. R. 7007.0850 because the rules apply to the air permitting process and create consistency requirements for public participation records for the MPCA and owners and operators across rules. Subpart 8, item D, subitems (1) through (4) is similar to Minn. R. 7007.0850 and describe how the public participation record must be maintained.

Subpart 8, item D, subitem (1) states that the record must include a record of commentors. This requirement is reasonable because it may help the MPCA assess the importance of an issue for impacted parties who leave a comment. Being able to identify responses by individual parties will provide owners and operators and the MPCA with the ability to determine whether a comment belongs to one individual leaving multiple comments or many individuals. A comment or concern submitted by many residents of the impacted EJ area may aid in the decision making by owners and operators and in the determinations made by the commissioner, even more than a comment made by only one individual or entity.

Subpart 8, item D, subitems (2) and (3) state that the public participation record from owners and operators must include issues raised by the commentor and a complete record of comments received by owners and operators. It is reasonable to include these items in the public participation record because the comments on the cumulative impacts analysis are necessary to the determination by the commissioner to issue or deny a permit, as required by Minn. Stat. § 116.065, subd. 5. This requirement to consider comments is extended to the determination for the CBA by the commissioner in part 7007.6100, subpart 8, item C, subitem (5). The issues, testimony, and public comments may inform determinations made by the commissioner on the cumulative impact analysis and CBA.

Subpart 8, item D, subitem (4) states that the record must include the owners and operators' written responses to the comments. Including the responses to comments in the report is reasonable so interested parties and the commissioner can determine and understand if and how communities' feedback is being considered by owners and operators in the development of the cumulative impact analysis and the CBA, if required. Furthermore, their responses may inform future comments from interested parties and the commissioner's determination on substantial adverse impacts from a cumulative impacts analysis and the determination on whether or not to enter into a CBA with owners and operators.

Subpart 8, item E states that the owners and operators must provide a report containing the information in item D to the commissioner within 30 calendar days of the end of the comment period and 45 calendar days before the subsequent public meeting listed in subpart 4. It is reasonable to require owners and operators to submit this information to the commissioner, so that the MPCA can post it on the MPCA website, per subpart 9. This provides transparency and access for interested parties, including residents of the impacted EJ area. The timeline of 30 days after the comment period provides enough time for owners and operators to prepare their report while providing the MPCA with the comments early enough to inform determinations during the cumulative impacts process. This timeline also aligns with the requirement of Minn. Stat. § 116.065, subd. 4(e), which requires owners and operators to share written and oral comments with the MPCA within 30 days of a required public

meeting on the cumulative impact analysis. It is reasonable to require this report to be submitted to the MPCA at least 45 days ahead of the next required public meeting because it ensures that the information can be reviewed by interested parties ahead of that next meeting. The timeline will ensure that the public can consider comments from other interested parties and responses to the public comments by owners and operators before they submit public comments during the next public meeting and public comment period, and contribute to robust engagement and discussion that will inform the cumulative impacts process.

Subpart 9. Posting public notice documents

Subpart 9 dictates when and where documents must be made publicly available by the MPCA before each required public meeting in subpart 4, and which documents they must include. It is reasonable for the MPCA to be responsible for posting these documents as the public agency tasked with implementing and enforcing the Cumulative Impacts rule. It is reasonable to assume that interested parties, including residents of impacted EJ areas, will look for information on a stationary source in their community and/or the Cumulative Impacts rule on the MPCA's website. It is also reasonable that residents of impacted EJ areas be able to access information for different stationary sources going through the cumulative impacts process on one central website—in this case the MPCA website. It is important that these documents that are either background information on the stationary source and their requested permit actions, required submissions from owners and operators, or determinations by the MPCA, are publicly available and easy to access as the process moves forward.

Subpart 9 requires the MPCA commissioner to share all of the materials referenced in items A through E, 30 days before a public meeting and for the entirety of the associated public comment period. It is reasonable to require the materials be available on the MPCA website 30 days before a public meeting and through that public comment period so interested parties have access to pertinent information ahead of time and can meaningfully participate in the public comment period. It is also reasonable to require these materials to be made available 30 days before the associated public meeting because it follows the standard set throughout Minnesota Statutes, section 116.065 and creates consistent expectations for the MPCA and owners or operators. For example, Minn. Stat. § 116.065, subd. 4(c) requires the commissioner to post the meeting notice and cumulative impact analysis on the website at last 30 days before the second required public meeting. Subpart 9 also requires the materials referenced in items A through E to be shared on the MPCA website where public notices are made available to the public. It is reasonable for the MPCA to provide access to these materials in this way because it provides ease of access for all materials and consistency for the residents of EJ areas and other interested parties.

Subpart 9, item A requires the commissioner to post the public notice and fact sheet for a public meeting, as required from owners and operators, 30 days before each public meeting required in subpart 4. This is reasonable to ensure interested parties have access to materials that owners and operators are required to create. The information included in a public notice and fact sheet will help interested parties decide whether or not to attend and/or participate in a public meeting, and this requirement will help ensure the MPCA provides regular access to this information before each meeting. By sharing these materials from owners and operators, the MPCA can increase access by interested parties. It is reasonable to require the public notice and fact sheet specifically be included because it includes the information needed to attend a specific public meeting or participate in the public comment period.

Subpart 9, items B through E dictate what materials the commissioner of the MPCA must post for each public meeting required under subpart 4. It is reasonable for the MPCA to create specific requirements for what must be shared ahead of each meeting because it is important that interested parties have access to the information needed to meaningfully participate before any public meeting and public comment period. Residents of the impacted EJ area, and other interested parties, are likely to look for

information specific to the Cumulative Impacts rule on the MPCA website.

Subpart 9, item B specifies what materials the commissioner must post on the MPCA website 30 calendar days ahead of the first cumulative impacts analysis public meeting, required by subpart 4, item A, subitem (1). The required materials are the initial assessment, the cumulative impacts analysis public participation plan, and the commissioner's determination on the need for a cumulative impact analysis. It is reasonable for the MPCA to require these documents be posted on the MPCA website because they contain important information on why the owners and operators are required to conduct a cumulative impacts analysis and how the owners and operators will approach the required community outreach and engagement. Access to these documents ahead of the first required public meeting allows residents of the impacted EJ area, and other interested parties, to prepare to participate in engagement planned by owners and operators, and begin to formulate their comments regarding the required cumulative impacts analysis. It is also reasonable to include the MPCA's determination on the need for a cumulative impacts analysis, so interested parties have a reasonable amount of time to read and understand a technical document that may impact the comments or questions they offer at the public meeting.

Subpart 9, Item C specifies the materials the commissioner post on the MPCA website 30 calendar days ahead of the second cumulative impacts analysis public meeting, required by subpart 4, item A, subitem (2). The required materials are the cumulative impact analysis, and the responses to comments report from the first public meeting and associated public comment period, as drafted by the owners and operators. It is reasonable to require the MPCA to make these materials publicly available ahead of the second public meeting so residents of the impacted EJ area, and other interested parties, have a reasonable amount of time to read and understand lengthy and technical documents that may impact the public comments or questions they offer at the public meeting. The public comments offered at this public meeting will be specific to the cumulative impact analysis prepared by the owners and operators and the upcoming determination by the MPCA on the substantial adverse impacts on the EJ area. Furthermore, it is reasonable to require the MPCA to make the analysis and responses to comments report available on the same website as previous notices and materials.

Subpart 9, item D specifies the materials the commissioner must post on the MPCA website 30 calendar days ahead of the first CBA public meeting, as required by subpart 4, item B, subitem (1). The required materials are the cumulative impact analysis, the CBA public participation plan, the responses to the comments report from the second public meeting and associated public comment period, and the determination of substantial adverse impacts as prepared by the MPCA. It is reasonable for the MPCA to require the cumulative impact analysis be maintained on the MPCA website for this public meeting and associated public comment period, as it contains information that will help residents of the impacted EJ area understand the environmental and/or health impacts to their communities and inform the comments they submit regarding the community benefits agreement.

It is also important that residents of the impacted EJ area can become involved in this process at any point and have access to the information on the MPCA website that they need to meaningfully participate and offer their comments. It is reasonable for the MPCA to require the determination of substantial adverse impacts by the commissioner of the MPCA be posted on the MPCA website so residents have a reasonable amount of time to read and understand a technical document that may have impacts on the public comments or questions they offer at the public meeting.

It is also reasonable for the MPCA to require the CBA public participation plan be posted on the MPCA website because it contains important information on how the owners and operators will approach the required community outreach and engagement. Access to these documents ahead of the third required public meeting allows residents of the impacted EJ area to determine how they would like to participate in the public outreach and engagement process. Residents, and other interested parties, also need to understand how the comments submitted after the cumulative impacts analysis have been considered

and responded to by the owners and operators before preparing their comments regarding the CBA. Furthermore, it is reasonable for the MPCA to create a requirement that makes the determination and responses to comments available on the same website as previous notices and materials.

Subpart 9, item E specifies the materials the commissioner must post on the MPCA website 30 calendar days ahead of the second CBA public meeting, as required by subpart 4, item B, subitem (2). The required materials are the cumulative impact analysis, draft CBA, and responses to the comments report from the third public meeting and associated public comment period, as drafted by the owners and operators. It is reasonable for the MPCA to require the cumulative impact analysis be maintained on the MPCA website for this public meeting and associated public comment period, as it contains information that will help residents of the impacted EJ area understand the environmental and/or health impacts to their communities and inform the comments they submit regarding the community benefits agreement.

It is also important that residents of the impacted EJ area can become involved in this process at any point and have access to the information on the MPCA website that they need to meaningfully participate and offer their comments. It is reasonable for the MPCA to require the draft CBA and response to comments be posted to the MPCA website ahead of the fourth meeting so residents of the impacted EJ area have a reasonable amount of time to read and understand lengthy and technical documents that may impact the comments or questions they offer at the public meeting. Residents, and other interested parties, need to understand how the comments they submitted during the previous public meeting and comment period were used or not used by the owners and operators in the development of the CBA, and why. This is especially important based on the requirement for the owners and operators to demonstrate support from the residents of the impacted EJ area for the CBA, as detailed in part 6110, subpart 9, item E, subitem (5). Furthermore, it is reasonable for the MPCA to create a requirement that makes the CBA and responses to comments available on the same website as previous notices and materials.

Subpart 10. Recordkeeping

Subpart 10 specifies the records that owners and operators must maintain for this subpart. It is reasonable to require recordkeeping and specify the records that must be kept because records will help demonstrate compliance with the rule. Identifying those records that must be kept prevents confusion by clearly identifying what information owners and operators must maintain. Additionally, these recordkeeping requirements are consistent with other Minnesota Rule parts, such as 7007.0800, 7011.0080, 7017.1130, and 7019.0100.

Item A requires owners and operators to maintain copies and proof of publication of any notice of a public meeting required under subpart 7, item A, subitems (2) and (3). It is reasonable to require owners and operators to maintain these records so that MPCA staff can verify that the owners and operators are compliant with the public notice requirements of this part.

Item B requires owners and operators to maintain copies and proof of the posting and maintenance of the physical signs required under subpart 7, item A, subitem (1). It is reasonable to require owners and operators to maintain these records so that MPCA staff can verify that the owners and operators are compliant with the physical signage requirements of this part.

Item C requires owners and operators to maintain a list of physical addresses where, and dates when, physical signs required under subpart 7, item A, subitem (1) were posted. It is reasonable to require owners and operators to maintain these records so that MPCA staff can verify that the owners and operators are compliant with the posting requirements for physical signs in this part.

Item D requires owners and operators to maintain copies and proof of the mailing of the printed informational materials required under part 7007.6110, subpart 2, item C. It is reasonable to require owners and operators to maintain these records so that MPCA staff can verify that the owners and

operators are compliant with the public outreach requirements of part 7007.6110.

Item E requires owners and operators to maintain copies of all written and oral comments received at any required public meeting. Item F requires owners and operators to maintain copies of all written and oral comments received during any public notice period required under this part. Item G requires owners and operators to maintain copies of all written responses to comments as required under subpart 8, item D. It is reasonable to require owners and operators to maintain these records so that MPCA staff can verify that the owners and operators are compliant with the public comment requirements of this part.

Item H requires owners and operators to maintain copies and proof of mailing of any notice of proceedings required under subpart 7, item A, subitem (4). It is reasonable to require owners and operators to maintain these records so that MPCA staff can verify that the owners and operators are compliant with electronic mailing list requirements of this part.

Item I requires owners or operators to maintain copies and proof of the following: website addresses, dates of posting, and duration or removal date of recordings of virtual meeting components, as required under subpart 5, item C, subitem (2). It is reasonable to require owners or operators to maintain these records so MPCA staff can verify that the owners or operators are compliant with the website and virtual postings requirements of this part.

Item J requires owners or operators to maintain copies and proof of other methods used to provide notice required under subpart 7, item A, subitem (5). It is reasonable to require owners or operators to maintain these records so that MPCA staff can verify that the owners or operators are compliant with the notice requirements of this part for any additional noticing methods they choose to use.

Subpart 11. Additional outreach and engagement

Subpart 11 establishes that owners and operators may conduct additional engagement, and how and when it may be used during the cumulative impacts process. Given the broad range of geographic areas and diverse EJ areas this rule applies to, it is reasonable that the MPCA establish engagement and outreach that must always be done and allow for owners and operators to conduct additional engagement based on the impacted EJ area where it is located.

Subpart 11, item A establishes that owners and operators may conduct additional engagement beyond what is required in this part. Minn. Stat. § 116.065, subd. 4(d)(1) requires the owners and operators to "provide an opportunity for robust public and Tribal engagement" at a required public meeting before or after the cumulative impact analysis is conducted. Minn. Stat. § 116.065, subd. 6(c)(4) requires the MPCA to establish the procedures for conducting "active outreach to residents of the impacted environmental justice area designed to achieve significant community participation" in the creation of a CBA. It is reasonable for the MPCA to explicitly establish that owners and operators can conduct additional engagement in order to satisfy these requirements in statute. The additional outreach and engagement may fulfill outreach needs for specific EJ areas affected by the stationary source that are not met by the outreach methods described in the rule language. This provides flexibility to owners and operators who can plan engagement specific to the communities in the impacted EJ area.

Subpart 11, item B establishes that owners and operators may use the additional engagement allowed by item A to prepare a cumulative impact analysis and/or a CBA so long as they keep certain records. According to part 7007.6100, subpart 1, item B, subitem (4), the commissioner must consider comments received during the public meetings and comment periods under this part in determining whether or not an impact is a substantial adverse impact. Part 7007.6110, subpart 8, item C establishes that the commissioner must make a determination on entering into a CBA by considering, in part, the comments from interested parties and owners and operators' responses to these comments. It is reasonable to require certain recordkeeping for any additional outreach and engagement in order to have the

information needed to consider the feedback gathered in the same way as the feedback gathered through the engagement required by this rule and make determinations on the cumulative impact analysis and CBA. Subpart 11, item B, subitems (1) through (4) establishes the specific records that the owners and operators must maintain for any additional outreach and engagement they conduct. The recordkeeping requirements under subpart 10 are required of all owners and operators subject to part 7007.6080, while the recordkeeping requirements of this item are required of only those owners and operators who choose to do additional engagement under item A.

Item B, subitems (1) and (2) require owners and operators to include a description of additional engagement methods, as well as the date, time and location of any additional engagement, in their records in order to use information from additional engagement. It is reasonable to require this information be included in the record because it allows the MPCA to confirm the additional engagement was completed and when, where and how additional engagement was done, so comments received during this engagement can be considered by the commissioner when making determinations.

Item B, subitem (3) requires owners and operators to maintain a summary of the goals and outcomes of any additional engagement as part of this record. It is reasonable to require this because this information allows the MPCA to verify that the engagement was specifically done for the Cumulative Impacts rule and to inform the cumulative impacts analysis and/or CBA. As previously established, the commissioner will consider the comments received under part 7007.6080 when making determinations.

Item B, subitem (4) requires owners and operators to maintain copies of written and oral comments from residents of the impacted EJ area during any additional engagement as part of this record. This is reasonable to require as it will allow the commissioner to consider these comments when making determinations during the cumulative impacts process, with the same information and in the same way they will consider comments submitted during public meetings and public comment periods.

PART 7007.6090 – CUMULATIVE IMPACTS ANALYSIS

Justification for part 7007.6090

The intent of this part is to fulfill the requirements of Minn. Stat. § 116.065, subd. 6(c)(2), which requires the MPCA to establish the required content of a cumulative impacts analysis and to provide sources of public information for the applicant to access regarding environmental stressors in the impacted EJ area.

This part identifies when it applies to owners and operators, when owners and operators must submit the cumulative impacts analysis, and what information and analyses owners and operators must include in the cumulative impacts analysis.

In general, it is reasonable to establish the necessary requirements in rule to fulfill the statutory obligations specified in Minn. Stat. § 116.065.

Subpart 1. Applicability

Subpart 1 establishes when a cumulative impacts analysis is required. This subpart is needed to identify that owners and operators must conduct and submit a cumulative impact analysis when the requested permit application meets the requirements in part 7007.6020 and the commissioner has determined a cumulative impact analysis is required, following the process in part of 7007.6070's determination of need requirements. Owners and operators need to be aware of the circumstances under which they must submit a cumulative impacts analysis. It is reasonable to ensure that owners and operators know when they must submit a cumulative impacts analysis.

Subpart 1 also establishes that the cumulative impacts analysis must be submitted in a format specified by the commissioner. This is needed because submittals that are uniformed, consistent, and templated allows for the permit applicant, MPCA, and any other party to know and understand what is being ask,

when it is being asked, and how it is being asked. This uniformity also allows consistent understanding on MPCA's end when having to evaluate submittals, so the MPCA minimizes variances that are submitted to assist in complying with Minn. Stat. § 116.03, subd. 2b (Permitting efficiency). These requirements are reasonable because they ensure uniformity in submittals, reviews, and facilitate timely permitting decisions.

Subpart 2. Submissions

Subpart 2 establishes the submittal requirements for a cumulative impacts analysis. This subpart is needed to identify when owners and operators must submit a cumulative impacts analysis and what information and analyses the cumulative impacts analysis must contain. Item A establishes when owners and operators must submit a cumulative impacts analysis and items B and C provide a list of the content of the cumulative impacts analysis.

Item A establishes that the owners and operators must submit the cumulative impacts analysis at least 45 days before the public meeting required under part 7007.6080, subpart 4, item A, subitem (2). This is needed to meet the statutory requirement under Minn. Stat. § 116.065, subd. 4(b)(3), that states "provide the commissioner with notice of the public meeting and a copy of the cumulative impacts analysis at least 45 days before the second public meeting." It is reasonable to require the cumulative impacts analysis submittal 45 days before the identified public meeting both due to the statutory requirement and because the MPCA must also post the cumulative impacts analysis in advance of the public meeting as required by Minn. Stat. § 116.065, subd. 4(c).

Item B establishes the required contents of the cumulative impacts analysis submittal. The cumulative impacts analysis needs to contain information that will aid the commissioner's determination whether issuing the requested permit action would have a substantial adverse impact to the environment or the health of residents of the impacted EJ area. This is needed because it is required by Minn. Stat. § 116.065, subd. 6(c)(2) and to identify the information and analyses the owners and operators need to include in the cumulative impacts analysis. Further information on each individual item within the cumulative impacts analysis is further detailed below in Subpart 3. It is reasonable to identify a list of the required contents of a cumulative impacts analysis so that owners and operators understand what must be included in a cumulative impacts analysis.

Item C establishes that the commissioner must request additional information when the commissioner determines that the information is necessary for a decision about the potential for, or significance of, an environmental or health impact. This is needed so that the MPCA has adequate information to make decisions regarding the cumulative impacts analysis, specifically evaluating environmental or health impact to determine whether issuing a permit would have a substantial adverse impact to the environment or the health of residents of an impacted EJ area.

Item C, subitems (1) to (4) identifies the additional information that the commissioner could require owners and operators include in a cumulative impacts analysis. These subitems identify the additional information that may be required and are needed to enable the commissioner to adequately evaluate the potential impacts of a requested permit action. Subitem (1) identifies the information contemplated by part 7007.6070, subpart 5, item A where the MPCA may determine there is enough information to require a cumulative impacts analysis but there are other impacts with lacking information. It is reasonable to identify that lacking information identified during the commissioner's determination of need for a cumulative impacts analysis must be submitted as part of the cumulative impacts analysis. Subitems (2) and (3) identify the additional information the MPCA may need to evaluate impacts identified through the public participation aspects of this rule. This is reasonable because it enables the commissioner to adequately evaluate the concerns raised by the residents of the impacted EJ area regarding the potential impacts of the requested permit action. Subitem (4) identifies that there may be other information or analyses deemed

relevant by the commissioner. Minn. Stat. § 116.065, subd. 3(c)(3) requires the commissioner to review any other information the commissioner deems relevant as part of determining whether a cumulative impacts analysis is required. This is reasonable because there may be other information that the commissioner relies on in determining that a cumulative impacts analysis is needed as contemplated by Minn. Stat. § 116.065, subd. 3(c)(3) that the commissioner may need to evaluate as part of a cumulative impacts analysis.

Subpart 3. Cumulative impacts analysis contents

Subpart 3 establishes the contents of a cumulative impacts analysis, as required under Minn. Stat. § 116.065 Subd. 6(c)(2). This subpart is needed to identify what information and analyses the cumulative impacts analysis must contain. Broadly, the information and analyses described in items A through I are needed to enable the MPCA to evaluate and understand the impacts associated with the requested permit action. It is reasonable to establish specific contents of a cumulative impact analysis to ensure the MPCA has adequate information to determine whether issuing the requested permit action would result in a substantial adverse impact to the environment or the health of the residents of the impacted EJ area. Items A through I are described in further detail below.

Item A requires the owners and operators to submit site mapping for the requested permit action. Subitems (1) through (4) identify the specific information that the site mapping must show.

Item A, subitem (1) requires the submittal topographic conditions, contour data, drainage patterns, wetlands and other areas regulated by the MPCA or the Minnesota Department of Natural Resources. These submittals help the MPCA understand the geographical features that affect ground and surface water flow. This environmental data is needed and reasonable both because Minn. Stat. § 116.065, subd. 1(c) defines cumulative impacts as the "impacts of aggregated levels of past and current air, water, and land pollution in a defined geographic area to which current residents are exposed" and because it provides vital information to understand how pollutants would migrate throughout the geological area and what areas would be impacted by facility operations.

Item A, subitem (2) requires the submittal of geographical areas of known plants and animals that are listed within federal or Minnesota state registries that are listed as endangered, threatened or rare. This is needed because humans are not the only species that are affected by pollution. Though all plants and animals can be impacted by pollution, plants and animals that are listed on endangered, threatened or rare registries are more susceptible to extinction level events given their population size. It is reasonable to request where these entities exist in relation to the facility to verify and make sure that vulnerable, endangered, and rare species do not go extinct or degrade in a region due to pollution.

Item A, subitem (3) requires the submittal of certain surface water and ground water information in accordance with Minn. R. chapter 7050. This information is needed to evaluate pollution flowing within and outside the boundaries of the facility to and from surface water that is utilized by humans, animals, and plant life that participate in and utilize the surface water. Pollution that is introduced within surface water can cause primary, secondary, tertiary impacts, and further impacts, that cause adverse impacts that can lead to potential morbidity or mortality to humans, animals, and the environment. It is reasonable to require this information because it directly addresses the water evaluation requirements under Minn. Stat. § 116.065, subd. 1(c), and the impact to the environment decision under Minn. Stat. § 116.065, subd. 5(b).

Item A, subitem (4) requires information on public scenic attributes or outdoor recreation and conservation opportunities in the impacted EJ areas and includes several examples in units (a) through (d). Unit (a) identifies examples such as parks, forests, wildlife management areas, or natural areas. This

is needed to evaluate areas that have reoccurring high populations of people that use these locations to do recreational and conservation activities. It is reasonable to request this information and analyze it to preserve the natural status of wildlife and to evaluate if children and adults would be exposed to pollution factors in a setting that is a national, state, tribal, or other entity park or reserve.

Unit (b) identifies additional examples such as areas acquired for recreation and conservation purposes with any federal, state, or non-profit conservation organization. This is needed because these areas are used with high populations of individuals that visit and the evaluation of risk of a group of individuals due to pollution. Also, this is needed because conservation efforts are used to establish, remediate, or improve existing conditions for animals, plant, and other ecological entities that exist that would be impacted by pollution. It is reasonable to request this information and analysis to preserve conservation efforts and recreational areas within Minnesota and to comply with Minn. Stat. § 116.065 Subd. 5 (b).

Unit (c) identifies examples of any land preserved as open space by a non-profit conservation organization. This is needed because open lands that are used in a conversation purpose are utilized to establish, reaffirm, maintain, or improve conditions for ecological environments and animals. These areas allow plants, animals, and other entities within nature to thrive in a condition that has a reduction of human pollution/crowding/ and other factors that limit growth, maturity, and proliferation. It is reasonable to request this information and analysis to preserve conservation efforts of the environment and to comply with Minn. Stat. § 116.065 subd. 5(b).

Unit (d) identifies a further example of other public access features. This is needed as there are other public attributes that the public visits that are could be subject to pollution. This is also needed because many public access features have ecological and environmental features, that if exposed to pollution could impact human health and the environment. This is reasonable to comply with Minn. Stat. § 116.065. Subd 5, as if protects human health and the environment.

Item B requires information pertaining to the existence or absence of contamination on the site to which the facility that is being evaluated resides. This is needed to evaluate if there is a potential for migratory pollution to water systems or land contamination, as past and current water and land pollution is defined within the definition of cumulative impacts under Minn. Stat. § 116.065, subd. 1(c). It is reasonable to require this information because contamination can cause direct health and environmental impacts or leach or migrate into adjacent areas.

Item C requires an assessment of localized climate impacts. This is needed because facilities can emit greenhouse gases that contribute to the dysregulation of the climate, which can contribute to local and global changes to the environment. This greenhouse contribution leads to stronger storms, more frequent 100-year weather events, and hotter temperatures.[17] Climate impact assessment is also needed to verify reasonable climate-related prevention and mitigation for communities impacted by the facility. It is reasonable to require an assessment of the localized climate impacts, such as flooding, extreme heat, or weather events, because if experienced, they will potentially impact the health and environment of the impacted EJ area.

Item D requires a traffic study that describes the transportation routes that will service the facility, site access capability, and existing traffic flow patterns. This is needed as vehicles that serve a facility are typically medium duty to heavy duty truck, semis, and other heavy operational equipment. These types of vehicles typically have extremely large fuel tanks, along with fuel types, including diesel, that emit air pollutants that are harmful to human health and the environment. For example, diesel particulate matter, which is exhausted from diesel incomplete combustion, is listed on the United Nation's International Agency for Research on Cancer as a Group 1, carcinogenic to humans.[18] Outside of fuel,

[17] https://www.un.org/en/climatechange/science/causes-effects-climate-change
[18] https://www.iarc.who.int/news-events/iarc-diesel-engine-exhaust-carcinogenic/

these types of transportation equipment are often carrying ingredients, material, or other items that can be flammable, toxic, carcinogenic, explosive, or other dangerous material that need special placards, which are regulated by the Minnesota Department of Transportation and the U.S Federal Government.[19, 20] Transportation equipment, used to carry or distribute particulate matter and chemicals within their routes, to and from a facility, during operations, and while loading and offloading, can leak. A leak can cause potential negative health and environmental impacts. It is reasonable to request this information to understand transportation operations and pollutants because transportation emissions and pollutants can cause direct health and air quality impacts.

Item E requires information about the stormwater management system that services the facility and identifies the type of collection and treatment system available and specifications of the stormwater management system. Stormwater, by definition, is rainwater, irrigation, or snow melt that does not get absorbed into the ground. Unmitigated stormwater can pick up and distribute pollutants including oils, grease, liquid chemicals, solid chemicals, and other items that pose a danger to human health and the environment. This is needed to form an understanding of the water movements within a facilities boundary's that could impact a community or the environment under Minn. Stat. § 116.065, subd. 1(c) due to the impact of the runoff and water quality. It is reasonable to request stormwater management systems and appliable information to understand potential water quality and land impacts.

Item F requires information on and a potential mitigation plan for odor, dust, and noise impacts on the residents of the impacted EJ area. This information and potential mitigation plan are needed because many EJ areas are also highly industrialized areas, which can adversely impact residents living in the community due to operational related noise, odors, or dust. It is reasonable to request this information because odor, dust, and noise impacts are very common and known community nuisance that can also create health and environmental impacts.

Item G requires an analysis and proposal of all emission limits, operational conditions, control measures, or other measures necessary to avoid or reduce impacts to human health and the environment. Historically, MPCA and the EPA utilizes emissions and operation limits to regulate yearly, hourly, and other time measures to limit the amount of national ambient air quality standard (NAAQS) and HAP emissions that occur from a facility. These limits allow the facility to continue to operate while still maintaining compliance with state and federal laws, including the Clean Air Act. This information is needed to evaluate emissions and operation limits to verify that the facility is within compliance of the Clean Air Act, applicable Minnesota Statues and Rules, and for the protection of human health and the environment. It is reasonable to request this information so the MPCA can verify a facility's emission profiles, control measures (including ages), and other measures to protect human health and the environment.

Item H requires an analysis and outline of comments provided during the public notice periods required under part 7007.6080. Per Minn. Stat. § 116.065, subd. 4(d)(2) and Minn. Stat. § 116.065, subd. 4(e) the permit applicant must "accept written and oral comments, as directed by the commissioner, from any interested party." and "After a public meeting held under this subdivision, the permit applicant or permit holder must provide an electronic copy of all written comments and a transcript of all oral comments to the Agency within 30 days of the meeting." With this, the MPCA is requesting the permit applicant to analyze the comments received and not just submit them. Precedence of this type of information being used within a regulatory analysis is present within Minnesota, Massachusetts, and

[19] https://www.dot.state.mn.us/cvo/mntruckbook/2022/section-17.pdf
[20] https://www.law.cornell.edu/uscode/text/49/subtitle-III/chapter-51

previously within the EPA. [21, 22, 23] This information is needed to identify actions or items that may be of interest to the MPCA that may result in additional information requirements that would not be otherwise noted from non-public statements from gaps in toxicological or epidemiological information and how the owners and operators are taking action on the public comments. It is reasonable to request this information to fill in toxicological, and epidemiological gaps and fulfill the requirements of Minn. Stat. § 116.065, subd. 4(d)(2) and Minn. Stat. § 116.065, subd. 4(e).

Item I requires a description of the socioeconomic impact of proposed construction and operation of the stationary source on the residents of the impacted EJ area. This information is needed to evaluate how the stationary source is benefitting the community, including employment opportunities, health insurance opportunities, benefits, and other items that benefit the community. It is reasonable to request information on potential socioeconomic impacts of the facility because socioeconomic factors directly and indirectly affect community health outcomes. It is also reasonable because Minn. Stat. § 116.065, subd. 5(b) requires the commissioner to consider the socioeconomic impact of the stationary source to the residents of the EJ area as part of determining whether issuing the requested permit action would have a substantial adverse impact to the environment or the health of residents of the impacted EJ area.

Subpart 4. Air quality modeling analysis

Item A requires an air quality modeling analysis regarding the Minnesota Ambient Air Quality Standards and National Ambient Air Quality Standard as identified in Minn. R. 7009.0080 and 7009.0090. This is needed because under the Clean Air Act, air dispersion modeling is essential to determining compliance, outcomes, concentrations, and pollutants, that impact the environment and health of residents. Under the Clean Air Act, there are two different standards that this modeling demonstration covers, Primary standards and Secondary Standards. Primary Standards "provide public health protection, including protecting the health of "sensitive" populations such as asthmatics, children, and the elderly." Secondary Standards "provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings."[24] It is reasonable to include this type of modeling, because consultants and facilities are already accustomed to this modeling procedure with the PSD program and the New Source Review under State and Federal Permitting programs. Including this modeling within the cumulative impacts analysis will allow MPCA to analyze and consider any potential impacts to human health and the environment to make an informed decision on impacts to make a permit decision under Minn. Stat. § 116.065. Subd.5.

Item B requires an air quality modeling analysis must be conducted in accordance with a protocol approved by the commissioner. This is needed because the protocol is a demonstration of how the owner or operator are planning on completing the required analysis, including evaluating each pollutant that the stationary source has the potential to emit in an amount greater than or equal to the rates identified in Code of Federal Regulations, title 40, section 52.21(b)(23)(i). This is to allow the MPCA to evaluate methodological errors, input errors, and stationary source inclusion or exclusion, to make sure all items in the analysis are accounted for to comply with the Clean Air Act requirement. This is reasonable because it ensures all modeling will be conducted in a consistent manner based on Clean Air Act requirements.

Item C establishes when an air quality modeling analysis containing the documentation and information

---

[21] https://www.pca.state.mn.us/business-with-us/permitting-and-lived-experience

[22] https://www.mass.gov/doc/guidance-for-conducting-cumulative-impact-analysis-for-air-quality-comprehensive-plan-applications-march-28-2024/download

[23] https://www.epa.gov/system/files/documents/2023-11/ejtg_revision_110823_508compliant_0.pdf

[24] *United States Environmental Protection Agency, NAAQS Table, Retrieved from* https://www.epa.gov/criteria-air-pollutants/naaqs-table

necessary to perform the analysis, identified in subitems (1) and (2), will be approved. This is needed because for a modeling analysis to be completed all necessary information is required so it complies with regulations set by the Clean Air Act and Minnesota regulations. This ensures that owners, operators, MPCA, and the public know what and how information is being used and is germane to the analysis before the results of the analysis are performed. It is reasonable to verify the protocol of a model and to verify inputs to a modeling scenario meet Clean Air Act standards.

Item D requires the owners or operators to submit the results of the air modeling analysis in a report, in a format specified by the commissioner. This is needed because it ensures an owner or operator submits information that is germane to the air modeling analysis and demonstrates compliance with the Clean Air Act and Minnesota's Ambient Air Quality Standards. This item is needed to evaluate air pollution under Minn. Stat. § 116.065, subd. 1(c) and assist in making a permit decision under Minn. Stat. § 116.065, subd. 5(a). This is reasonable to require so the MPCA can determine if a facility will meet the Minnesota Ambient Air Quality Standards and National Ambient Air Quality Standards.

Item E requires that the air quality modeling analysis report document the modeling analysis results and determine whether the requested permit action will cause or contribute to an exceedance of any ambient air quality standard. This is needed because in order for the MPCA to issue an air permit, the facility must show compliance with state and federal air emission standards, including the National Ambient Air Quality Standards and Minnesota Ambient Air Quality Standards. If a facility exceeds these limits, the owners or operators must show an ability to reduce and have controls in place that reduce emissions. The air quality modeling analysis is used to show proof that the facility is able to regulate their emissions to comply with State and Federal regulations. It is reasonable to require a facility to comply with Minnesota Ambient Air Quality Standards and National Ambient Air Quality Standard before a potential permit can be issued.

Subpart 5. Air emissions risk analysis

Item A requires the owners or operators to conduct an air emissions risk analysis to estimate human health risk from air pollution by the stationary source. An air emissions risk analysis is a per chemical and overall risk analysis of the chemicals that are being emitted by a source, in this case a stationary source. This analysis uses variables like the dispersion of the chemicals in the atmosphere, concentrations of the chemicals within that dispersion, facility factors including stack heights and emission physics (for example, emission velocity and temperature), particle physics (heavier particles vs lighter particles vs gaseous states vs vapor states), and health benchmarks established by regulatory entities to calculate a risk score. Air emission risk analyses are a common practice with environmental review in Minnesota, and some permitting processes that require them.[25] Air emission risk analyses are not just utilized within Minnesota, and it is a very common practice within the EPA and U.S Federal Government.[26,27] This is needed because there are many toxic chemicals that can cause cancer, acute, short term, subchronic, and chronic/long term impacts, and if emitted in high enough concentrations or duration can cause population morbidity and/or mortality. This is reasonable to require because a toxicological assessment directly addresses whether a permit may create a substantial adverse impact on the environment or health of the EJ area and its residents. This approach is also reasonable because it aligns with risk assessment procedures at the State and Federal levels.

Item B requires owners or operators to conduct an air emissions risk analysis in accordance with a protocol approved by the commissioner. This is needed because the protocol is a demonstration of how

[25] *Minnesota Pollution Control Agency, Air emissions risk analysis (AERA), Retrieved from https://www.pca.state.mn.us/business-with-us/air-emissions-risk-analysis-aera*

[26] *https://www.epa.gov/fera/risk-assessment-and-modeling-air-toxics*

[27] *https://www.spk.usace.army.mil/Portals/12/documents/regulatory/eis/200400888/200400888-DEIS/3_3_AirQuality.pdf?ver=2019-02-01-155421-003*

the owner or operator are planning on completing the required analysis. It is reasonable to define risk analysis protocols so MPCA can verify any toxicological and risk assessments that are completed. These scientific standards are standard practice with the EPA and many other states that use risk assessments to evaluate facilities.[28]

Item C establishes when an air emissions risk analysis protocol containing relevant information necessary to perform the analysis, identified in subitems (1) through (6), will be approved. This is needed because for an air emissions risk analysis to be completed all necessary information must be included. This ensures that owners and operators, the MPCA, and the public know what information is germane to the analysis and how information is used before the results of the analysis are performed. It is reasonable to verify the protocol of a model and to verify inputs to an air emissions risk analysis.

Item D establishes the acceptable risk levels used within the air emission risk analysis in subitems (1) to (4). These values and information are set by the EPA to establish an understanding of risk levels that could cause cancer, acute, subacute, and chronic exposure. This is needed because these values are established that any risk, quotient, index, or value within subitems (1) to (4) that are above 1 (rounded to one significant figure) has the potential to cause impacts to human health. It is reasonable to include these risk levels so the MPCA can assess the potential health risks of a permit.

Item D, subitem (1) requires a cancer risk of 1 in 100,000. This is needed because establishing a threshold of cancer and having it as 1 in 100,000 protects human health. It is reasonable to specify that the acceptable risk level for cancer is 1 in 100,000 rounded to one significant figure. Cancer risks are characterized using an excess lifetime cancer risk, representing the incremental probability that an individual will develop cancer due to exposure to a carcinogen over a lifetime.[29] A risk level of 1×10^{-5} has previously been adopted in three Minnesota rules: the MDH Rules for Health Risk Limits (Minn. R., parts 4717.7100 to 4717.7800), the MPCA's Solid Waste Rules (Minn. R., part 7035.2815, subpart 4, item H, subitem (5), subitem (b)) and MPCA Surface Water Rules (Minn. R., part 7050.0218, subpart 6, item C). It is reasonable to specify a risk level that is consistent with historical practice within Minnesota and other states in EPA region 5.

Item D, subitem (2) requires a Hazard quotient of 1 for acute, subchronic, and chronic inhalation risk. This is needed because establishing a toxicity risk threshold allows the owners or operators, MPCA, and the public know that protective measures are being done to prevent morbidity or mortality within communities, and anything exceeding the value of 1 can cause adverse effects to communities. It is reasonable to set the acceptable risk level for the hazard quotient for acute, subchronic, and chronic inhalation risk to 1. The hazard quotient is the ratio of a single substance exposure level to an IHB for that substance derived from a similar exposure period (e.g. acute, subchronic, or chronic). The equation for hazard quotient is:

$$HQ = \frac{EC}{IHB}$$

where:

HQ = the hazard quotient for an individual air toxic

EC = Substance exposure concentration

IHB = Inhalation health benchmark

If a hazard quotient is less than 1, noncancer health effects are not likely to occur for people exposed to the air toxics, including sensitive populations. However, when the hazard quotient is greater than 1, it does not mean that health effects will, or are likely to occur, although the risk of associated health

[28] https://www.epa.gov/fera/risk-assessment-and-modeling-air-toxics

[29] *National Contingency Plan 40 CFR 300.430*

effects increases as the amount and duration of exposure increases. A hazard quotient greater than 1 increases the potential for adverse effects.[30] An acceptable risk level of 1 (rounded to 1 significant figure) is consistent with EPA's risk assessment advice[31] and historical use within Minnesota. The MPCA uses rounding to account for the lack of precision in the data used to calculate the hazard quotient.[32] Given this information, it is reasonable to set the acceptable risk level for the hazard quotient for acute, subchronic, and chronic inhalation risks to 1 (rounded to one significant figure) for each risk. This means a risk value up to 1.49 would round down to 1. It is reasonable to specify a risk level that is consistent with historical practice within Minnesota and other states in EPA region 5.

Item D, subitem (3) establishes a hazard quotient of 1 (rounded to one significant figure) for farmer noncancer, farmer cancer, urban gardener noncancer, urban gardener cancer, resident noncancer, and resident cancer multi-pathway risk. It is reasonable to set the acceptable risk level for the hazard quotient for acute, subchronic, and chronic inhalation risk to 1. The hazard quotient is the ratio of a single substance exposure level to an IHB for that substance derived from a similar exposure period (e.g. chronic). The equation for hazard quotient is:

$$HQ = \frac{EC}{IHB}$$

where:

HQ = the hazard quotient for an individual air toxic

EC = Substance exposure concentration

IHB = Inhalation health benchmark

If a hazard quotient is less than 1, noncancer health effects are not expected for people exposed to the air toxics. However, when the hazard quotient is greater than 1, noncancer health effects are possible, but not certain.[11] An acceptable risk level of 1 (rounded to one significant figure) is consistent with historical use within Minnesota. The MPCA uses rounding to account for the lack of precision in the data. Given this information, it is reasonable to set the acceptable risk level for the hazard quotient for farmer noncancer, farmer cancer, urban gardener noncancer, urban gardener cancer, resident noncancer, and resident cancer multi-pathway risks at an air toxics facility must not exceed 1 (rounded to 1 significant figure) for each risk. This means a risk value up to 1.49 would round down to 1. An acceptable risk level of 1 (rounded to 1 significant figure) is consistent with EPA's risk assessment advice.[33] It is reasonable to specify a risk level that is consistent with EPA's risk advice as well as historical practice within Minnesota and the region.

Item D, subitem (4) establishes a hazard index of 1 (without rounding down to one significant figure) for acute, subchronic, and chronic noncancer health endpoints. It is reasonable to set the acceptable risk level for the hazard index for acute, subchronic and chronic noncancer health endpoints at an air toxics facility to 1 (without rounding down to one significant figure) for each health endpoint. The hazard index is the sum of more than one hazard quotient for multiple substances with the same or similar toxic endpoint. The equation for hazard index is:

$$HI = HQ_1 + HQ_2 + \cdots + HQ_i$$

---

[30] *Cancer Risk and Noncancer Hazard Index. Retrieved from https://oehha.ca.gov/sites/default/files/media/downloads/risk-assessment/fact-sheet-california-human-health-screening-levels-chhsls/riskfactsheet.pdf.*

[31] *Air Toxics Risk Assessment Reference Library. Retrieved from https://www.epa.gov/sites/default/files/2013-08/documents/volume_1_reflibrary.pdf.*

[32] *Supplementary Guidance for Conducting Health Risk Assessment of Chemical Mixtures. Retrieved from https://archive.epa.gov/osa/raf/web/pdf/chem_mix_08_2001-2.pdf.*

[33] *Air Toxics Risk Assessment Reference Library. Retrieved from https://www.epa.gov/sites/default/files/2013-08/documents/volume_1_reflibrary.pdf.*

where:

HI = hazard index; and

HQ = hazard quotient for the i^{th} air toxic.

If a hazard index is less than 1, noncancer health effects are not expected for people exposed to the air toxics. However, when the hazard index is greater than 1, noncancer health effects are possible, but not certain.[21] A hazard index of 1 (without rounding down to one significant figure) for each health point is consistent with historical use within Minnesota. For other acceptable risk levels there may have been some uncertainty or variability accounted for in the acceptable risk level. However, in this case there is very little uncertainty in the effects on a given health endpoint. Since there is more certainty of the impact of an air toxic on a given health point, the MPCA has set the acceptable risk level to 1 (without rounding down to 1 significant figure) for each health point. It is reasonable to specify an acceptable risk level that is consistent with historical practice within Minnesota.

Item D, subitems (1) to (4) require clarification on rounding and significant figures due to the precision in the data included in a final air emissions risk analysis (AERA) risk estimate. Standard rules for rounding apply which will commonly lead to an answer of one significant figure in both risk and hazard estimates. Hazard quotients, hazard indices, and cancer risk estimates are usually reported as one significant figure for presentation and summary purposes. The MPCA recommends rounding only the final reported results, not the intermediate calculations. In some circumstances there may be enough information to report single pollutant risk estimates to more than one significant figure. This may be the case when there is a toxicity value with low uncertainty, facility specific toxicity value, and nearby meteorological data. However, this is case specific and the MPCA will need to review the work. Tables showing risk calculations may also require more than one significant figure to represent the calculations transparently. More than one significant figure needs to be used in these circumstances.

Item E required the owners and operators to submit the results of the air emissions risk analysis in a report, in a format approved by the commissioner. This is needed because it ensures the owners and operators submit the information that is germane to the analysis that the commissioner would evaluate as part of the cumulative impacts analysis. Additionally, the results of this analysis are needed to evaluate air pollution under Minn. Stat. § 116.065, subd. 1(c). This is reasonable because this information is used in determining whether issuing the requested permit action would have a substantial adverse impact to the environment or the health of residents of the impacted EJ area.

Item F requires that the air emissions risk analysis report demonstrates whether the stationary source will cause or contribute to an exceedance of any acceptable risk levels identified in item D. The air emission risk analysis is used to understand the potential air pollution impacts. Identifying this information is needed and reasonable because this information is used in determining whether issuing the requested permit action would have a substantial adverse impact to the environment or the health of residents of the impacted EJ area.

PART 7007.6100 – SUBSTANTIAL ADVERSE IMPACTS

Justification for part 7007.6100

The intent of this part is to fulfill the requirements of Minn. Stat. § 116.065, subd. 6(c)(3), which requires the MPCA to define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact.

Minn. R. 7007.6100 establishes the requirements for the Agency's determination of whether issuing a permit would have a substantial adverse impact on the environment or health of the residents of an EJ area, which will impact the Agency's decision on whether to issue or deny a permit and whether a CBA is

required. This part identifies the information, conditions, and criteria the MPCA will consider and use to determine if an environmental or health impact qualifies as a substantial adverse impact. This part also identifies the process for addressing when there is insufficient information to make this determination and when the Agency must post documents related to the determination of substantial adverse impacts.

In general, it is reasonable to establish the necessary requirements in rule to fulfill the statutory obligations specified in Minn. Stat. § 116.065.

Subpart 1. Substantial adverse impacts determination

Subpart 1 establishes when issuing the requested permit action would result in a substantial adverse impact and what information the commissioner must consider to determine whether an environmental or health impact is a substantial adverse impact. This provides an understanding of how the MPCA determines that a cumulative impacts analysis indicates issuing a permit would have a substantial adverse impact to the environment or the health of the residents of the impacted EJ area.

Item A establishes three circumstances where issuing the requested permit action would result in a substantial adverse impact to the environment or the health of the residents of the impacted EJ area. These circumstances are explained in subitems (1) through (3) below.

Subitems (1) and (2) establish the criteria and conditions where issuing a permit would have a substantial adverse impact based on air quality modeling and air emissions risk analyses required as part of a cumulative impacts analysis. It is reasonable to require the commissioner to determine a substantial adverse impact based on these criteria as they establish impact thresholds intended to be human-health and environment protective, and/or the impact threshold at which cumulative impacts amplify to a significant level.

Subitem (1) establishes that issuing a permit would have a substantial adverse impact if the results of the air quality modeling analysis required under part 7007.6090, subpart 4 indicate that emissions from the stationary source result in a contribution to modeled air pollution concentrations of criteria air pollutants that are greater than or equal to fifty percent of any NAAQS at any modeled receptor. Using a benchmark based on NAAQS is reasonable because NAAQS are extensively researched human health-based standards. NAAQS are created for criteria air pollutants (currently ozone, particulate matter, carbon monoxide, sulfur dioxide, nitrogen dioxide, and lead) by the U.S. EPA through a lengthy, science-driven, public process that involves reviewing scientific literature, assessing health risks and allowing public comment before final decision-making. NAAQS are reviewed and new standards are proposed on a cycle every 5 years, ensuring that the standards continue to protect human health and the environment. The air quality modeling analysis required under part 7007.6090 subpart 4 also provides a means to separate facility contributions when multiple stationary sources are present. Setting the substantial adverse impact criteria for the criteria air pollutant emissions from a facility at 50% of the NAAQS/Minnesota ambient air quality standards(MAAQS) is reasonable because it ensures that no single facility can emit greater than the majority of allowable criteria air pollution to the surrounding area. The MPCA chose to set the threshold at 50% because it provides a simple methodology to determine whether a source is a majority contributor to the allowable air pollution concentrations established in the NAAQS and MAAQS. This value is human health protective, as it is lower than the NAAQS and MAAQS and ensures that no single source may emit air pollution at concentrations near levels that cause significant risk to human health and the environment.

Subitem (2) establishes that issuing a permit would have a substantial adverse impact if the results of the AERA required under part 7007.6090, subpart 5 indicate that emissions from the stationary source result in a predicted maximum ambient impact that exceeds the acceptable risk levels listed in part 7007.6090, subpart 5, item D, subitems (1) to (4). It is reasonable to use acceptable risk thresholds from the AERA as these values are derived from thorough review of current and available scientific literature

of the toxicity of applicable air toxics to human health conducted by the MDH. The toxicity values used to derive human health risk values in the AERA are chosen to conservatively protect human health and the environment. The acceptable risk values are the standard risk values used in air emission risk analyses conducted by the MPCA. The acceptable risk levels are reasonable because they are considered to be human-health protective with consideration to multiple exposure pathways and exposure durations. The acceptable risk values are derived from toxicity values in the scientific literature for each chemical included in the analyses in collaboration with the MDH. Thus, it is reasonable to require that the modeled emissions emitted from the stationary source must be at or below these acceptable risk levels to protect health and the environment in EJ areas.

Subitem (3) establishes that issuing a permit would have a substantial impact if the commissioner determines that an environmental or health impact identified in the cumulative impacts analysis is a substantial adverse impact. This is needed to identify additional circumstances where an impact is a substantial adverse impact beyond those determined through an air quality modeling analysis and an air emission risk analysis. As defined in Minn. Stat. § 116.065, subd. 1(c), cumulative impacts include more than just the impacts of air pollution. The intention of this subpart is to clearly identify that if the commissioner determines an environmental or health impact identified in a cumulative impacts analysis for a requested permit action is a substantial adverse impact, then issuing the permit would have a substantial adverse impact to the environment or the health of residents of the impacted EJ area. Criteria for how the commissioner determines whether an environmental or health impact is a substantial adverse impact are described later, but this subitem is needed to enable the commissioner to evaluate these impacts and determine whether issuing a permit would have a substantial adverse impact. It is reasonable to clearly identify the circumstances where issuing a permit would have a substantial adverse impact.

Item B establishes and identifies the information, listed in subitems (1) to (6), the commissioner must consider in determining whether an environmental or health impact is a substantial adverse impact. Subitem (1) identifies the requested permit action, Subitem (2) identifies the cumulative impacts analysis required for the requested permit action. Subitem (3) identifies the environmental stressors present in the impacted EJ area. Subitems (4) and (5) identify the comments received during the public participation required under part 7007.6080 and the responses to those comments prepared by the owners and operators. Subitem (6) identifies the socioeconomic impact of the stationary source to residents of the impacted EJ area. Subitems (1) to (6) are needed to clearly identify the scope of information that the commissioner must consider in making a substantial adverse impact determination. Minn. Stat. § 116.065, subds. 5(a) and 5(b) give some direction in what information has to be considered by identifying the cumulative impacts analysis, testimony and comments submitted in public meetings, the environmental stressors present in an EJ area, and the socioeconomic impact of the facility as part of the information the commissioner must consider in determining whether to issue or deny a permit.

It is reasonable to reiterate that the commissioner must consider the information identified in Minn. Stat. § 116.065, subd. 5 both because the statutory language requires the commissioner to consider that information and because the information will contain the relevant information to identify and understand the impacts of issuing a requested permit action. The addition of considering the responses to comments prepared by the owners and operators identified in subitem (5) is needed and reasonable due to the logical connection between interested parties providing comments and how those comments are considered. For example, a commenter may identify concerns regarding certain environmental or health impacts they believe are associated with the stationary source. The response prepared by the owners and operators may contain relevant information regarding that impact such as what they already do to help address the impacts or concerns identified by the commenter. Overall, it is reasonable for the commissioner to consider the collection of this information to perform a thorough consideration of whether issuing a permit would result in a substantial adverse impact

Item B also establishes that the commissioner must evaluate the environmental or health impact using the criteria listed in subpart 2 to determine whether an environmental or health impact is considered a substantial adverse impact. This is needed to clearly identify how the commissioner will consider and evaluate the identified environmental or health impacts. It is reasonable to require an evaluation of impacts using the criteria listed in subpart 2 because it helps the commissioner make an informed, impact focused, determination for when a requested permit action would have a substantial adverse impact to the environment or the health of residents of the impacted EJ area.

Subpart 2. Criteria describing a substantial adverse impact; other impacts

Subpart 2 is established to identify additional criteria beyond air emission modeling and risk analysis required to determine if an environmental or health impact is a substantial adverse impact. This is needed to identify specific criteria that provide a greater understanding of impacts that must be considered in making a determination of if a substantial adverse impact would occur. Cumulative impacts result from the interactions of many community and environmental factors beyond air quality. It is reasonable to require additional criteria beyond air emission modeling and risk analyses in order to understand how a requested permit action may impact and interact with other human health and environmental impacts. This subpart differs than the criteria presented in subpart 1, item A, subitems (1) and (2) because there are no well-established numerical impact thresholds for many possibilities of the potential environmental and health impacts that could be identified in a cumulative impacts analysis. As such, environmental and health impacts must be evaluated qualitatively rather than quantitatively. It is reasonable to require different criteria for a qualitative impact determination because the information required to make a determination varies in scope, availability, and data types. The criteria for this determination are based on the criteria from the Decision of Need for Environmental Impact Statement rules under Minn. R. 4410.1700, subp. 7 that apply when the commissioner is deciding whether a project has the potential for significant environmental effects in determining whether the project requires an Environmental Impact Statement. It is reasonable to base the criteria for determining substantial adverse impacts on the Environmental Impact Statement rules because of a similar focus on considering the significance of cumulative potential effects from a project.

Item A establishes that the type, extent, and reversibility of environmental and health impacts must be considered as criteria of a substantial adverse impact. Environmental and health impact types are needed to distinguish between environmental or human health risk for proper consideration. This is needed because environmental or health impacts vary in the severity of damage depending on the type, extent or reversibility. For example, the negative impacts of chemical stressors on human health and the environment are primarily dependent on the chemical type, extent (dose or concentration) and exposure (time). The reversibility of chemical stressors is important to consider because some chemicals may bioaccumulate or persist in the environment for long periods of time before breaking down or changing form, resulting in potentially longer exposure times or increased concentrations over time. The type, extent and reversibility of all impacts is needed for complete consideration of the total impact of issuing the permit.

Item B establishes that cumulative impacts must be considered, and what it must include, to determine if an environmental or health impact is a substantial adverse impact. This is needed because it is required as a core component of the cumulative impact analysis.

Subitem (1) requires that the significance of the cumulative impact must be considered. As described in the reasonableness for item A, cumulative impacts can vary in their severity of impact to human health and the environment just as an individual impact can vary in severity. Each cumulative impact analysis will be unique in complexity with potential for co-occurring impacts that may have increased negative cumulative effects based on other environmental and health impacts occurring in the same area. In combination with subitem (2), this is needed to allow the commissioner to consider both individual and

multiple impacts that may be occurring in the same area. This is necessary to understand the magnitude and extent of the cumulative impacts on the environment or human health and whether the cumulative impact may be, or contributes, to a substantial adverse impact. It is reasonable to consider the significance of an impact both on its own and cumulatively with other impacts.

Subitem (2) requires the commissioner to consider the contributions of the requested permit action in connection with other contributions to the cumulative impact, and whether the contributions from the requested permit action are significant when considered in connection with other contributions. Other contributions to the impact will vary, but could include contributors such as other stationary sources, nearby roadways, construction, and other actions or activities that may contribute to an environmental or health impact associated with the environmental or health impacts of the requested permit action. This is necessary to understand how the requested permit action may interact with existing or potential contributions to cumulative impacts. This is essential for determining if the requested permit action would result in increased cumulative impacts that would contribute to a substantial adverse impact finding or determination. It is reasonable to require the significance of the contribution of requested permit action in determining if there is a substantial adverse impact because the requested permit action may or may not have significant effects on the cumulative impacts on human health or the environment. Each cumulative impact analysis will be unique in complexity with potential for co-occurring impacts that may have increased negative cumulative effects based on other environmental and health impacts occurring in the same area. In combination with subitem (1), this is needed to allow the commissioner to consider both individual and multiple impacts that may be occurring in the same area. Furthermore, it is reasonable to consider the significance of the requested permit action contribution in order to understand the full range of potential effects and if mitigation or control strategies would be beneficial in lowering the magnitude and extent of cumulative impacts.

Subitem (3) requires the commissioner to consider the degree to which the measures proposed by the owners or operators in the requested permit action, or measures required by a regulatory authority, are specifically designed to eliminate, minimize, or mitigate the cumulative impact, when considering cumulative impacts to determine whether an environmental or health impact is a substantial impact. This is necessary to understand the complete range of potential impacts of the requested permit action and whether it is possible to eliminate, minimize or mitigate the cumulative impact. This is needed to provide context for the requested permit action and whether the owners or operators will be implementing proposed measures, and if so, how well these measures will reduce potential impacts. It is reasonable to consider control measures and how they will reduce contributions to potential impacts.

Subitem (4) requires that the efforts of the owners or operators of the stationary source to eliminate, minimize, or mitigate the contributions from the requested permit action be considered in determining whether the cumulative impacts resulting from the requested permit action would result in a substantial adverse impact. This is necessary to determine the degree to which elimination, minimization and/or mitigation and potential cumulative impacts have been considered by the owners or operators of the stationary source. Understanding the degree of effort may increase understanding necessary in deciding whether further effort may be required or possible by the owner or operator in seeking elimination, minimization or mitigation of the requested permit action impact on cumulative impacts. This is reasonable because it provides an opportunity to consider if all conceivable elimination, minimization or mitigation strategies have been considered by the owner or operator or whether further actions may be possible that would avoid a substantial adverse impact determination.

Item C requires that the commissioner consider the extent to which the impacts are subject to mitigation by ongoing public regulatory authority when determining if the impact(s) of a requested permit action would result in a substantial adverse impact. This is needed to provide a broad context of potential impacts, across environmental media, and how the impacts may be affected by other

regulatory authorities. It is reasonable to consider all of the mitigation efforts involved in evaluating potential impacts of the requested permit action. Item C also establishes that the commissioner may only rely on mitigation measures that are specific and are expected to mitigate the identified impacts of the requested permit action. This is necessary as it requires that any mitigation strategies proposed must be subject to mitigation by ongoing public regulatory authority in order to ensure fairness, safety, and compliance with laws, monitoring activities, and enforcement of standards to protect the public and promote good governance. This is reasonable as the ongoing public regulatory authority has the ability and responsibility to participate in the mitigation process in order to ensure compliance.

Item D establishes that the extent to which impacts can be anticipated and controlled as understood or explained by existing and available environmental and health studies undertaken by public agencies or the owners or operators of the stationary source, including other cumulative impact analyses, is a consideration in determining if the impact(s) of a requested permit action would result in a substantial adverse impact. Environmental or health studies can identify potential health effects, stressors, and other information. Other cumulative impacts analyses can also be a source of information. This is needed to include consideration of additional sources of information to inform the decision. It is reasonable to require consideration of additional information to determine whether a cumulative impacts analysis is required. This is necessary to ensure that the impacts are understood as completely as possible by utilizing the best science and information currently available. It is necessary and reasonable to require as complete an understanding as possible of the impacts that is available from current scientific knowledge to support a fair determination of if a substantial adverse impact would occur. Additionally, this is reasonable to ensure that all possible sources are considered to aid in understanding conflicting information, interpretations and conclusions that may occur.

Item E requires that the environmental stressors present in the impacted EJ area and how they may increase the magnitude of adverse environmental or health impacts must be considered in determining whether the requested permit action may result in in a substantial adverse impact. This is critical to understand as environmental stressors may make residents of an area susceptible to the harms of pollution and environmental and health impacts may have increased negative effects due to the presence of environmental stressors in the impacted EJ area. Existing impacts of environmental stressors may lower the resiliency of human health and the environment, and further impacts may cause more harm with the additional impacts of the proposed permit action. This is necessary to consider as each permit will be unique in location, requested action, and subsequent potential impact. Areas that are burdened by preexisting significant human health and environmental impacts may not have the capacity for any additional impacts or an increase in impacts. This is reasonable and necessary in order to understand the current environmental stressors present in an impacted EJ area and how any impacts from the requested permit action may magnify the environmental stressors present in the impacted EJ area, which will help determine whether an environmental or health impact is a substantial adverse impact.

Subpart 3. Insufficient information

Subpart 3 establishes when there is insufficient information for the MPCA to make a substantial adverse impact determination and the process to be followed to obtain that information. This subpart states that if the commissioner determines there is insufficient information to make a substantial adverse impact determination, but the information could be obtained, the commissioner must provide written notice to the owners and operators, including a brief description of the lacking information, and require the owners and operators to submit the lacking information by the time specified in the notice. This is needed to ensure all required information is received by the commissioner. It is reasonable to require owners or operators to provide information needed to inform the commissioner's determination of whether an environmental or health impact is a substantial adverse impact. It is reasonable to provide a

notice and deadline when the lacking information is identified as crucial to the determination. It is reasonable to allow the owners or operators a period of time to provide additional information because it may make it possible to make a decision of whether a substantial adverse impact would occur.

Subpart 4. Decision document; substantial adverse impacts determination
Subpart 4 requires the commissioner to prepare a written document outlining the Agency's determination regarding whether the permit, if issued, would have a substantial adverse impact on the environment or health of residents of the impacted EJ area. This document must contain the reasons for the commissioner's determination. The document must describe the information that was considered in making the decision and how the information was weighed. This is needed to provide transparency to the decision process and to ensure any determination and associated reasoning is shared publicly. It is reasonable to document, share, and provide notice of the determination to residents of the area, the public, owners and operators, and any other interested parties. This subpart also requires that commissioner must post the document on the MPCA website within 30 calendar days of the determination. This allows transparency of the decision with the public and is a reasonable timeframe to collect all materials and create and review the decision document.

Subpart 5. Substantial adverse impact avoidance and mitigation
Subpart 5 establishes an opportunity and process for considering impact avoidance and/or mitigation efforts that will avoid or minimize negative impacts and can be incorporated as a permit requirement in order to avoid substantial adverse impact.

Item A establishes if the commissioner determines that issuing the permit for the requested permit action would have a substantial adverse impact on the environment or the health of the residents of the impacted EJ area, that the owners and operators may identify and analyze additional emission limits, operational conditions, control measures, or other measures to avoid, minimize, or reduce the negative impacts of the stationary source to the environment or the health of residents of the impacted EJ area. It is needed and reasonable to allow the opportunity for the owners and operators to identify and analyze emission limits, operational conditions, control measures, or other measures that would result in no substantial adverse impacts, and to allow those measures to be incorporated into the revised permit application before proceeding to the CBA, thus saving the facility and MPCA time and resources while protecting the health of the environment and residents of the impacted EJ area.

Item B establishes that the owners or operators may incorporate the measures identified in item A into the requested permit action and revise the cumulative impacts analysis to include the measures identified. It is needed and reasonable to require the measures to be incorporated into the permit so that a substantial adverse impact is avoided to protect the human health and environment of the EJ area.

Item C establishes that if the owners and operators revise the requested permit action and cumulative impacts analysis to incorporate the measures identified in item A, and the commissioner determines that the revised cumulative impacts analysis demonstrates that issuing the permit for the requested permit action would not have a substantial adverse impacts on the environment or the health of the residents of the impacted EJ area, the owners and operators are not required to prepare a CBA according to part 7007.6110. This is needed and reasonable as the incorporation of these measures would result in no substantial adverse impacts, thus eliminating the need for a CBA.

PART 7007.6110 – COMMUNITY BENEFIT AGREEMENTS

Justification for part 7007.6110
The intent of this part is to fulfill the requirements of Minn. Stat. § 116.065, subd. 6(c)(4)(i) through (iii),

which requires the MPCA to establish the content and procedures for entering into a CBA, including outreach and engagement with residents of the impacted EJ area and consideration of benefits. If the CBA does not comply with this part, it does not meet the rule requirements and cannot be entered into by the commissioner.

Minn. R. 7007.6110 establishes the content of a CBA and the procedures for entering into CBAs. This part identifies the outreach and engagement requirements needed as part of the procedures to enter into a CBA alongside the public participation requirements established in part 7007.6080. This part also identifies when owners and operators must submit a CBA, how the MPCA will determine whether to enter into a CBA with the owners and operators of a stationary source, the process for addressing when there is insufficient information to make this determination, and when the Agency must post documents related to the determination of whether to enter into a CBA.

In general, it is reasonable to establish the necessary requirements in rule to fulfill the statutory obligations specified in Minn. Stat. § 116.065.

Subpart 1. Applicability

Subpart 1, Item A, subitems (1) and (2) require an owner or operator to prepare a CBA when a cumulative impact analysis is completed under part 7007.6090 and demonstrates that issuing the permit would have substantial adverse impacts on the impacted EJ area pursuant to part 7007.6100. This is needed to meet the requirements of Minn. Stat. § 116.065, subd. 5(b), which require the MPCA to deny a permit if the cumulative impact analysis and other considerations demonstrate a substantial adverse impact, and the owners and operators are unable to enter into a CBA. Under Minn. Stat. § 116.065, subd. 5(c), if there are substantial adverse impacts, the commissioner may only issue a permit if the owner and operator enter into a CBA that imposes conditions on the construction and operation of the facility to protect public health and the environment. It is reasonable to require the owners and operators to prepare a CBA prior to permit issuance for the requested permit action because the statute does not allow the MPCA to issue a permit without entering into a CBA with the owners and operators if the cumulative impacts analysis determines that issuing the permit will result in substantial adverse impacts. It is also reasonable to require the owners and operators to prepare the CBA because the owners and operators are responsible for the associated public meetings, complying with the CBA, and have the best understanding about what benefits they can provide through a CBA. Additionally, it is reasonable to require the owners and operators of a stationary source to prepare a CBA when the cumulative impacts analysis demonstrates that issuing a permit for the requested permit action will have substantial adverse impacts because issuing a permit for the requested permit action could cause or contribute to health or environmental impacts that the residents of the impacted EJ area experience. The CBA potentially provides the owners or operators and the residents of the impacted EJ area with a way to address cumulative impacts in the area.

The MPCA also considered whether to allow the impacted EJ area residents or the MPCA to prepare the CBA, and determined that because the CBA is similar to a permit application, in that the owners and operators are proposing what they will do in order to meet the requirements of the rule and statute, the owners and operators should prepare the CBA. Additionally, MPCA staff heard feedback at the early stages of rule development that the current regulatory process is already cumbersome and slow, and that the MPCA should define the CBA process, including the steps and the expected timelines associated with each step. To address this, MPCA lists out the CBA process and associated requirements in this part. The expected timelines associated with each step in the process are not defined because specifying timelines for each step is too restrictive. Each CBA will be different, based on the impacted EJ area residents' needs, the stressors present, and the stationary source's impact, so it is not practical to expect every CBA to adhere to the same timeline. By requiring the owners and operators to prepare the CBA, it allows them some control over the timeline.

Item B states that an owner or operator of a stationary source that requests to modify a CBA previously approved under this part, must prepare and submit a request to modify a CBA, in a format specified by the commissioner, that complies with this part 7007.6115. It is reasonable to require owners and operators that request to modify a CBA to comply with part 7007.6115 because the CBA is required to be developed with community input and is intended to provide benefits to residents of the impacted EJ area. This item is necessary to ensure that if the owners and operators wish to modify the CBA, the community is aware of and actively involved in the development of a modified CBA.

Subpart 2. Public outreach and engagement

Subpart 2 establishes outreach and engagement that must be conducted by an owner or operator when a CBA is required. Minn. Stat. § 116.065, subd. 6(c)(4) requires the MPCA to establish procedures for entering into a CBA, which must include:

(i) "active outreach to residents of the impacted environmental justice area designed to achieve significant community participation."

To comply with this, subpart 2 includes multiple outreach and engagement opportunities for the owners and operators to complete, and through these outreach and engagement opportunities, provide residents of the impacted EJ area opportunities to give the owners and operators input and feedback on what is important to them to be included in a CBA.

Item A states that an owner or operator must conduct outreach and engagement that is designed to achieve significant community involvement and provide residents of the impacted EJ area with opportunities to participate during the preparation of a CBA using the methods in this subpart. It is reasonable to require that owners and operators must conduct outreach and engagement to achieve significant community involvement and provide opportunities to participate during the preparation of a CBA in accordance with this subpart so that residents of the impacted EJ area and interested persons are made aware that a CBA is required and they understand how to participate in the process to prepare a CBA. The minimum requirements in items A through C ensure that the necessary information is shared with residents of the impacted EJ area and other interested parties and there is consistency in the preparation of CBAs so residents of the impacted EJ area and other interested parties know what to expect. By requiring outreach and engagement, residents of the impacted EJ area and other interested parties are provided an opportunity to collaborate with owners or operators in determining ways that the owners or operators can help to address disproportionate impacts or other needs of the residents of the impacted EJ area. The collaboration process for a CBA is an opportunity for owners or operators to understand and address the concerns of the impacted EJ area residents.[34] Additionally, an effective CBA cannot be created without involving the residents that the CBA will serve. Community awareness and understanding of a CBA and the associated process are necessary for a CBA to be successful, and doing outreach and engagement to familiarize community with the CBA and process is important to ensure meaningful community participation.[35]

Item B is added to clarify that owners or operators must comply with the public participation requirements described in part 7007.6080. It is reasonable to clarify that owners and operators must comply with the requirements pursuant to public participation (part 7007.6080) because it establishes procedures for active outreach to residents of the impacted EJ area, which is required by Minn. Stat. § 116.065, subd. 6(c)(4)(i) for entering into a CBA.

Item C is added to clarify that an owner or operator must distribute printed informational material by mail to all addresses located in the impacted EJ area and subitems (1) through (6) specify the

[34] *https://scholarship.law.columbia.edu/sabin_climate_change/206/.*
[35] *https://www.wri.org/insights/community-benefits-agreements-us-clean-energy.*

requirements for the printed informational material. It is reasonable to require the owners and operators to distribute printed informational material to all addresses located in the impacted EJ area because it establishes a procedure for active outreach to residents of the impacted EJ area, which is required by Minn. Stat. § 116.065, subd. 6(c)(4)(i) for entering into a CBA. Additionally, some residents may be housebound, or for other reasons, may not see other forms of communication distributed throughout the impacted EJ area, and requiring distribution of printed informational material by mail ensures this information reaches these audiences. It is also reasonable to clarify the requirements for the printed informational material because it ensures that the necessary information is shared with residents of the impacted EJ area and other interested parties, and that there is consistency in printed informational material.

Subitem (1) states that printed informational material must be in English and any one or more other languages representative of the impacted EJ area. It is reasonable to require that printed informational material be in English and any one or more other languages representative of the impacted EJ area because many EJ areas, compared to non-EJ areas, have a high number of residents with limited English proficiency. Minn. Stat. § 116.065 subd. 1(e)(1)(iii) specifies that one of the defining criteria for a census tract being identified as an EJ area is, “40 percent or more of the population over the age of five has limited English proficiency.” Requiring that printed informational material be in English and any one or more other languages representative of the impacted EJ area increases the number of residents receiving meaningful outreach that they can understand and may result in increased resident participation in the preparation of a CBA.

Subitem (2) specifies that printed informational material must state the need for residents’ comments in developing a draft CBA, and in identifying benefits to be included. It is reasonable to require that printed informational material states this, so that it is clear to the residents of the impacted EJ area why their participation is needed and how they can contribute to the development of a CBA. Providing this information may result in increased resident participation in the preparation of a CBA

Subitems (3) and (4) state that printed informational material must include the name and location of the stationary source, and a contact person and their information or a website where additional information may be obtained. It is reasonable to require that printed informational material states this information so that it is clear which stationary source is developing a CBA, and where additional information may be obtained. Providing this information allows residents the opportunity to research and prepare prior to the meeting specified in subitem (5), which may result in increased resident participation in the preparation of a CBA. Additionally, this information is also required in another part of the rule (part 7007.0850, subpart 2) for public notices and including similar requirements in this part provides consistency across rules.

Subitem (5) states that printed informational material must include the date, time, and location of the applicable public meeting required under part 7007.6080, subpart 4, item B, subitem (1). It is reasonable to require that printed informational material includes meeting information so residents of the impacted EJ area are made aware of the meeting. Providing this information allows residents to plan to attend the meeting, which may result in increased resident participation in the preparation of a CBA. Additionally, this information is also required in another part of the rule (part 7007.0850, subpart 2) for public notices and including similar requirements in this part provides consistency across rules.

Subitem (6) states that printed informational material must be distributed by deposit in United States mail, with postage prepaid, at least 30 days before the date of the applicable meeting required under part 7007.6080, subpart 4, item b, subitem (1). It is reasonable to require that printed informational material be distributed in United States mail, with postage prepaid, to ensure that the information reaches the intended recipients in a timely manner. Additionally, United States mail has an online tool,

Every Door Direct Mail[36], that allows for mailing of information to all addresses in a neighborhood. Owners or operators are not required to use this tool, but this is a broadly used tool that businesses use to distribute information to residents at all addresses in a neighborhood without having to do the work to obtain address lists. Utilizing this tool also provides documentation for the stationary source to demonstrate that printed informational material was distributed to all addresses in the impacted EJ area. It is also reasonable to require that printed informational material be distributed at least 30 days before the meeting required to ensure that recipients are given adequate time to plan and prepare to attend the meeting. Providing time to plan and prepare is important to achieving significant meeting attendance and participation.

Item D states that an owner or operator may hire a third party to assist in planning and facilitating outreach and engagement. It is reasonable to allow owners and operators to hire a third party to assist in planning and facilitating outreach and engagement because owners and operators may not have the expertise or resources to conduct effective outreach that results in meaningful community engagement. Additionally, during MPCA outreach and engagement conducted throughout stages of the rule development, participants expressed both concerns with and support for owners and operators facilitating outreach. To address the concerns with owners and operators planning and facilitating outreach, the rule allows hiring a third party to plan and facilitate outreach. In stating that owners and operators may hire a third party to conduct outreach and engagement, this allows the owners and operators flexibility in determining the best approach for conducting outreach and engagement in the impacted EJ area.

Subpart 3. Community benefit agreement elements

Subpart 3 establishes the information that must be included in a CBA. Minn. Stat. § 116.065, subd. 6(c)(4) requires the MPCA to establish the content of a CBA. To comply with this, the MPCA is proposing specific information that must be included in a CBA. This information, to be included in the agreement, was chosen to ensure that the CBAs clearly convey the potential impacts and benefits to residents of the impacted EJ area.

Subpart 3, items A through J state what, at a minimum, a CBA must include. It is reasonable to specify what must be included in a CBA so that it is clear to owners and operators and residents of the impacted EJ area and other interested parties about what must be included in a CBA to comply with the rule. Providing this clarity will help owners and operators and residents to prioritize topics and efficiency for the CBA-specific public meetings, and it will allow the MPCA to more efficiently review a proposed CBA.

Item A requires that the CBA includes a description of the requested permit action that will have a substantial adverse impact on the environment or the health of the residents of the impacted EJ area. It is reasonable to require a description of the requested permit action be included so that residents of the impacted EJ area understand what the requested permit action is for and what triggered the need for a CBA. The applicant is already expected to provide this information as part of its permit application, so this is not an additional burden on owners and operators.

Item B requires that the CBA includes the potential and expected impacts of the requested permit action, both positive and negative, to the environment or the health of residents of the impacted EJ area. It is reasonable to require that positive and negative impacts be included in the CBA so that residents of the impacted EJ area understand how the environment and the health of their community could be affected by the requested permit action. Additionally, this information is important for residents to have because it will help them to identify what community benefits they feel are necessary to be included in the CBA.

[36] *https://www.usps.com/business/every-door-direct-mail.htm.*

Item C states that the CBA must include community benefits according to subpart 4, which specifies how benefits are determined, considered, and prioritized. It is reasonable to clarify that included benefits must comply with subpart 4 of this part so owners and operators and residents are aware that benefits must comply with the requirements described in the rule.

Item D requires that the CBA include a description of both positive and negative effects generated, whether direct, indirect, or cumulative, for each community benefit included and considered for inclusion. It is reasonable to require that a description of the expected effects of benefits be included in the CBA because the Environmental Quality Board requires a similar format in rule (Chapter 4410.2300) for Environmental Impact Statements and MPCA is adapting that format to apply in this rule, which provides consistency across rules. It is reasonable to require the owners and operators to include a description of each benefit included in the CBA so that residents of the impacted EJ area understand how the environment and the health of their community may be affected, positively and negatively, by each benefit. It is also reasonable to require that the owners and operators must include a description of the benefits that were considered for inclusion in the CBA so that residents that suggested benefits and were involved in the process to develop a CBA are provided assurance that their requests were considered. This supports transparency, which is key in building trust and developing a CBA that effectively addresses residents' concerns and needs.[37]

Item E requires that the CBA include expected timelines for starting and completing construction, or implementation, of the requested permit action. It is reasonable to require that a timeline for the requested permit action be included, so that the impacted EJ area residents are informed of changes taking place that may affect the environment and the health of their community. This supports transparency, which is key in building trust and developing a CBA that effectively addresses residents' concerns and needs.[38]

Item F requires that the CBA include timelines for starting and completing construction, or implementation, of community benefits and the duration of each community benefit, if applicable. The rule language states that timelines are required for construction, or implementation, of community benefits because not all benefits will require physical construction. Some benefits may be in the form of policies or nonphysical benefits, such as providing subsidies or funding to community members, and it is reasonable to include language in rule that encompasses the different benefit types. It is reasonable to require that timelines for community benefits be included in the CBA so that the impacted EJ area residents and the MPCA are aware of when community benefits can be expected. Additionally, by requiring timelines for community benefits, it helps to ensure that owners and operators are accountable to those timelines in the CBA. It is reasonable to require that the duration of each community benefit, if applicable, be included in the CBA so that it is clear to the owners and operators, residents, and the MPCA of how long community benefits are expected to be provided. It is important to consider the scope and duration of owners and operators' responsibility.[39] Specifying this information helps to prevent misunderstanding and potential conflict over the duration of community benefits.

Item G requires that the CBA include, if a community benefit results in a permanent physical structure or objects, identification of the party that will have legal ownership of the structure or objects upon completion and the party responsible for applicable taxes and maintenance. It is reasonable to require that legal ownership and the party responsible for applicable taxes and maintenance of physical community benefits be specified in the CBA so that it is clear to the owners and operators, residents,

---

[37] *https://www.dataforprogress.org/blog/2022/7/5/community-benefits-agreements-offer-meaningful-opportunities-to-include-voters-voices-in-development.*

[38] *https://www.dataforprogress.org/blog/2022/7/5/community-benefits-agreements-offer-meaningful-opportunities-to-include-voters-voices-in-development.*

[39] *https://digitalcommons.tourolaw.edu/scholarlyworks/474/.*

and the MPCA of who has final ownership and ongoing financial responsibility of physical community benefits. It is important to consider the owners and operators' financial obligation, as well as if and what party community benefit ownership transfers to.[40] Specifying this information helps to prevent misunderstanding and potential conflict over community benefits that have financial and maintenance needs after the conditions of a CBA have been met.

Item H requires that the CBA specifies reporting and notification requirements according to subpart 5, which outlines the reports and notifications that must be included in the agreement. Item G also requires that the CBA specifies that additional reporting requirements must consider the input or comments provided through public participation according to part 7007.6080. It is reasonable to clarify that reporting requirements must comply with subpart 5 of this part so that owners and operators are aware of the minimum reporting requirements to comply with the rule. It is also reasonable to specify that additional reporting requirements must consider the input or comments provided through public participation to ensure that community is being listened to and that the residents of the impacted EJ area receive the information and updates on the CBA that are important to them. Reporting requirements are a key element of a CBA,[41] and providing this information helps to support transparency and builds trust with community.

Item I requires that the CBA must include details describing how each community benefit, identified in item C, will be deemed complete or fully implemented, and that how a benefit is deemed complete or fully implemented must consider the input or comments provided through public participation according to part 7007.6080. It is reasonable to require that details describing how each community benefit will be deemed complete or fully implemented be included in the CBA so that the owners and operators, residents of the impacted EJ area, and the MPCA are aware of what the expected result is for each community benefit. Including measurable terms for completed community benefits contributes to an effective CBA,[42] by helping to prevent misunderstanding and potential conflict over the results of completed community benefits. It is also reasonable to clarify that details of how a benefit will be deemed complete or fully implemented must consider the input or comments provided through public participation to ensure that community is being listened to and that the community benefits meet the expectations of residents of the impacted EJ area.

Item J requires that the CBA includes other information or requirements, as determined by the commissioner, that considers the input or comments provided through public participation under part 7007.6080. It is reasonable to require that other information or requirements be included in the CBA because it provides flexibility to owners and operators and residents to include or request information that is not specified in this subpart. Each community is different, and the residents of the impacted EJ area have the most knowledge about what their communities need, and allowing residents to request other information to be included in the CBA helps to address nuances between communities.

Subpart 4. Community benefits

Subpart 4 establishes considerations and requirements for community benefits. Minn. Stat. § 116.065, subd. 6(c)(4) requires the MPCA to establish the content of a CBA, which must include:

> (ii) "considerations other than or in addition to economic considerations, but with priority given to considerations that directly impact the residents of the environmental justice area;"

To comply with this, subpart 4 specifies what must be considered and prioritized in choosing community benefits to be included in a CBA.

[40] *https://digitalcommons.tourolaw.edu/scholarlyworks/474/.*
[41] *https://www.energy.gov/sites/default/files/2024-12/CBA%20Guidance%20FAQ.pdf.*
[42] *https://www.fhwa.dot.gov/ipd/value_capture/vcsp/fhwa_hin_21_001/ch_3.aspx.*

Item A, subitems (1) and (2) are added to clarify who may suggest community benefits and that community benefits must be discussed during public meetings. It is reasonable to clarify the requirements for community benefits because it prevents confusion by clearly identifying the parties that may suggest community benefits and the process for vetting community benefits.

Subitem (1) is added to clarify that community benefits may be suggested by residents of the impacted EJ area, any interested persons, the owners or operators, and the commissioner. It is reasonable to clarify that in determining benefits to be included in the CBA, that benefits may be suggested by residents of the impacted EJ area, interested persons, owners and operators, and the commissioner so that it is clear as to who may provide suggestions of community benefits. Allowing all parties involved in the CBA to suggest benefits provides for more and varied options of community benefits for community to consider. Each party involved has different areas of expertise on ways to address impacts related to the requested permit action, and it is important to present all options to community, so that they can make informed decisions about which community benefits to request for inclusion in the CBA.

Subitem (2) is added to clarify that community benefits must be discussed between the residents of the impacted EJ area and the owner and operator, at a minimum, during the public meetings under 7007.6080, subpart 4, item B. It is reasonable to require that benefits must be discussed between the residents of the impacted EJ area and the owners and operators because the residents have the greatest understanding about the challenges and needs in their communities, and owners and operators have the expertise on whether they can provide requested community benefits. Collaboration is an important part of the CBA process because it allows owners and operators to understand and address what is most important to the residents that will be impacted by the requested permit action.[43]

Item B states that community benefits other than, or in addition to economic benefits, must be considered for inclusion in the CBA. It is reasonable to require that benefits other than just economic benefits be considered for inclusion in the CBA because Minn. Stat. § 116.065, subd. 6(c)(4)(ii) requires it, and because benefits that focus on the environment and the health of impacted EJ areas are more likely to reduce the disproportionate impacts that EJ areas experience because of local industrial activity. During MPCA outreach and engagement conducted throughout stages of the rule development, participants expressed the importance of including health benefits, or benefits that address health impacts, over monetary benefits in the CBA, and this requirement helps to address that request.

Item C states that community benefits that directly impact the residents of the impacted EJ area must be prioritized. It is reasonable to require that community benefits that directly impact the residents of the impacted EJ area be prioritized because Minn. Stat. § 116.065, subd. 6(c)(4)(ii) requires it, and it ensures that community benefits address residents' concerns, priorities, and needs.

During MPCA outreach and engagement conducted throughout stages of the rule development, participants suggested including specific benefits or a list of benefits that could be included in a CBA in rule. Each CBA will be unique and specific to the communities that they serve so it is not feasible to develop an exhaustive list that includes every potential benefit that could be included in a CBA so including specific benefits in rule would be too restrictive. Not including specific benefits in rule provides flexibility in meeting communities' needs and in complying with the rule.

Subpart 5. Reporting requirements

Subpart 5 establishes the minimum requirements for reports and notices that must be specified in the CBA. Minn. Stat. § 116.065, subd. 6(c)(4) requires the MPCA to establish the content of a CBA. The MPCA proposed and outlined content requirements for a CBA in Subpart 3 of this rule. Subpart 3, item G

[43] https://scholarship.law.columbia.edu/sabin_climate_change/206/

specifies that the CBA must include reporting requirements. This subpart is needed to describe the minimum reporting requirements.

Item A is added to clarify that a CBA must provide for the reports and notices specified in subitems (1) through (3). It is reasonable to clarify the reporting requirements that must be included in a CBA because it provides clarity and prevents confusion by clearly identifying the requirements that owners and operators must meet to comply with the rule.

Subitem (1) requires that CBA reporting requirements must include notice of the start of construction or implementation of each community benefit identified in the CBA. These notifications must be submitted within 30 calendar days after the start date of construction or implementation. It is needed and reasonable to require that notices of the start of construction or implementation of each benefit be included in the CBA reporting requirements so that MPCA staff can verify that the owners and operators are working to provide the agreed upon benefits according to the timelines outlined in the CBA.

Subitem (2) requires that CBA reporting requirements must include periodic progress reports summarizing the status of each community benefit. These periodic reports must be submitted at a frequency specified in the CBA, but at least semiannually according to item C. It is needed and reasonable to require progress reports on the status of each community benefit be included in the CBA reporting requirements so that residents of the impacted EJ area and other interested parties, and the MPCA are kept informed on the progress for each benefit and can verify that the agreed upon community benefits are on track with the timelines in the CBA. Additionally, another section of rule (part 7007.0800, subpart 6) also requires progress reports to track the status of projects, which provides consistency across rules.

Subitem (3) requires that CBA reporting requirements must include notice of the completion of construction or implementation of each community benefit identified in the CBA. These notifications must be submitted within 15 calendar days after the date of completion or implementation. It is needed and reasonable to require notices of completion of construction or implementation for each benefit be included in the CBA reporting requirements because it allows MPCA staff to track the owners and operators' compliance with the timelines outlined in the CBA. The owners and operators must include specific details in their CBA describing how each community benefit will be deemed complete or fully implemented, pursuant to subpart 3, item I, so owners and operators should know when completion of construction or implementation of a benefit has been achieved. It is also reasonable to require the notices be submitted within 15 calendar days of the date of completion or implementation because the MPCA typically requires regulated parties to provide other notifications, such as initial startup, within 15 calendar days, which provides consistency across Agency processes.

Item B states that reports and notices under item A must be submitted to the commissioner and any persons on a mailing list developed pursuant to part 7007.6080, subpart 7, item D. It is needed and reasonable to require that reports be submitted to the commissioner and interested persons because it ensures accountability and allows the MPCA and interested persons to stay updated on the status and progress of a CBA.

Item C clarifies when the mid-year progress reports, under item A, subitem (2), are due each year. It is needed and reasonable to clarify when reports must be submitted because clearly identifying due dates reduces the workload for an owner or operator by removing the need to establish due dates, and for the MPCA by removing the need to track multiple due dates for each CBA.

Subpart 6. Draft community benefit agreement submission

Subpart 6 establishes requirements and procedures for submitting a draft CBA. Minn. Stat. § 116.065, subd. 6(c)(4) requires the MPCA to establish procedures for entering into a CBA, which must include:

(i) “active outreach to residents of the impacted environmental justice area designed to achieve significant community participation.”

To comply with this statute, the MPCA, in subpart 6, requires the owners and operators to comply with the public outreach and engagement requirements in subpart 2 and consider the comments received during the applicable public meeting, as they develop the draft CBA. It is reasonable to require owners and operators to comply with the public outreach and engagement requirements and consider the comments received, in drafting the CBA, because the CBA must be based on the needs of the residents of the impacted EJ area.

Item A and subitems (1) through (3) specifies what an owner or operator must do in preparing and submitting a draft CBA. It is reasonable to specify what must be done in preparing and submitting a draft CBA so it is clear to owners and operators about how to comply with the rule.

Subitem (1) requires that an owner or operator comply with the public outreach and engagement requirements under subpart 2. This subitem is needed to ensure that residents of the impacted EJ area and other interested parties are involved in the preparation of a draft CBA. It is reasonable to require that in drafting the CBA the owners or operators comply with the outreach and engagement requirements, because an effective CBA cannot be created without involving the community members that the CBA will serve.

Subitem (2) states that an owner or operator must consider any comments received during the first CBA public meeting required under part 7007.6080 subpart 4, item B, subitem (1) and the associated public notice and comment period. It is reasonable to require that owners and operators consider comments received during the first CBA-specific meeting, public notice, and comment period because the CBA must be developed with community input and the intent of the first CBA meeting and associated public notice and comment period is to provide community members the opportunity to state their needs, concerns, and how they should be addressed through the CBA.

Subitem (3) states that owners and operators must ensure the draft CBA complies with the requirements of subparts 3 to 5, which specify the elements of the agreement, requirements for community benefits, and reporting requirements. This subitem is needed to identify the rule requirements that the draft CBA must meet. It is reasonable to clarify what parts of the rule a CBA must comply with so it is clear to owners and operators about what must be included in a CBA.

Item B states that an owner or operator must submit the draft CBA to the commissioner at least 45 calendar days before the second CBA public meeting required under part 7007.6080 subpart 4, item B, subitem (2). This information is needed prior to this meeting to allow for review of the draft CBA. It is reasonable to require the owners and operators to provide the draft CBA to the commissioner at least 45 days prior to this meeting so that the MPCA, residents of the impacted EJ area, and other interested parties can prepare for the meeting and ask informed questions and provide feedback. Additionally, 7007.6080 subpart 9, item E, subitem (2) requires that the draft CBA be posted 30 days prior to the public meeting, and 15 days is a sufficient amount of time to ensure that this is completed.

Item C requires the commissioner post the draft CBA required by this part on the MPCA website. Any person may request to receive notice from the commissioner of draft CBAs received. This subitem is needed to ensure the draft CBA is widely available to residents of the impacted EJ and other interested parties. It is reasonable to require the commissioner to post the draft CBA on the MPCA website so residents of the impacted EJ area and other interested parties can easily access it to review and provide meaningful feedback at the public meeting. Additionally, other sections of rule (Chapter 7007.0502, subpart 7) also require posting of submittals, which provides consistency across the rule. It is also reasonable to allow a person to request to receive a notice when draft CBAs are received because community members might not know otherwise that a CBA was submitted.

Subpart 7. Proposed community benefit agreement submission

Subpart 7 establishes requirements and procedures for submitting a proposed community benefit agreement. Minn. Stat. § 116.065, subd. 6(c)(4) requires the MPCA to establish procedures for entering into a community benefit agreement, which must include:

(i) "active outreach to residents of the impacted environmental justice area designed to achieve significant community participation."

To comply with this statute, the MPCA, in Subpart 7, requires public outreach and engagement, which includes consideration of comments in preparing and submitting a proposed CBA. It is reasonable to require that owners and operators conduct public outreach and engagement and consider comments in preparing the proposed CBA because the CBA must be based on the needs of the residents of the impacted EJ area.

Item A and subitems (1) and (2) state that within 45 calendar days after the end of the public notice and comment period for the second CBA meeting, an owner or operator must submit to the commissioner a proposed CBA and copies of records. It is needed and reasonable to require the owners and operators to provide a proposed CBA and copies of records to the commissioner within 45 calendar days after the end of the public notice and comment period for the meeting to discuss the draft CBA because specifying a deadline for submittal prevents confusion for both the MPCA and the owners and operators by clearly identifying the deadline, and ensures that the MPCA is able to keep the permitting process moving.

Subitem (1) states that an owner or operator must submit to the commissioner a proposed CBA. It is reasonable to specify that a proposed CBA must be submitted because subpart 9, item B, subitem (4), states that the commissioner must consider the proposed CBA in determining whether to enter into a CBA. So it is important to specify in this subpart that the proposed CBA needs to be submitted.

Subitem (2) states that an owner or operator must submit to the commissioner copies of the records required under 7007.6080, subpart 10, which includes, in part, notice of public meetings, copies of comments received at public meetings and responses to comments. It is needed and reasonable to specify that copies of public participation recordkeeping must be submitted with the proposed CBA because subpart 9 requires the commissioner to determine whether the owners and operators complied with this part and the commissioner needs these records to determine this.

Item B and subitems (1) through (3) specifies what the owners and operators must do in preparing and submitting a proposed CBA. It is needed and reasonable to specify what must be done in preparing and submitting a proposed CBA so it is clear to owners and operators how to comply with the rule.

Subitem (1) states that owners and operators must comply with the public outreach and engagement requirements under subpart 2. It is needed and reasonable to require that in preparing the proposed CBA the owners or operators must do outreach and engagement because an effective CBA cannot be created without involving the community members that it is intended to serve.

Subitem (2) requires owners and operators to consider any comments received during the second CBA public meeting, and the associated public notice and comment period. It is reasonable to require that owners and operators consider comments received during the second CBA-specific meeting, public notice, and comment period because the CBA must be developed with continuous community input. The intent of the second CBA meeting, public notice, and comment period is to provide community members the opportunity to review the draft CBA and provide feedback, so that the draft CBA can be revised prior to submittal to the commissioner.

Subitem (3) states that owners and operators must ensure the proposed CBA complies with the requirements of subparts 3 to 5, which specify the elements of a CBA, requirements for community

benefits, and reporting requirements. It is needed and reasonable to clarify what parts of the rule a CBA must comply with so it is clear to owners and operators about what must be included in a CBA.

Item C states that if any changes were made to the draft CBA submitted under subpart 6, the owner or operator must provide a description of the changes and an explanation of the reason for the changes with the proposed CBA. It is needed and reasonable to require that if any changes are made to the draft CBA, the owners and operators must provide a description and reason for the changes with the proposed CBA so it is clear to the MPCA, and residents of the impacted EJ area, and other interested parties what changes were made and why.

Item D requires the commissioner to post the proposed CBA and a document containing the information specified in item C, on the MPCA website. Any person may request to receive notice from the commissioner of proposed CBAs received. It is needed and reasonable to require the commissioner to post the proposed CBA and a description of and reason for the changes to the draft CBA on the MPCA website so residents of the impacted EJ area and other interested parties can access this information to review it and submit comments during the draft permit public comment period. Additionally, other sections of rule (Chapter 7007.0502, subpart 7) also require posting of submittals to provide public access, which provides consistency across rules. It is also needed and reasonable to allow a person to request to receive a notice when proposed CBAs are received because community members might not know otherwise that a proposed CBA was submitted.

Subpart 8. Community benefit agreement; preliminary determination

Subpart 8 establishes requirements for a preliminary determination of the CBA. Minn. Stat. § 116.065, subd. 6(c)(4) requires the MPCA to establish procedures for entering into a CBA. As part of the procedures, the MPCA needs to make a preliminary determination of whether to enter into the CBA.

Item A requires the commissioner makes a preliminary determination whether to enter into a CBA with the owners and operators of a stationary source. This determination must occur prior to the public notice for the draft permit. It is needed and reasonable to require the commissioner to make a preliminary determination prior to public notice for the draft permit because providing this preliminary determination allows owners and operators to decide whether they can move forward in the permitting process.

Item B specifies that if the commissioner makes a preliminary determination to enter into a CBA with the owners and operators of a stationary source, the CBA will not be entered into by the commissioner until after the draft permit public notice and comment period required pursuant to 7007.0850, subpart 2. It is reasonable to clarify that if the commissioner's preliminary determination is to enter into a CBA, the commissioner will not sign the CBA until after the draft permit public notice and comment period because specifying this provides clarity and transparency about when a CBA is final. It is also reasonable to specify that the commissioner will not enter into the CBA until after the draft permit public notice and comment period because Minn. Stat. § 116.065, subdivision 5(d) requires the CBA to be signed on or before the date the permit is issued. It is important to wait until after the public notice and comment period for the draft permit because the comment period could inform decisions about the terms and conditions of a permit, including whether to enter into a CBA.

Subpart 9. Community benefit agreement; requirements

Subpart 9 establishes procedures for determining whether to enter into a CBA. Minn. Stat. § 116.065, subd. 5(b) requires the commissioner to deny a permit for a facility in an EJ area if the cumulative impacts analysis determines there would be a substantial adverse impact on the environment or health of the EJ area and its residents, unless the commissioner enters into a CBA with the facility owners and operators, and Minn. Stat. § 116.065, subd. 6(c)(4) requires the commissioner to establish procedures for entering into a CBA.

To comply with this, the MPCA proposes that in determining whether to enter into a CBA, the Agency must conduct a review following the submittal of a proposed CBA where the commissioner must consider the permit action, cumulative impacts analysis, substantial adverse impacts, public comments and responses, and the proposed CBA to determine whether the CBA complies with the rule, addresses issues raised in comments, and gives priority to considerations that directly impact the residents of the impacted EJ area. It is needed and reasonable to clarify the requirements for entering into a CBA because the statute requires the MPCA to establish a procedure for entering into a CBA, and it ensures that residents of the impacted EJ area, other interested parties, the Agency, and the owners and operators understand how the CBA will be evaluated.

Item A requires the commissioner to enter into a CBA with the owner or operator if the information considered in item B demonstrates the proposed CBA was prepared in and complies with this part, responses to comments and the proposed CBA address issues raised, and the proposed CBA gives priority to benefits directly impacting the residents of the impacted EJ area. It is needed and reasonable to clarify when the commissioner must enter into a CBA because it ensures that residents of the impacted EJ area, other interested parties, the Agency, and the owners and operators understand what the requirements are for entering into a CBA.

Subitem (1) requires the commissioner to consider whether the proposed CBA demonstrates it was prepared in compliance with this part. This subitem is needed to provide direction on what the commissioner must consider when evaluating the proposed CBA. It is reasonable to require that in determining whether to enter into the CBA, the commissioner must consider whether the CBA was prepared in compliance with the requirements of this part because specifying what must be considered in evaluating the proposed CBA provides clarity and transparency in the decision-making process.

Subitem (2) requires the commissioner to consider whether the content of the proposed CBA demonstrates compliance with subparts 3 through 5, which establish elements of a CBA, requirements for community benefits, and recordkeeping requirements. It is reasonable to clarify that in determining whether to enter into a CBA, the commissioner must consider whether the content of the CBA complies with subparts 3 through 5 because the commissioner cannot enter into a CBA that does not comply with subparts 3 through 5. The intent of subparts 3 through 5 is to comply with Minn. Stat. § 116.065, subd. 6(c)(4), which requires the content of a CBA to be established, including consideration of benefits. Therefore, if the CBA does not comply with subparts 3 through 5, it does not meet the requirements in rule and cannot be entered into by the commissioner.

Subitem (3) requires the commissioner to consider whether responses to comments prepared by the owners and operators addressed issues raised during the public notice and comment periods required under part 7007.6080. It is reasonable to clarify that in determining whether to enter into the CBA, the commissioner must consider responses to comments because specifying what must be considered in evaluating the proposed CBA provides clarity and transparency in the decision-making process. Additionally, the intent of part 7007.6080 is to comply with Minn. Stat. § 116.065, subd. 6(c)(4)(i) and (iii), which requires the procedures for entering into a CBA to be established, including outreach and engagement with residents of the impacted EJ area. Therefore, if the CBA does not comply with part 7007.6080, it does not meet the requirements in rule and cannot be entered into by the commissioner. It is also reasonable to clarify that the commissioner must consider whether responses to comments prepared by the owners and operators address issues raised during the public notice and comment periods and during public participation because the MPCA has a similar process in part 7007.0850, subpart 2 that requires the MPCA to consider comments in making determinations, and MPCA is adapting that process to apply to this part, providing consistency across rules.

Subitem (4) requires the commissioner to consider whether the proposed CBA addresses issues raised during the public notice and comment periods required under part 7007.6080. It is reasonable to clarify

that in determining whether to enter into the CBA, the commissioner must consider whether the proposed CBA addresses issues raised during the public notice and comment periods to ensure that comments identifying issues in the draft CBA are addressed in the proposed CBA. The public notice and comment periods are intended to provide opportunities for residents to notify the owners and operators of questions and concerns they have about the draft CBA. So the commissioner must determine whether the proposed CBA addresses the concerns of the residents.

Subitem (5) requires the commissioner to consider whether the proposed CBA gives priority to benefits that directly impact the residents of the impacted EJ area. It is needed and reasonable to clarify that in determining whether to enter into the CBA, the commissioner must consider whether the CBA gives priority to considerations that directly impact the residents of the impacted EJ area because Minn. Stat. § 116.065, subd. 6(c)(4)(ii) requires it.

Item B and subitems (1) through (6) are added to clarify what information the commissioner must consider, at a minimum, in determining whether to enter into a CBA with the owner or operator. It is needed and reasonable to clarify what information will be reviewed in determining whether to enter into a CBA so it is clear to both the MPCA and the owners and operators about how the CBA will be evaluated.

Subitem (1) requires the commissioner to consider the requested permit action. It is reasonable to require the commissioner to consider the requested permit action in determining whether to enter into a CBA because the requested permit action explains what the owners and operators are proposing for the stationary source and how the requested permit action may affect the residents of the impacted EJ area. Additionally, subpart 3, item A requires that a description of the requested permit action be included in the CBA, and considering the requested permit action allows the commissioner to determine whether the requested permit action was accurately and sufficiently described in the CBA.

Subitem (2) requires the commissioner to consider the cumulative impacts analysis required under part 7007.6090. It is reasonable to require the commissioner to consider the cumulative impacts analysis in determining whether to enter into a CBA because it explains the cumulative impacts to the impacted EJ area and its residents, and the commissioner can use this information in evaluating the community benefits included in the CBA. Additionally, subpart 3, item B requires that the positive and negative impacts of the requested permit action be included in the CBA, and considering the cumulative impacts analysis allows the commissioner to verify that the negative impacts identified in the cumulative impacts analysis are included in the CBA.

Subitem (3) requires the commissioner to consider the substantial adverse impacts identified under part 7007.6100. It is reasonable to require the commissioner to consider the substantial adverse impacts identified in the cumulative impacts analysis in determining whether to enter into a CBA because the substantial adverse impacts explains the impact to the EJ area as a result of the requested permit action. This allows the commissioner to evaluate the community benefits included in the CBA, and whether the proposed benefits address the direct impact to residents of the EJ area, which are required to be prioritized under Minn. Stat. § 116.065, subd. 6(c)(4)(ii) and incorporated into this part, under subpart 4.

Subitem (4) requires the commissioner to consider the proposed CBA submitted under subpart 7. It is reasonable to require the commissioner to consider the proposed CBA in determining whether to enter into the CBA so that the commissioner understands what the owners and operators are proposing to do in order to meet the requirements of the rule. Item B states that the commissioner must not enter into a CBA if the CBA does not comply with item D. So the commissioner must verify that the proposed CBA meets the requirements of the rule.

Subitem (5) requires the commissioner to consider comments received during the public notice and comment periods required under part 7007.6080. It is reasonable to require the commissioner to

consider comments received during the public notice and comment periods in determining whether to enter into the CBA because considering comments allows the commissioner to understand the questions and concerns people have regarding the CBA, and the commissioner will use this information in evaluating whether to enter into the CBA. Additionally, subpart 3, items H, I, and J specify that elements of the CBA must consider the input or comments provided through public participation. Considering these comments allows the commissioner to verify whether the proposed CBA considers the comments received and gives priority to considerations that directly impact the residents of the EJ area.

Subitem (6) requires the commissioner to consider the owners and operators' response to comments received during the public notice and comment periods required under part 7007.6080. It is reasonable to require the commissioner to consider the owners and operators' responses to comments in determining whether to enter into the CBA because the responses demonstrate how the owners and operators addressed the questions and concerns interested parties have regarding the CBA, and the commissioner will use this information in evaluating whether to enter into the CBA. Considering responses to comments allows the commissioner to verify whether the responses to comments address issues raised in comments, which is required by item A, subitem (3) to enter into a CBA. The intent of the public notice and comment periods is to provide opportunities for residents to notify the owners and operators of what benefits, reporting requirements, and other information they want included in the CBA. The public notice and comment periods are also intended to provide opportunities for residents to notify the owners and operators of questions and concerns they have about the draft CBA. The commissioner must determine whether the proposed CBA contains the requests and addresses concerns of the residents, and that the responses to comments specify whether requests and concerns were incorporated into the proposed CBA. If there are any requests or concerns that the CBA does not address, the commissioner must verify that the owner or operator addressed the requests or concerns, and explained why the CBA does not include or address them, in the owner's or operator's responses to comments.

Item C, subitems (1) and (2) specify that if the CBA does not meet the requirements of item A, the owner or operator must provide additional information or revise the CBA to meet the necessary requirements. It is reasonable to require the owner or operator to revise the CBA or provide additional information so that the owner or operator are provided an opportunity to comply with the rule, rather than the commissioner automatically rejecting the CBA. Additionally, other rule parts (7001.0090, 7007.0700, and 7007.0502, subpart 5) also require the commissioner to determine if insufficient applications or plans are submitted, and allow an owner or operator to remedy deficiencies, providing consistency across rules.

Subitem (1) requires the owner or operator to provide additional information to demonstrate that the CBA meets the requirements of item A. It is needed and reasonable to require the owner or operator to provide additional information, as it provides the owner or operator an opportunity to demonstrate that the community benefit complies with the rule, which is necessary in order to enter into the CBA.

Subitem (2) requires the owner or operator to revise the CBA, based on information considered in item B, so that it meets the requirements of item A. It is needed and reasonable to require the owner or operator to revise the CBA so that it complies with the rule, which is necessary in order to enter into a CBA.

Subpart 10. Documenting preliminary determination; community benefit agreement

Subpart 10 establishes requirements for a written document outlining the Agency's preliminary determination regarding whether to enter into a CBA. Minn. Stat. § 116.065, subdivision 6(c)(4) requires the MPCA to establish procedures for entering into a CBA. As part of the procedures, MPCA requires

that the commissioner must prepare a document describing the reasoning for the commissioner's preliminary determination regarding the proposed CBA.

Subpart 10 requires the commissioner prepare a written document containing the reasons for the commissioner's preliminary determination regarding whether to enter into a CBA with the owners and operators of a stationary source. The document must describe the information that was considered in making the decision and how the information was weighed. The commissioner must post the preliminary determination document and a document describing any changes made to the proposed CBA on the MPCA website and notify the owner or operator within 30 calendar days after making the preliminary determination. It is reasonable to require the commissioner to prepare a written document describing the information considered, how the information was weighed, and the reasons for the commissioner's preliminary determination regarding whether to enter into a CBA because it provides transparency of the decision with the residents of the impacted EJ area and other interested parties.

Additionally, other rule chapters (4410.1700, subpart 4; 7001.0100, subpart 3; and 7007.0850, subpart 1) have similar requirements to provide information supporting a determination, and the MPCA is adapting those requirements for this rule, providing consistency across rules. It is reasonable to require the commissioner to post a document describing changes made to the proposed CBA because it provides transparency to the residents of the impacted EJ area and other interested parties of the changes made after the proposed CBA was submitted pursuant to subpart 7. It is also reasonable to require the commissioner to post these documents on the MPCA website and notify the owner or operator within 30 calendar days of the preliminary determination because posting these documents on the MPCA website allows widespread access to the documents. Notifying the owner or operator within 30 calendars days allows them to stay informed on the status of their permit application.

PART 7007.6115 – MODIFYING COMMUNITY BENEFIT AGREEMENTS

Justification for part 7007.6150

The intent of this part is to provide clarity regarding how the owner or operator may modify a CBA that was entered into pursuant to Minn. R. 7007.6110. While Minn. Stat. § 116.065, subdivision 6(c)4 specifies that the MPCA is required to establish the procedures for entering into a CBA, the MPCA found that additional requirements were needed to address scenarios where an existing CBA needs to be modified to maintain compliance with the rule.

Minn. R. 7007.6115 establishes the requirements for an owner or operator to modify their CBA that was entered into pursuant to Minn. R. 7007.6110. This part identifies the procedures for modifying time schedules and other elements of a CBA.

In general, it is reasonable to provide clarity in rule regarding procedures to maintain compliance with the rule to prevent confusion for owners or operators and the MPCA.

Subpart 1. Modifying a community benefit agreement; extensions of time

Subpart 1 establishes procedures for modifying a schedule contained in an existing CBA. This subpart is needed to provide a process for modifying a predetermined schedule in a CBA. It is reasonable to allow owners and operators to modify a schedule because circumstances may arise that prevent owners and operators from adhering to a schedule in their CBA.

Item A is added to allow an owner or operator of a stationary source that enters into a CBA to request an extension of time for a schedule contained in the agreement by submitting a written request to the commissioner. Subitems (1) through (3) specify what the request must include. It is reasonable to clarify that an owner or operator may request an extension of time for a schedule because in implementing a CBA, an owner or operator may be unable to adhere to a schedule in the CBA for reasons beyond their

control. Providing an opportunity to request an extension allows an owner or operator to remain compliant with the CBA. Additionally, other rule chapters (7001.0530 and 7017.2025) also allow written requests for extensions if there is good cause for the request, which provides consistency across rules.

Subitem (1) requires the request be submitted at least 30 calendar days before the date specified in the schedule. It is reasonable to require that the request be submitted at least 30 calendar days before the date specified because the commissioner will need to review the request and make a determination about whether to approve the request. A 30-day timeframe allows the commissioner sufficient time to review the request and determine whether there is good cause for the extension request.

Subitem (2) requires the request includes a description of the time extension requested. It is reasonable to require a description of the time extension request because the commissioner will need to review the request and make a determination about whether to approve the request. Providing a description of the date in the schedule the owners or operators are requesting a time extension for allows the commissioner to verify that the request was submitted pursuant to subitem (1) and allows the commissioner to understand what the owners or operators are requesting.

Subitem (3) requires the request specifies the reason and includes evidence supporting why the extension of time is needed. It is reasonable to require that the request specifies the reason and includes evidence supporting why the extension of time is needed because the commissioner will need to review the request and make a determination about whether to approve the request. Specifying the reason and including evidence for why the extension of time is needed allows the commissioner to evaluate the extension request.

Item B and subitems (1) and (2) clarify that an extension of time may be received if the request complies with this subpart and demonstrates good cause for an extension of time. Subitem (2) also clarifies that for the purpose of this part, “good cause” means a reason for the owner’s or operator’s inability to comply with a schedule due to circumstances beyond their control or are not foreseeable. Clarifying the requirements that the request must meet in order for an owner or operator to receive an extension of time is needed so that it is clear to the owner or operator and the MPCA what the request must include to allow an extension of time. It is reasonable to require that to receive an extension of time the request must comply with this subpart because the MPCA needs the information required in this subpart to make an informed decision about whether to approve an extension. Clarifying what “good cause” means in this part is needed to reduce subjectivity and reduce confusion for owner or operator and the MPCA by providing context to the term. It is reasonable to clarify that “good cause” means circumstances that are not foreseeable or are beyond an owner’s or operator’s control so it is clear that a request for an extension of time is intended only for scenarios where the owner’s or operator’s inability to comply with the schedule in their CBA is beyond their control. It is also reasonable to require the request demonstrates good cause for an extension of time because the MPCA needs this information to make a determination about whether to approve an extension of time.

Item C clarifies that a request for an extension under item A is not effective unless the commissioner has given written approval for the extension. In determining whether to approve the extension, the commissioner must determine whether good cause exists based on the evidence provided to demonstrate good cause. It is needed and reasonable to clarify that a request for an extension is not effective unless the commissioner has given written approval so that it is clear to owners or operators that they must comply with the schedule in the CBA until written approval for the extension is received. Additionally, another rule chapter (7017.2025) also specifies that a request for an extension is not effective unless the commissioner has given written approval, providing consistency across rules. Requiring the commissioner to determine whether to approve the extension based on evidence provided to demonstrate good cause is needed because the intent of allowing an extension is to provide extra time in scenarios where owners or operators are unable to comply with a schedule in their CBA

due to circumstances beyond their control. So it is reasonable to require the MPCA to evaluate the evidence provided to determine if there is good cause for the extension.

Subpart 2. Modifying a community benefit agreement; other changes

Subpart 2 establishes procedures for modifying, other than a time schedule, an existing CBA. This subpart is needed to provide a process for modifying a CBA. It is reasonable to allow owners or operators to modify a CBA because circumstances may arise that prevent owners or operators from adhering to the original CBA.

Item A allows the owner or operator of a stationary source that have entered into a CBA with the commissioner to request a change to the agreement, other than a time extension, by submitting a written request to the commissioner. Subitems (1) through (4) specify what the request must include. It is reasonable to clarify that owners or operators may request to change the agreement by submitting a written request because in implementing a CBA, owners or operators may be unable to implement or provide benefits as specified in the CBA for reasons beyond the owner's or operator's control. Providing an opportunity to request to change a CBA allows the owner or operator flexibility in complying with the rule if unforeseen circumstances arise. Additionally, another part of the rule (7007.0502, subpart 9) has a similar procedure for modify plans and MPCA is adapting those procedures for this rule.

Subitem (1) requires the request includes a description of the change requested. It is reasonable to require that the request includes a description of the change requested because the commissioner will need to review the request and make a determination about whether to approve the request. Providing a description of what the owners and operators are requesting a change for allows the commissioner to understand what the owners and operators are requesting, which is needed in making a determination.

Subitem (2) requires the request includes reasons for modifying the CBA. It is reasonable to require that the request includes reasons for modifying the CBA because the commissioner will need to review the request and make a determination about whether to approve the request. Specifying the reasons for modifying the CBA allows the commissioner to understand the circumstances that resulted in the need for the request, and determine whether the request should be approved.

Subitem (3) requires the request includes a description of how the owners and operators will comply with the requirements of item C to prepare the modified CBA. Subitem (3) is needed to ensure that owners and operators have a plan to provide notice of and accept comments on requested changes to the CBA. It is reasonable to require that the request includes a description of how the owner or operator will notice each person or group that provided a comment during public participation throughout the development of the CBA because the commissioner needs to verify that the owner or operator will provide an opportunity for interested parties to provide feedback on requested changes to the CBA.

Subitem (4) requires the request includes a copy of the notice under item D. It is needed and reasonable to require the request to include a copy of the notice to notify interested parties of the request because the commissioner needs to verify that the notice contains the required information before it is distributed to interested parties.

Item B requires the commissioner reviews and approves the request before the owner or operator provides notice under item D. It is reasonable to require the commissioner to review the request, which must include a copy of the notice, to ensure that the required information is included, which is needed to ensure interested parties are informed of what is being requested and that they will have an opportunity to submit comments. It is also needed and reasonable to clarify that the commissioner must approve the notice before it is issued so that it is clear to the owner or operator that they cannot issue the notice without approval by the commissioner.

Item C requires that if the commissioner does not approve the request, the commissioner must identify

any deficiencies, notify the owner or operator, and advise them on how to remedy all identified deficiencies. It is needed and reasonable to require the commissioner to notify the owner or operator of any deficiencies in the request and how to remedy them because it helps the owner or operator to comply with the rule.

Item D requires the owner or operator provide notice 15 calendar days prior to the public comment period required under subitem (4) to any persons on the mailing list specified in part 7007.6080 and to each person or group that made a written or oral comment during the public notice and comment periods specified in part 7007.6080, if the person's address is known to the owner or operator. It is reasonable to require owner or operator to provide notice to interested parties of a request to modify the CBA because the CBA is intended to serve the community. So parties that participated in the development of the CBA need to be informed of, and given opportunity to comment on the requested changes to the CBA. It is also needed and reasonable to require the owner or operator to provide notice 15 calendar days prior to the public comment period to ensure interested parties are aware of the comment period and the process is kept moving. Additionally, another rule chapter (1400.2110, subpart 2) has a similar procedure for requiring notice to individuals that provided comments, and MPCA is adapting those procedures for this rule. Subitems (1) through (4) state that the notice must contain a copy of the request to modify a CBA, information about the request, and information about the comment period for the request. It is reasonable to specify the information that must be included in the notice because it prevents confusion for both the owner or operator and the MPCA by clearly identifying the information that the notice must contain to comply with the rule.

Subitem (1) requires the notice contains a copy of the request under item A. It is reasonable to require the notice to include a copy of the request to modify the CBA so that interested parties that provided comments during the development of the CBA are informed of the owners' or operators' intent to modify the CBA. Providing notice to interested parties provides them the opportunity to review the requested changes and decide whether to provide comments. Minnesota statute § 116.065, subdivision 6(c)(4)(i) requires procedures for entering into a CBA to include "active outreach to resident of the impacted environmental justice area designed to achieve significant community participation;" so it is reasonable to provide interested parties the opportunity to provide comments on a request to modify the CBA.

Subitem (2) requires the notice contains a statement that tells the recipient that the owner or operator requested to modify the CBA. It is needed and reasonable to require the notice to contain a statement that tells the recipient that the owner or operator requested to modify the CBA so the recipient is informed of the request. This information will allow the recipient to determine whether to submit a comment regarding the changes.

Subitem (3) requires the notice contains the reasons for the change. It is needed and reasonable to require the notice to contain the reasons for the change so the recipient understands why the owner or operator made the request. This information will allow the recipient to determine whether to submit a comment regarding the change.

Subitem (4) requires the notice contains a statement that tells the recipient that the owner or operator must accept written comments for 45 days, and gives the date the comment period ends. It is needed and reasonable to require that the statement tells the recipient that the owner or operator must accept written comments and the date the comment period ends so the recipient is aware that they can submit a comment regarding the change. Specifying the date the comment period ends give the recipient the ability to ensure that they do not miss the opportunity to submit a comment.

Item E requires the owner or operator submit written responses to all comments that raise issues to the commissioner within 30 calendar days after the comment period ends. It is needed and reasonable to

require owner or operator to submit responses to all comments that raise issues because it ensures that the owner or operator considers the comments and address any questions or concerns about modifying a CBA. It is also reasonable to require the owner or operator to submit the responses to the commissioner because this information is needed to inform the determination made by the commissioner. Additionally, it is reasonable to require this information to be submitted to the commissioner within 30 calendar days after the comment period ends because it keeps the process of modifying a CBA moving forward.

Item F states that the owner or operator may not implement any requested changes of the CBA until the commissioner approves the changes and enters into a modified CBA. It is reasonable to clarify that changes of the CBA may not be implemented until the commissioner approves the changes and enters into a modified CBA, so that it is clear to the owner or operator and the MPCA that changes of the CBA cannot be implemented until the MPCA approves the changes and enters into a modified CBA. This process is consistent with another rule chapter (7007.0502, subpart 9) that also requires approval to modify plans, providing consistency across rules.

Item G requires the commissioner to post the modified CBA and responses to comments on the MPCA website. Any person may request to receive notice of a modified CBA. It is needed and reasonable to require the commissioner to post the modified CBA and responses to comments on the MPCA website because it provides transparency to interested parties and allows them access to this information. It is also needed and reasonable to allow a person to request to receive a notice when modified CBAs are received because interested parties might not know otherwise that a modified CBA was entered into.

Subpart 3. Modifying community benefit agreements; requirements

Subpart 3 establishes procedures for determining whether to enter into a modified CBA. It is needed and reasonable to specify procedures for entering into a modified CBA because it ensures the owner or operator, the MPCA, and other interested parties understand what information the commissioner must consider in determining whether to approve a requested change and enter into a modified CBA. Establishing these procedures provides clarity on how to comply with the rule, which reduces confusion for owners or operators.

Item A and subitems (1) through (3) require the commissioner to approve the change and enter into a modified CBA if the request, notice, and responses to comments comply with this part and address issues raised in comments. It is needed and reasonable to specify the requirements for when the commissioner must enter into a modified CBA so it is clear to owners or operators, the MPCA, and other interested parties what information must be considered and what the information must demonstrate for a change to be approved.

Subitem (1) requires the request and notice to demonstrate compliance with this subpart. It is needed and reasonable to require that the request and notice comply with this subpart because the commissioner cannot approve the change and enter into a modified CBA if the owner or operator did not submit the request and notify interested parties of the request, or the request does not contain the required information that is necessary for the commissioner to make a determination.

Subitems (2) and (3) require responses to comments and the modified CBA demonstrates that issues raised during the comment period were addressed. It is needed and reasonable to require that the responses to comments and modified CBA address issues raised because the intent of accepting comments under subpart 2, item D, subitem (4) is to allow interested parties an opportunity to provide questions or concerns about the requested change to the CBA. Requiring responses to comments to address issues raised helps ensure the owner or operator reviewed the submitted comments and modified the CBA based on comments that raised issues.

Item B, and subitems (1) through (4) require the commissioner considers the request, notice, comments,

and responses to comments in determining whether to approve a requested change to a CBA. It is needed and reasonable to clarify what information must be considered in determining whether to approve the requested change, so it is clear to owners or operators and the MPCA about what information is used in making a determination. This provides transparency of what information a determination is based on.

Subitem (1) requires the commissioner to consider the request to modify the CBA. It is needed and reasonable to require the commissioner to consider the request in determining whether to approve the requested change because the request explains what and why the owner or operator is proposing changes to the CBA. Considering the request allows the commissioner to understand what and why the owner or operator want to make changes to the CBA.

Subitem (2) requires the commissioner to consider the notice to modify the CBA. It is reasonable to require the commissioner to consider the notice in determining whether to approve the requested change because the notice is needed to inform interested parties of the requested change to a CBA. If the notice is not provided or does not contain the required information, the commissioner cannot approve the request because interested parties that potentially participated in the development of and benefit from the CBA need to be informed of a requested change to the CBA.

Subitems (3) and (4) require the commissioner considers the comments received during the comment period and the owner's or operator's responses to comments. It is reasonable to require the commissioner to consider the comments received and the owner's or operator's responses to comments in determining whether to approve the requested change because considering the comments allows the commissioner to understand the questions and concerns people have regarding the requested change, and the commissioner will use this information in evaluating whether to approve the change to the CBA. It is also reasonable to require the commissioner considers the owner's or operator's responses to comments in determining whether to approve the requested change because considering the responses allows the commissioner to determine whether the owners or operators addressed issues raised in comments. The commissioner will also use this information in evaluating whether to approve the change.

PART 7007.6120 – PERMIT DECISIONS

Justification for part 7007.6120

The intent of this part is to provide clarity regarding how the MPCA makes permit decisions for regulated parties subject to Minn. R. 7007.6000 through 7007.6120. While Minn. Stat. § 116.065, subd. 5 specifies what the MPCA is required to consider in determining whether to issue or deny a permit and when the MPCA may issue a permit under Minn. Stat. § 116.065, the MPCA found that additional requirements were needed to clearly identify and reference the rule language that implements different portions of Minn. Stat. § 116.065.

Minn. R. 7007.6120 establishes the requirements for the MPCA's determination of whether to issue or deny a permit for a stationary source that is subject to review under parts 7007.6000 to 7007.6120. This part identifies the information the Agency must review in determining whether to issue or deny a permit. This part also prohibits the construction and operation of the stationary source or modification until the MPCA has determined, or completed, any of the following: determined whether a cumulative impacts analysis is needed based on the initial determination or a petition, whether issuing the permit would result in substantial adverse impacts, and/or the Agency has signed a CBA, if it is determined that a CBA is required.

In general, it is reasonable to provide clarity in rule regarding how the MPCA makes permit decisions for regulated parties so that all interested persons have a common understanding of how decisions are made.

Subpart 1. Agency review and decision

Subpart 1 establishes what the Agency must review and decide for a requested permit action. This is intended to clarify determinations that are needed for a cumulative impacts analysis, substantial adverse impact, and CBA. This provides an understanding of why a permit may be issued or denied by the Agency. The review and decisions that must be made by the Agency are explained in items A through D below. Identifying the decision-making steps established in Minn. Stat. § 116.065, subd. 5, including the information that must be considered in making those decisions, with cross references to the rule parts where the process for making those decisions is specified in rule, reiterates and reinforces the requirements in parts 7007.6070, 7007.6080, 7007.6100, and 7007.6110. This is reasonable because it makes it clear what information the commissioner must consider in determining whether to issue or deny a permit. The need and reasonableness of those decisions was previously described in the specific reasonableness sections for those rule parts.

Subpart 1, item A establishes what the Agency must do as part of determining whether to issue or deny a permit for a stationary source subject to the proposed rules. The rule language in Item A is similar to the language found in Minn. Stat. § 116.065, subd. 5, but expands upon the statute and identifies what the commissioner must do as part of determining whether to issue or deny a permit. It is reasonable for the proposed rules to place permit decision-making requirements in one rule part. Doing so prevents confusion and provides clarity so that all interested persons can easily locate and understand how the proposed rules function.

Subpart 1, item A, subitem (1) requires the commissioner to consider whether a cumulative impacts analysis is required. Identifying that the commissioner must consider whether a cumulative impacts analysis is required is reasonable because when a cumulative impacts analysis is needed, the Agency cannot issue a permit without first evaluating that analysis. It is reasonable to require the commissioner to consider whether a cumulative impact analysis is required according to part 7007.6070 because it is required by Minn. Stat. § 116.065, subd. 3(a)(2).

Subpart 1, item A, subitem (2) requires, when a cumulative impact analysis is required, that the commissioner considers whether issuing the permit would have a substantial adverse impact according to part 7007.6100. This is reasonable because when a cumulative impact analysis is required, the Agency cannot issue a permit without determining whether the permit would have a substantial adverse impact under part 7007.6100. It is reasonable to require the commissioner to consider whether issuing the permit would have a substantial adverse impact when a cumulative impacts analysis is required because it is required by Minn. Stat. § 116.065, subd. 5(b).

Subpart 1, item A, subitem (3) requires that when a cumulative impact analysis demonstrates a substantial adverse impact, the commissioner must determine whether to enter into a CBA with the owners and operators of a stationary source. This is reasonable because the Agency must deny a permit that would result in a substantial adverse impact, unless the Agency and the owners and operators enter into a CBA according to part 7007.6110. It is reasonable to require the commissioner to consider whether to enter into a CBA when there is a substantial adverse impact because it is required by Minn. Stat. § 116.065, subd. 5(b).

Subpart 1, Item B establishes what the Agency must consider in determining whether to issue or deny a permit for a stationary source subject to the proposed rules. The rule language in Item B is similar to the language found in Minn. Stat. § 116.065, subd. 5, but identifies specifically what the commissioner must consider as part of determining whether to issue or deny a permit. Item B requires that when

determining whether to issue or deny a permit, the commissioner must consider the cumulative impact analysis conducted according to part 7007.6090, comments received during applicable public meetings and associated comment periods under part 7007.6080, and the owners and operators response to those comments under part 7007.6080. It is reasonable to place permit decision-making requirements in one rule part. Doing so prevents confusion and provides clarity so that all interested persons can easily locate and understand how the proposed rules function. It is also reasonable to require the commissioner to consider the cumulative impacts analysis, the comments received, and the owner's and operator's response to those comments in determining whether to issue or deny a permit when a cumulative impacts analysis is required because it is required by Minn. Stat. § 116.065, subd. 5(b).

Subpart 1, Item C establishes that when the commissioner determines that issuing a permit would have a substantial adverse impact, the commissioner must deny that permit unless the commissioner enters into the CBA with the owners and operators according to part 7007.6110. The rule language in Item C is similar to the language found in Minn. Stat. § 116.065, subd. 5, but expands upon the statute and identifies what the commissioner must consider in determining whether to issue or deny a permit. It is reasonable to place permit decision-making requirements in one rule part. Doing so prevents confusion and provides clarity so that all interested persons can easily locate and understand how the proposed rules function. It is also reasonable because the Agency must deny a permit that would result in a substantial adverse impact, unless the Agency and the owners and operators enter into a CBA according to part 7007.6110, because it is required by Minn. Stat. § 116.065, subd. 5(b).

Subpart 1, Item D establishes that when the commissioner enters into the CBA with the owners and operators of a stationary source, the commissioner may issue a permit that imposes conditions on the construction and operation of a stationary source to protect public health and the environment.. This is reasonable because the Agency may need to impose conditions to protect health and the environment when a CBA is needed as that means the Agency has determined issuing the permit would have a substantial adverse impact. It is also reasonable to require the commissioner to impose conditions on the construction and operation of a stationary source when a CBA is required because it is required by Minn. Stat. § 116.065, subd. 5(c).It is reasonable to place permit decision-making requirements in one rule part. Doing so prevents confusion and provides clarity so that all interested persons can easily locate and understand how the proposed rules function. It is also reasonable because the Agency may issue a permit that would result in a substantial adverse impact when the Agency and the owners and operators enter into a CBA according to part 7007.6110 as provided by Minn. Stat. § 116.065, subd. 5(b) and 5(c).

Subpart 2. Prohibitions

Subpart 2 establishes when owners and operators are prohibited from beginning actual construction or operation of a stationary source or modification of a stationary source and when the commissioner is prohibited from taking a final Agency action on a requested permit action. This is intended to clarify when these actions can be taken, with respect to the steps of the proposed rule and the decision-making steps established in Minn. Stat. § 116.065, subd. 5, including circumstances where the commissioner must deny a permit. This provides an understanding of when the commissioner may issue or deny a permit and when owners and operators are prohibited from beginning construction and operation. These requirements are necessary because if a cumulative impacts analysis is required for a requested permit action, the Agency cannot issue a permit until a cumulative impacts analysis has been completed, determined whether issuing the permit would have a substantial adverse impact, determined whether a community benefit is required and, whether to enter into a CBA if required.

Subpart 2, item A prohibits final Agency action on the requested permit action and the construction and operation of a stationary source or modification of a stationary source until the commissioner

determines that a cumulative impacts analysis is not needed. This item only applies when a permit application for a stationary source is subject to Minn. R. 7007.6000 through 7007.6120, but a cumulative impacts analysis is not required. It is reasonable to prohibit final Agency action and the construction and operation or modification of a stationary source before determining that a cumulative impacts analysis is not needed because if a cumulative impacts analysis is needed, that could result in additional emission limits, operational conditions, control measures, or other measures for the permit sought by owners and operators.

Subpart 2, item B prohibits final Agency action on the requested permit action and the construction and operation of a stationary source or modification of a stationary source until the commissioner voids a petition requesting a cumulative impacts analysis or determines that a cumulative impacts analysis is not needed. Additionally, this item only applies when there is a petition filed under Minn. R. 7007.6060 that complies with Minn. R. 7007.6060, subps. 1 to 3. This prohibition parallels the prohibition on starting a project and prohibition of final governmental decisions to grant a permit contained in Minn. R. 4410.3100, subp. 1 when there is a petition for filed an environmental assessment worksheet is filed under Minn. R. 4410.1100 that complies with Minn. R. 4410.1100, subps. 1 and 2. It is reasonable to prohibit the construction and operation or modification of a stationary source before determining that a cumulative impacts is not needed because if a cumulative impacts analysis is needed, that could result in additional emission limits, operational conditions, control measures, or other measures for the permit sought by owners and operators.

Subpart 2, item C prohibits the construction and operation of a stationary source or modification until the commissioner determines that a issuing a permit would not result in a substantial adverse impact or, if there would be a substantial adverse impact, a CBA is signed by all parties to the agreement. Additionally, this item only applies when a cumulative impacts analysis is required under Minn. R. 7007.6090 for the requested permit action. It is reasonable to prohibit the construction and operation or modification of a stationary source before determining whether issuing a permit would have a substantial adverse impact because if issuing a permit would have a substantial adverse impact, that could result in additional emission limits, operational conditions, control measures, or other measures for the permit sought by owners and operators.

Subpart 2, Item D establishes that when a cumulative impacts analysis is required, the commissioner may not issue a permit earlier than 30 days following the last public meeting held under Minn. R. 7007.6080. This is reasonable because Minn. Stat. § 116.065, subd. 5(a) prohibits the commissioner from issuing a permit earlier than 30 days following the last public meeting held under Minn. Stat. § 116.065, subd. 4. It is reasonable to place decision-making requirements in one rule part. Doing so prevents confusion and provides clarity so that all interested persons can easily locate and understand how the proposed rules function.

Regulatory Analysis

Minn. Stat. § 14.131 sets out eight factors for a regulatory analysis that must be included in the SONAR. The sections below quote these factors and provide the MPCA's response.

Classes Affected

A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

A variety of classes of persons may be affected by the proposed rule. Classes that may bear direct costs

are the permitted facilities in the Twin Cities seven-county metropolitan area and cities of the first class (currently Duluth and Rochester) that are located within EJ areas or within one mile of an EJ area. Additionally, the MPCA, as the Minnesota state agency that has been directed by the Minnesota legislature to implement, administer, and enforce the proposed rule, will bear direct costs to fulfill these responsibilities.

The primary classes that may directly benefit from the proposed rule are residents of the Twin Cities seven-county metropolitan area, Duluth, and Rochester who live in EJ areas. These Minnesotans may enjoy health and environmental benefits and generally enjoy improved amenities and find their communities become more livable. These communities have generally borne disproportionate burdens of pollution. Additionally, the MPCA expects that owners and operators of facilities needing to comply with the proposed rule will engage with consultants to assist them with their compliance steps. Thus, these consulting businesses may see upticks in demand and payment for their services and thus may also directly benefit from the proposed rule.

There are other classes of persons that may be more indirectly affected, either receiving indirect benefits or bearing indirect costs, as a result of the proposed rule. Classes that could see indirect benefits from the proposed rule include workers and employees of regulated facilities in the seven metropolitan counties and cities of the first class who may experience safer and healthier outdoor air near its workplace locations. Additionally, permitted facilities in Minnesota that are outside of EJ areas in the Twin Cities seven-county metropolitan area and cities of the first class may experience indirect benefits of the proposed rule: from not having to comply with the rule, they may gain some competitive advantage over their competitors within EJ areas in the seven metropolitan counties and cities of the first class who will be required to comply with the rule. Minnesota communities and residents outside of EJ areas in the Twin Cities seven-county metropolitan area and cities of the first class could experience economic development incentivized by businesses choosing to relocate or establish operations outside of those areas in order to avoid the costs of complying with the proposed rule. Finally, to the extent that compliance with the proposed rule leads to the formation of CBAs, there are various classes that could benefit from such agreements. Beneficiaries of CBAs may include local governments of cities, counties, and municipalities; schools; and parks and natural services groups whose work involves planning and organizing local green spaces.

The classes could see indirect costs resulting from the proposed rule include employees of regulated facilities in EJ areas in the Twin Cities seven-county metropolitan area and cities of the first class if the rule leads to any loss of jobs in these facilities due to increased compliance costs or from facilities relocating operations to outside of these areas. Additionally, communities and residents outside of EJ areas in the Twin Cities seven-county metropolitan area and cities of the first class could bear an indirect cost if the proposed rule displaces air pollutant emissions and other impacts to the environment and the health of residents or EJ areas to outside of these areas (resulting from regulated facilities choosing to relocate or establish operations outside of regulated communities), thus leading to higher pollutant exposures and other environmental and health impacts in areas of Minnesota that are not subject to the proposed rule.

The remainder of this section presents further detail on the classes of persons that may be affected by the proposed rule, either directly or indirectly, and either in bearing costs or receiving benefits.

Facilities in the Twin Cities Seven-County Metropolitan Area or in Minnesota Cities of the First Class Subject to Rule Compliance

Using the Minnesota Legislature's criteria for an EJ area and the types of air permits subject to the new cumulative impacts law, approximately 89 current facilities may need additional environmental analysis when seeking an amended or reissued air permit; 73 of these facilities are located in the Twin Cities

seven-county metropolitan area while eight are located in Duluth and eight are located in Rochester.

50 facilities have permits that expire every five years and would be immediately affected once the proposed rule is adopted. 39 facilities have non-expiring permits and would only be required to possibly undergo additional environmental analysis if they proposed changes to their permit, the MPCA required changes because of an enforcement action, or the state or federal government required changes due to new regulations.

Minnesota State Agencies

The MPCA will be the primary Minnesota government agency responsible for implementing, administering, and enforcing the proposed rule. This will require additional MPCA staff time from different programs within the Agency but no other significant agency resources. The specific MPCA responsibilities related to the proposed rule as well as the programs in each agency that will require additional staff and the anticipated costs for these staff are detailed below in the "Department/Agency Costs" section.

Residents of the Twin Cities Seven-County Metropolitan Area, Duluth, and Rochester Living in Environmental Justice Areas

Residents of Minnesota's EJ areas have historically been subjected to disproportionately high environmental and public health stressors—including mobile sources of pollution, as well as numerous industrial, commercial, and governmental stationary sources of pollution. Further compounding this inequity, Minnesota's EJ communities often lack important environmental benefits, such as quality green and open natural spaces, sufficient tree canopy, or adequate stormwater management. Established in 2015 and updated in 2022, the state's Environmental Justice Framework seeks to repair past harm and reduce the impact of environmental pollution in these overburdened communities.[44] One strategy identified in this Framework to achieve this is during permitting to identify and evaluate additional measures, beyond meeting established permit limits, to avoid and diminish impacts. This is the impetus for the proposed rule and points to the positive benefits it will bring to these overburdened communities.

It is expected that the proposed rule will likely reduce impacts to the environment and the health of residents in EJ areas in the seven metropolitan counties and cities of the first class, leading to many improvements in air quality, public health, and amenities in these communities. Air quality improvements may include reductions in air concentrations of fine particulate matter ($PM_{2.5}$), ground level ozone, and air toxics. These air quality improvements can lead to several improved health outcomes, including reduced early deaths. The specific benefits that are expected to accrue to these communities is further described below in the "Costs of Non-Adoption" section.

Additionally, the proposed rule will lead to greater community involvement and participation in EJ communities, for example, through the establishment of CBAs. The other main pillar of Minnesota's Environmental Justice Framework, besides reducing pollution impacts in overburdened communities, is to boost meaningful involvement of people in these communities to participate in decisions about activities that may affect their environment and/or health. This benefit is also further expanded upon below in the "Costs of Non-Adoption" section.

Consulting Businesses That May Help Regulated Businesses Comply With the Proposed Rule

In a questionnaire put out to the regulated community about anticipated compliance costs for the

[44] *See: https://www.pca.state.mn.us/sites/default/files/p-gen5-05.pdf.*

proposed rule, nearly all respondents identified "Consultant or engineering fees" as a type of cost they expect to incur for many of the potential compliance activities that the proposed rule will require. Several Minnesota environmental consulting firms provide these services. To the extent there is an increase in demand for these firms' services, consultants and other third parties not directly regulated by the proposed rule, may see increased business or activity through engagement with permitted facilities that will be directly required to comply with the proposed rule, resulting in an economic benefit for these firms.

Other Classes of Persons Receiving Indirect Benefits or Bearing Indirect Costs

Any environmental policy or rulemaking will likely have effects outside the directly intended impacts of the policy or rulemaking, so various other classes may receive indirect benefits or incur indirect costs as a result of the proposed rule. As noted above, the proposed rule may indirectly benefit businesses outside of EJ areas in the Twin Cities seven-county metropolitan area and cities of the first class, workers near regulated facilities within these areas, Minnesota communities and residents outside of the EJ areas where the proposed rule applies, and classes that could benefit from CBAs, including local governments of cities, counties, and municipalities; schools; and parks and natural services groups.

In contrast, the proposed rule may incur indirect costs on employees of regulated facilities in EJ areas if there is any loss of jobs or decreased operations in regulated facilities, and communities and residents outside of regulated areas due to the displacement of pollution and environmental stressors to areas where compliance with the proposed rule is not required.

Department/Agency Costs

The probable costs to the Agency and to any other agency of the implementation and enforcement of the proposed rule, and any anticipated effect on state revenues.

The primary state agency that will be tasked to implement, administer, and enforce the proposed rule is the MPCA. When the Minnesota legislature enacted Minn. Stat. § 116.065 in 2023 and directed the MPCA to implement the proposed rule, it appropriated to the MPCA funding to support 11 full-time-equivalent staff positions (FTEs). This funding comports with MPCA's estimates of the number of FTEs that will be needed to fulfill its responsibilities related to the proposed rule. These FTEs cut across several MPCA programs and divisions, including the air quality permitting program, the compliance and enforcement program, risk assessors, community affairs, legal services, communications and outreach, the Office of Equity and Environmental Justice, and project managers. Each of these MPCA programs will require added staff time to fulfill the Agency's responsibilities related to the proposed rule. Table 9 summarizes all the anticipated MPCA staffing needs for the proposed rule.

Table 9. MPCA-anticipated staffing needs

MPCA program or staff role	Primary responsibilities	FTEs needed for proposed rule
Supervisors	Provide supervision of coordinators and project manager to manage the entire cumulative impacts process	0.7
Cumulative impacts coordinators	Conduct scientific and technical cumulative impacts reviews	1.0
Cumulative impacts project managers	Provide administrative coordination through all steps of the cumulative impacts process	2.0
Risk assessors	Provide technical expertise for risk assessment evaluations	0.5
Permitting staff	Provide technical expertise regarding permit information, emissions calculations and air related components, emissions limits, operational conditions, and control measures	2.25

MPCA program or staff role	Primary responsibilities	FTEs needed for proposed rule
Compliance and enforcement staff	Provide technical expertise regarding compliance history and preparation and review of community benefits agreements	1.0
Air quality dispersion modelers	Provide technical expertise for air modeling, depositional modeling, and air toxics review	1.0
Legal staff	Provide legal review in the preparation and review of cumulative impacts decision documents and community benefits agreements	1.0
Environmental justice team	Provide support for outreach and engagement and other communication efforts with communities, with facilities, and with facility-community relationships	1.25
Communications staff	Provide materials and facilitation of cumulative impacts public meetings	0.1
Community affairs	Provide support for outreach and engagement with communities, with facilities, and with facility-community relationships	0.2
TOTAL		**11**

The current average annual cost for an FTE to the MPCA, including all overhead costs is $175,000. Thus, the estimated total additional annual staff cost to the MPCA will be around 11 times $175,000, or $1.925 million. This is within the total amount appropriated to the MPCA for the proposed rule by the Minnesota legislature when it enacted Minn. Stat. § 116.065 in 2023, where it appropriated $2,457,000 the first year and $2,457,000 for implementation of the environmental justice, cumulative impact analysis and other requirements under Minn. Stat. § 116.065 (commonly referred to as the "Cumulative Impacts Rule") and directed the MPCA to adopt the proposed rule.[45]

Besides this increased staff time, the MPCA does not expect that other additional resources for the Agency will be needed to implement, administer, and enforce the proposed rule. There may be additional costs associated with maintaining CI-MAP, but those costs are expected to be sporadic and short term when new data/information is available to update environmental stressor information and when new demographic data is available to update the statewide EJ area maps. No other Minnesota state agency will have responsibility in the implementation and enforcement of the proposed rule. Thus, besides the MPCA staff costs, no other costs to Minnesota state government are expected to be needed for the proposed rule.

The proposed rule is expected to have little to no impact on state revenues. The MPCA will not be collecting fees from permit holders as part of their compliance obligations in this proposed rule, and there are no other elements of the proposed rule that are expected to lead to any inflows into our outflows out of the state's coffers. To the extent that this proposed rule could incentivize regulated businesses to either move their facilities out of EJ areas in the Twin Cities seven-county metropolitan area, Duluth, and Rochester or not establish their operations in these areas to begin with in order to avoid compliance costs, cities and counties might experience tax revenue shifts across city and county lines. If businesses were to shift to areas not governed by this law, the Twin Cities seven-county metropolitan area and Minnesota cities of the first class could experience a marginal overall reduction in tax revenues. Moreover, if businesses are incentivized by the proposed rule to relocate or establish their operations outside of Minnesota, then there could be a further reduction in state tax revenues. However, the expectation of relocation or initial establishment of facilities subject to the proposed rule is highly speculative and the proposed rule is not expected to be a substantial motivating factor for such business decisions. There are numerous economic factors that incentivize where the businesses that are regulated by the proposed rule establish and conduct their operations and the costs of compliance with

[45] *See Minnesota Session Laws – 2023, Regular Session, Chapter 60, Article 1, Sec. 2, subd.3(i).* https://www.revisor.mn.gov/laws/2023/0/60/#laws.8.3.0.

the proposed rule is not expected to play that big a role amidst the myriad of other factors that motivate and incentivize the decisions of these businesses. Moreover, because some businesses that operate outside of areas where compliance with the proposed rule is required, some businesses may benefit from the proposed rule from having relatively lower costs than businesses that have to comply with the proposed rule and thus may enjoy a competitive advantage. As a result, businesses not subject to the rule could be positively incentivized to establish or expand their operations within Minnesota. In sum, therefore, it is not expected that the proposed rule will have a meaningful impact on state revenues.

Less Costly or Intrusive Methods

A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The proposed rule amendments are needed to fulfill the requirements set forth by Minn. Stat. § 116.065 that directs the Agency to adopt rules that establish the conditions that implement and govern cumulative impacts analyses and permit decisions in EJ areas in the Twin Cities seven-county metropolitan area and cities of the first class. This rule will allow the MPCA to implement a cumulative impacts analysis program in Minnesota, inform the public, and supports the Agency's mission to protect human health and the environment.

The MPCA considered other less costly methods of implementing a cumulative impacts analysis program, but they would not have the same results as the proposed rules. Those methods include:

- Creating voluntary programs to address cumulative impacts through different evaluations of impacts to health and the environment. These programs could be created to evaluate the various environmental and health impacts of issuing a permit. However, these programs can have limited success due to their nature as voluntary which allows facilities to opt out of the program. Additionally, the requirements in Minn. Stat. § 116.065 limits the ability of the MPCA to explore alternative methods given the requirements imposing mandatory duties on the MPCA to require cumulative impacts analyses under specific circumstances.
- Creating policy or guidance based programs to address cumulative impacts. Again, these programs could be created as an alternative to a rule-based process, but run into similar problems as voluntary programs. Programs that are guidance or policy based could be implemented inconsistently without rule language governing the specifics of what is required. They would additionally not meet the requirements of Minn. Stat. § 116.065.

Notably, the MPCA already implements a voluntary program focusing on considerations for stationary sources that require an air permit when those sources are located in or within one mile of an EJ area. When the MPCA begins working on an air permit application for those stationary sources, the MPCA works with the owners and operators of those sources to identify potential voluntary environmental improvements. The MPCA has also compiled a list of environmental improvement and community engagement ideas and resources for stationary sources.[46] These resources are included to provide additional insight on the history, environmental impacts, demographics, and interest in the area around the stationary source, along with financial and technical resources. Providing these resources provides

[46] *Environmental improvement and community engagement ideas and resources for facilities (aq1-69). Available on https://www.pca.state.mn.us/business-with-us/air-permit-application-forms, direct link https://www.pca.state.mn.us/sites/default/files/aq1-69.pdf.*

cost-savings for regulated parties by providing this information without the regulated parties having to collect it on their own.

Additionally, as described throughout the specific reasonableness section of the SONAR, the MPCA has generally structured the proposed rules to be similar to other regulatory processes that exist in Minnesota Rule. Using similar requirements as permitting and other regulatory requirements also provides cost-savings and is less intrusive because it helps avoid duplication of work. As the MPCA implements and adjusts to the rule, the MPCA will look for potential cost-savings opportunities for internal processes and for affected regulated parties.

The MPCA's alternatives are limited. Although the MPCA considered less costly alternative methods for achieving this purpose, the MPCA reached the conclusion that there is no other thorough and effective way to achieve this purpose and meet the legislative intent.

The directive in Minn. Stat. § 116.065 is clear that the MPCA must adopt rules to implement and govern cumulative impacts analyses and permit decisions in EJ areas. There is no reasonable alternative to this rulemaking and the proposed changes could not be addressed through Agency policy or internal rule interpretation. Consequently, there are no less costly methods for achieving the purpose of the proposed rule changes.

Alternative Methods

A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the Agency and the reasons why they were rejected in favor of the proposed rule.

The proposed rule amendments are needed to fulfill the requirements set forth by Minn. Stat. § 116.065 that directs the Agency to develop rules that establish the conditions that implement and govern cumulative impacts analyses and permit decisions in EJ areas in the Twin Cities seven-county metropolitan area and cities of the first class. This rule will allow the MPCA to implement a cumulative impacts analysis program in Minnesota and supports the Agency's mission to protect human health and the environment.

The MPCA has examined alternatives to this rule, which would ultimately require alternatives to the statutory language, that provide other methods of implementing a cumulative impacts analysis program. Other methods of achieving the purpose of the proposed rule include:

- Creating voluntary programs to address cumulative impacts through different evaluations of impacts to health and the environment. These programs could be created to evaluate the various environmental and health impacts of issuing a permit. However, these programs can have limited success due to their nature as voluntary which allows facilities to opt out of the program. Additionally, the requirements in Minn. Stat. § 116.065 limits the ability of the MPCA to explore alternative methods given the requirements imposing mandatory duties on the MPCA to require cumulative impacts analyses under specific circumstances.
- Creating policy or guidance based programs to address cumulative impacts. Again, these programs could be created as an alternative to a rule-based process, but run into similar problems as voluntary programs. Programs that are guidance or policy based could be implemented inconsistently without rule language governing the specifics of what is required.
- Creating a technology based approach to addressing cumulative impacts that involves setting standards based on data for various types of stationary sources and processes. For example, if data showed that addressing a certain combination of health and environmental impacts was the most cost-effective and widely available methodology to do so, requiring similar sources to

implement the same methodology. However, this approach would require an exhaustive approach to account for the site-specific differences both at stationary sources and in the community setting of the residents living nearby those sources. The MPCA decided against this approach as it would require an unreasonable amount of data collection and analysis for the wide range of potential impacts across multiple existing and potentially new sources and the diverse communities and areas that surround those sources.

As described earlier, the MPCA already implements a voluntary program focusing on considerations for stationary sources that require an air permit when those sources are located in or within one mile of an EJ area. When the MPCA begins working on an air permit application for those stationary sources, the MPCA works with the owners and operators of those sources to identify potential voluntary environmental improvements. Alongside providing guidance and resources for regulated parties, the MPCA also scopes the level of outreach and additional analyses needed based on a variety of factors specific to the stationary source such as its geographic location, emissions data, compliance history, history of public interest, previous modeling and risk information. This voluntary program also looks for opportunities for the MPCA and regulated party to partner with other local units of government, other areas of the MPCA, or other entities to reduce impacts. However, this program is voluntary and without the proposed rule, there will still be regulated parties that choose not to participate.

Again, the MPCA's alternatives are limited. Although the MPCA considered alternative methods for achieving this purpose, the directive in Minn. Stat. § 116.065 is clear that the MPCA must adopt rules to implement and govern cumulative impacts analyses and permit decisions in EJ areas. There is no reasonable alternative to this rulemaking and the proposed changes could not be addressed through Agency policy or internal rule interpretation. Consequently, there are no alternative methods for achieving the purpose of the proposed rule changes.

Costs to Comply

The probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals.

As detailed in the "Classes Affected" section above, the primary parties that will be affected and will bear the costs associated with the proposed rule will be permitted facilities in EJ areas in the seven metropolitan counties and Minnesota cities of the first class. The MPCA has compiled a list of 89 facilities[47], updated in August 2025, that could be required to comply with the proposed rule and thus may incur costs in the process of doing so.

The MPCA has two sources of information to estimate potential compliance costs for regulated facilities. The Agency conducted its own analysis of the expected costs of all the potential actions that regulated permittees may have to do to comply with the proposed rule. Second, to glean further information and insight into how much the proposed rule may cost these facilities, the MPCA sought comments during an informal comment period using an anonymous survey tool. At the time this request for comments was sent out in September 2025, the MPCA had identified the following five possible steps to comply with the proposed rule, each of which could incur costs to a facility working towards compliance. While some details of rule compliance have changed since then, these five steps still generally align with the structure of compliance with the proposed rule:

1. **Initial assessment** to evaluate benchmarks and impacts to the environment and public health in the EJ area to determine if a cumulative impacts analysis is needed.

[47] *See: https://www.pca.state.mn.us/sites/default/files/aq-rule2-25f.pdf.*

2. **Cumulative impacts analysis—Primary facility information**. This applies to all permittees that are required to conduct a CI analysis.
3. **Cumulative impacts analysis—Additional information**. Depending on the results of the primary facility information, some permittees may be required to provide additional information in the following areas:

a. Facility assessment
b. Community assessment
c. Environmental analysis
d. Public health
e. Socioeconomic analysis

2. **Additional pollution control measures** if the cumulative impacts analysis identifies potential substantial adverse impacts.
4. **Community benefit agreement** if the cumulative impacts analysis identifies substantial adverse impacts.

While the delineation of the compliance process has slightly changed since the survey was sent out, these five steps still capture all the steps regulated facilities will need to take to comply with the proposed rule, and thus survey responses provide an appropriate mechanism to help estimate likely compliance costs. Each of the above compliance steps could incur costs for the regulated facility to collect data; to conduct analysis and modeling; to write technical reports to present data, analysis, and results; to hire consultant(s) to assist with any of the compliance steps; and to conduct community engagement, such as public meetings and other forms of outreach. Most facilities will not need to conduct all five compliance steps. It is expected that each successive step in the above list will apply to fewer and fewer regulated facilities. For example, all regulated facilities may need to conduct an initial assessment to determine if a cumulative impacts analysis is necessary, but for some facilities a cumulative impacts analysis will be deemed unnecessary, so fewer facilities will need to conduct the next compliance step of compiling primary facility information as part of a cumulative impacts analysis.

Questions in the survey included asking whether respondents anticipated they would need to conduct each of the above compliance steps and if so, what types of costs they expected to incur for each step, how many hours of internal staff or external consultants' time would be expected to complete each step, and the total financial cost the respondents expected to incur to complete each step. Thirteen permittees responded to the survey with comments. Two of the thirteen respondents, however, did not provide any quantitative responses of expected time and dollars that would be required to comply with the proposed rule, rendering their responses difficult to use for any quantitative analysis of compliance costs and leaving eleven responses with adequate information to estimate potential compliance costs for permitted facilities that will be subject to the proposed rule. This was not a large enough survey sample to extrapolate an estimate of the average compliance costs for the entire population of 89 facilities that could be affected by the proposed rule with a high degree of confidence and statistical significance. Furthermore, many respondents that did provide expectations of the financial cost of compliance also expressed high levels of uncertainty about these costs given uncertainty about exactly what would be required of them to comply with the proposed rule. Nonetheless, these survey responses are useful to draw some inferences about costs to comply with the proposed rule, especially when combined with MPCA's own analysis of compliance costs.

If a survey respondent reported that they did expect to need to complete a compliance step, they could then provide responses for estimated time and money that would be needed to do so. However, survey

respondents did not report exact estimates of how many hours and dollars would be required to complete the step, but rather chose from a selection of ranges for both hours and costs. In both cases the choice for the highest amount of hours or financial cost was unbounded by an upper limit. For example, for each compliance step, respondents chose between the following hours and costs ranges to complete the step:

Hours to complete compliance step

- 1–10
- 10–20
- 20–40
- 40–80
- More than 80

Cost to complete compliance step

- Less than $1,000
- $1,000–$5,000
- $5,000–$10,000
- $10,000–$25,000
- $25,000–$50,000
- More than $50,000

The MPCA used these responses to make rough estimates of average hours and costs needed to complete the compliance step. For the purposes of making these calculations, each response was set at the midpoint of the chosen range. For example, if the respondent indicated 20-40 hours, the response was set at 30 hours; if the respondent chose $25,000–$50,000, the response was set at $37,500. If a respondent chose the highest unbounded selection, then the response was set at the lower limit of that choice plus 50%. For example, if a respondent chose more than 80 hours, the response was set at 80 + 40, or 120 hours; if the respondent chose more than $50,000, the response was set at $50,000 + $25,000, or $75,000. If a respondent chose the cost selection (less than $1,000), which essentially has a lower bound of zero dollars, the response was set at the midpoint between zero and $1,000, or $500. Using this methodology, the survey responses are summarized in Table 10.

Table 10. Economic survey response summary

	Step 1: Initial assessment	**Step 2: CI analysis, primary facility information**	**Step 3: CI analysis, additional information**	**Step 4: Additional Pollution Control measures**	**Step 5: Community benefit agreement**
Yes, expect to need to do	91% of respondents	91% of respondents	55% of respondents	27% of respondents	55% of respondents
No, don't expect to need to do	0% of respondents	0% of respondents	9% of respondents	9% of respondents	18% of respondents
Unsure if will need to do	9% of respondents	9% of respondents	36% of respondents	64% of respondents	55% of respondents
Average hours*	55 hours	74 hours	82 hours	76 hours**	**
Average costs*	$26,000	$35,000	$45,000	$45,000**	**

*Inferred average hours and costs were rounded to the nearest hour and thousand dollars to avoid giving a false sense of confidence in precision of estimates.

**Hours and costs estimates for Steps 4 and 5 are combined because the survey asked respondents the total time and cost expected to complete both of these steps combined into one question.

Again, due to the small sample size of survey respondents and the rough methodology for drawing inferences from responses that included unbounded ranges, the values in the above table should not be

viewed as precise estimates of costs of complying with the proposed rule. Rather, they should be seen as rough estimates to give a general sense of the magnitude of expected costs to comply with the proposed rule. Should a regulated facility need to complete all of the above compliance steps, the survey responses suggest that the total investment required would be approximately 287 hours and $151,000, the sum of all average hours and all costs from the survey respondents. This is a rough estimate of compliance with the proposed rule in the most costly instance where a regulated permittee is required to complete every one of the possible compliance steps. The survey did not ask over what time frame these compliance steps would be taken, but it expected that moving through the entire cumulative impacts process will take a considerable amount of time, so that these costs would not be incurred all at once but rather could be spread out over a few or more years.

There are a few indications that these cost estimates inferred from survey responses are higher than they actually will be. First of all, dividing the total compliance costs that respondents estimated by the time investment (in hours) that respondents also reported on results in a very high cost per hour of work, on average over $500 per hour. In is evident from survey responses that the hours invested in rule compliance will involve a combination of staff working for the permitted facilities as well as from paid consultants. It is expected that the hourly cost of this work, whether to internal staff or external consultants, will be significantly less than $500 per hour. As a point of reference, the average $175,000 annual cost of an FTE working at the MPCA equates to less than $90 per hour worked. In the MPCA's analyses of the cost of work done by consultants the Agency generally assumes a range of costs between $100–$250 per hour that consultants would need to be paid to perform the work. A cost of $100 per hour generally reflects the consultant cost of an entry level position while $250 per hour reflects the cost of a high-level principal or senior level position in a consulting firm.

It is possible that the high total compliance cost estimates relative to hours needed to comply reported in the survey responses reflects that regulated facilities expect significant other costs beyond having to pay internal staff and external consultants for their time. There may be some other compliance costs, particularly for a facility that must implement additional control measures or a community benefits agreement as a result of a cumulative impacts analysis. However, the MPCA does not expect these additional costs to be excessive and expects that the bulk of costs to comply with the proposed rule will be from paying internal staff and external consultants for their work.

The MPCA conducted its own analysis of the expected costs of all the potential actions that regulated permittees may have to do to comply with the proposed rule, including performing an initial assessment, completing all the steps of a cumulative impacts analysis, conducting multiple public meetings, and completing a community benefits agreement. In the MPCA's analysis, for a facility that needs to complete all of these compliance steps, the total estimated hours required would range from 530 to 1,300 hours. The largest contributor to this estimate is the cumulative impacts analysis that the MPCA estimates will require between 400 and 1,000 hours of work for a permitted facility needing to conduct such an analysis. The wide variance in these estimates reflects the large range of circumstances and other factors unique to each facility that will determine the costs of complying with the proposed rule. In its analysis, the MPCA assumed that, on average, 80% of the work could be done by entry-level positions at an average estimated cost of $100 per hour and that the remaining 20% of the work would require a senior or principal position at an average estimated cost of $250 per hour. Based on the total compliance estimates of 530 to 1,300 hours and this allocation of those hours between lesser and greater per hour costs, the MPCA estimates a total compliance cost ranging from $69,000 to $170,000. Again, this assumes that all compliance steps will need to be conducted. This does not include additional compliance costs beyond paying internal employees and external consultants for their work.

Additional costs for compliance with the proposed rule could include costs for training and education of employees, altering workflow or operational processes, and installation of new or modified equipment.

Altering workflow or operational processes, or installation of new or modified equipment could add up to hundreds of thousands of dollars, but is extremely variable and impossible for MPCA to estimate as it will be facility specific. The proposed rule does not require the installation of any specific control equipment or limits on facility emissions although facilities may choose to pursue one or both actions to avoid needing to conduct a cumulative impacts analysis, avoid creating a substantial adverse impact, or to fulfill a CBA.

Generally, estimating cost of compliance with the proposed rule is difficult because these costs will depend on numerous factors specific to the existing or proposed facility's operations. Compliance costs will depend on the size of the facility and other technical factors. In some cases, the costs of complying with the proposed rule are expected to be relatively minor when compared to the overall expenses a regulated permittee will pay while building or expanding a facility. In other cases, compliance costs may represent a larger portion of a facility's budget. However, in many instances, feasibility will be considered, which includes consideration of economic factors, in determining appropriate avoidance, minimization, and impact reduction measures. This may also have an added economic benefit of encouraging the market for innovation, low-cost solutions without increasing impacts to the environment and the health of residents of EJ areas. It is also unclear to what extent facilities may or may not forego expansion or opt to build outside of EJ areas in the seven metropolitan counties and cities of the first class in order to avoid having to comply with the proposed rule.

To the extent that regulated permittees will bear costs to comply with the proposed rule, it is possible that some of those costs will be passed on to consumers in the form of higher prices for products of these facilities. Whether costs can be passed on to consumers, however, is highly dependent on the specific products and markets. To the extent that these facilities produce products also offered by competitors that are not subject to the proposed rule, it is unlikely they will be able to raise prices and be able to remain competitive in the open market. Only regulated facilities that produce products that do not face competition from unregulated facilities will likely be able to pass on the costs of rule compliance to consumers. This is likely to be a small portion of the overall compliance costs with the proposed rule. It is more likely that regulated permittees will absorb the compliance costs themselves or will make other business decisions, such as choosing to relocate to outside the EJ areas in the seven metropolitan counties and cities of the first class where the proposed rule will apply. However, it is unlikely that the cost of relocating will be less than the cost of complying with the proposed rule, but it is not impossible. If such a relocation were to happen (or if a business was incentivized not to establish operations in the areas where the proposed rule will apply to begin with), then there would be a cost to the local economy of decreased economic activity in the community as well as the potential loss of jobs in the community and a reduction in the local tax base. However, if such relocations happened there would not be an overall cost to the state in terms of decreased economic activity, jobs, or tax base, as these would just be shifted to areas outside the EJ areas where the proposed rule will apply, unless the proposed rule motivated businesses to move their operations outside of Minnesota.

There are other possible indirect costs that will result from the proposed rule that are not possible to quantify but nevertheless bear mentioning. An additional action that regulated facilities could take to defray compliance costs besides absorbing them or passing them on to consumers would be to reduce its labor costs by cutting jobs. Any job loss would be a cost to the local community. It seems unlikely that this would occur, however, because presumably these businesses are already operating as efficiently as possible and thus could not reasonably reduce their labor forces and be able to maintain the same levels of production and operations.

While a key benefit of the proposed rule is reduction of air pollution and other impacts to the environment and the health of residents in EJ areas in the seven metropolitan counties and cities of the first class (see "Costs of Non-Adoption" section below) this could be a cost to communities outside these

areas if any facilities move their operations outside of areas subject to the proposed rule to avoid compliance costs, and thus that pollution and environmental and health impacts are displaced to outside of the EJ areas in the seven metropolitan counties and cities of the first class. Even if this displacement of environmental and health impacts were to happen, however, the MPCA expects that it would be small and would be counteracted by the overall reduction of impacts. Again, as mentioned above, it is not possible to predict what, if any, relocation of operations to jurisdictions not subject to the proposed rule might occur, but given all the economic factors that motivate business decisions, it is expected these changes would be minimal.

Costs of Non-Adoption

The probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals.

The alternative to not adopting the proposed rule would result in a “business-as-usual" continuation of the current lack of consideration and analysis of cumulative impacts in permit decisions in and near EJ areas. Simply put, the cost of not adopting the proposed rule would be foregoing the benefits that the proposed rule is expected to result in. As discussed above, alternatives to the proposed rule, including voluntary programs and policy- or guidance-based programs, are not enforceable. There is no viable alternative to the proposed rule that will achieve the purpose of the rule and meet the intent of the Minnesota Legislature set forth in Minn. Stat. § 116.065.

The proposed rule may have positive social and economic impacts in not just environmental areas in the seven metropolitan counties and cities of the first class, but throughout the state of Minnesota, by providing a critical tool in the State’s efforts to improve environmental and public health conditions in EJ areas, address historic inequities in the siting of pollution generating facilities that have placed the burden of economic progress disproportionately on low-income and minority communities, and guarantee opportunities for meaningful participation by members of EJ communities in the permitting process.

When the Minnesota Legislature passed Minn. Stat. § 116.065, it recognized that low-income communities and communities of color in Minnesota have historically been disproportionately exposed to elevated environmental and public health stressors. The residents in these communities are more likely to suffer health impacts and other harms from these higher exposure levels. With the passing of the statute, the Legislature affirmed the key tenet of EJ that there must be fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. The proposed rule is intended to help ensure that no community will be disproportionately impacted by polluting facilities by limiting the future placement and expansion of such facilities in these communities and guaranteeing an opportunity for meaningful participation during the decision-making process. The statute and the proposed rule does not require the relocation of pollution from one community to another, but rather improves conditions for all by reducing negative impacts where they are worst.

The proposed rule may have positive economic impacts as a result of reducing environmental and health impacts, alongside environmental stressors, in EJ areas, which may reduce health costs throughout the state. Additionally, reducing stressors in EJ areas is expected to make them more attractive, both to potential new residents and investments that spur economic revitalization.

While the benefits of the proposed rule are difficult to fully quantify, it is expected to improve the quality of life for those Minnesota residents currently impacted by the environmental stressors identified in Minn. Stat § 116.065 and listed above. Due to the interconnected nature of Minnesota’s

watershed and airsheds, the benefits of reducing stressors in EJ areas in the seven metropolitan counties and cities of the first class may be felt throughout Minnesota. The environmental and public health benefits may be experienced throughout the State but will be concentrated in overburdened communities.

The two broad categories of benefits of the proposed rule and improvements in human health and increased amenity values. Only considering health and amenity benefits, however, likely underestimates the full benefits of the proposed rule as additional non-quantifiable benefits, such as improved information access, greater civil society representation, and reductions in inequity are also likely outcomes resulting from the proposed rule.

Improvements in Human Health

Many of the identified stressors that the proposed rule addresses have negative impacts on human health. By reducing exposure to these stressors, the proposed rule is likely to provide long lasting health and economic benefits in the form of avoided premature deaths, avoided costs associated with treating acute and chronic conditions, and increased productivity due to less missed work and school. While it is not possible to predict specific reductions in environmental stressors as a result of the proposed rule, it is likely that over time, the rule will reduce the associated negative health outcomes in EJ areas and elsewhere in Minnesota. For example, the proposed rule will likely reduce exposure to pollution from industrial processes, chemical manufacturing, and many other air pollution sources. As a result, the proposed rule may reduce human exposure to pollutants such as fine particulate matter ($PM_{2.5}$) and ground-level ozone. Although these are not the only pollutants to which the proposed rule may reduce exposure, they are air pollutants that are the most impactful, most widely studied, and well documented in the scientific literature. Because of their small size, $PM_{2.5}$ can move from the lungs into the bloodstream and even permeate the brain and other organs, producing both acute and chronic health impacts, including cardiovascular disease, respiratory disease, and mortality.[48] Ground-level ozone causes irritation and inflammation of lung tissue and can also cause or worsen short-term health effects such as respiratory irritation, reduced lung function, and aggravated asthma as well as long-term health effects such as chronic respiratory disease and cardiovascular problems. Reducing exposure to these pollutants will likely lead to reduced incidences of cardiovascular diseases, respiratory diseases, and mortality throughout Minnesota.

To provide an example of the economic value of improved health outcomes, EPA's Co-Benefits Risk Assessment Health Impacts Screening and Mapping Tool (COBRA)[49] was used to model the estimated results of a very small reduction in air pollution. COBRA is a free, easy-to-use EPA model employed as a tool for preliminary analysis of health impacts and monetized benefits from environmental policy changes. COBRA models the incidence rate and corresponding economic impact of more than a dozen health outcomes due to emissions of five different pollutants: $PM_{2.5}$, SO_2, NO_X, ammonia, and VOCs. These pollutants lead to higher concentrations of $PM_{2.5}$ and ozone in Minnesota's air. After the user determines a possible scenario, COBRA estimates any potential increases or decreases in the annual incidences of several health endpoints, including mortality, infant mortality, nonfatal heart attaches, cardiovascular and respiratory hospital admissions, acute bronchitis, upper and lower respiratory symptoms, emergency room visits for respiratory conditions and asthma, asthma exacerbation, minor restricted activity days, work loss days, and school loss days. Using a two percent discount rate and limiting the analysis to the impacts on Minnesotans, COBRA was used to model the positive health impacts of 0.1 percent reductions (i.e., a reduction by one thousandth) in NO_X—a precursor to ground-

[48] *Minnesota Pollution Control Agency and Minnesota Department of Health. Life and Breath studies: https://data.web.health.state.mn.us/life_and_breath.*
[49] *https://www.epa.gov/cobra.*

level ozone—and in $PM_{2.5}$ in the seven counties of the Twin Cities seven-county metropolitan area, St. Louis County (where Duluth is located), and Olmstead County (where Rochester is located).[50] COBRA estimates that the economic value of reduced health impacts from this small change to be between $8 million to $15 million every year. A 0.1 percent reduction in overall emissions in the area was selected in this example to provide a low-end estimate of the potential economic benefits of the proposed rule.

Although it is only used here as an example of the potential economic benefits of reducing a single environmental stressor, it is important to note that the estimates from COBRA likely understate the overall economic benefits of the public health improvements that the proposed rule may lead to.

Improved Amenities

The concentration of environmental stressors and regulated permittees in EJ areas is associated with multiple negative outcomes beyond direct human health impacts. Poor air quality and surface water quality limit residents' opportunities for outdoor activities. Outdoor activities provide positive health benefits that reduce health care costs, often at lower costs than substitutes, like gym memberships. Outdoor recreation also supports state and local economies. The U.S. Bureau of Economic Analysis reports that Minnesota's outdoor recreation economy generated $13.5 billion in value-added (direct contribution to GDP) in 2023, supporting nearly 96,000 jobs.[51] This significant economic impact highlights outdoor recreation's role as a resilient sector in the state. To the extent that low environmental quality reduces the demand for outdoor recreation in Minnesota's EJ areas, the activities of regulated permittees also prevent those communities from benefiting from participation in this important subsector of Minnesota's economy.

The negative relationship between environmental quality and property values has been long understood in environmental economics literature.[52] While researchers have debated the causal nature of this relationship, it is generally agreed that decreases in environmental quality bring about lower property values in areas surrounding facilities producing pollution. Conversely, it has been repeatedly found that reducing emissions and/or cleaning up polluted areas increases property values in the previously impacted communities. Improvements in environmental quality are also associated with rising incomes in previously impacted communities.[53] While rising property values have raised some concerns of "environmental gentrification," researchers have found that this can be mitigated through increased community participation,[54] for which the proposed rule provides the groundwork. Moreover, by improving conditions in overburdened communities, the proposed rule may incentivize and create opportunities for development of affordable housing, retail, and commercial enterprises in lieu of construction or expansion of additional facilities.

Differences From Federal Regulations

An assessment of any differences between the proposed rule and existing federal regulations, and a specific analysis of the need for and reasonableness of each difference.

Minn. Stat. § 14.131 requires that the MPCA consider the proposed amendments in relation to the

---

[50] To put these reductions in perspective, a 0.1 percent annually reduction in NO_X in these nine Minnesota counties represents a reduction of around 60 tons from approximately 60,810 tons to 60,750 tons. Similarly a 0.1 percent annual reduction in $PM_{2.5}$ represents a reduction of around 30 tons from approximately 30,970 tons to 30,940 tons.

[51] https://apps.bea.gov/data/special-topics/orsa/summary-sheets/ORSA%20-%20Minnesota.pdf.

[52] See Lambert, T. and Boerner, C., Envtl. Inequity: Economic Causes, Economic Solutions, Yale J. on Reg., 14, 195 (1997) and Palmquist, R.B., Measuring Environmental Effects on Property Values Without Hedonic Regressions, Journal of Urban Econ., 11(3), 333-347 (1982) for early discussions.

[53] See Banzhaf et al., Environmental Justice: The Economics of Race, Place, and Pollution, Journal of Econ. Perspectives, 33(1), 185-208, (2012)

[54] Ibid.

corresponding federal requirements. In addition to this requirement, Minn. Stat. § 116.07, subd. 2, (f), requires the MPCA to include in the Statement of Need and Reasonableness, an assessment of any differences between the proposed rule and various federal standards, as well as any differences between the proposed rule and state standards from bordering states and other states within EPA Region 5. These assessments are detailed in the "Differences with Federal and Other State Standards" section of this SONAR.

Cumulative Effect

An assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.

Minn. Stat. § 14.131 defines "cumulative effect" as "the impact that results from incremental impact of the proposed rule in addition to the other rules, regardless of what state or federal agency has adopted the other rules. Cumulative effects can result from individually minor but collectively significant rules adopted over a period of time."

The primary objective of this rule is to meet the statutory direction to add cumulative impacts analysis to certain air permit processes. The proposed rule will add new requirements for analysis, public engagement, and potential pollution controls to certain air permits but will also use existing information and processes where possible to reduce the cumulative effects on regulated parties.

The MPCA has existing air permitting rules that consider an individual facility's emissions in comparison to NAAQS and NESHAPs. In some situations, including State Implementation Plan areas, permits must model nearby sources of air pollution. The information and pollution controls required by state and federal air rules will provide important groundwork for reviewing potential cumulative impacts created by facilities because they quantify air emissions and compare them to standards. The proposed rules require the consideration of existing health and environmental stressors around a facility. No current state or federal permit rules require similar information outside of the portion of Minneapolis within the Cumulative Levels and Effects area identified in Minn. Stat. § 116.07, subd. 4a(c).

As directed by the statute, the proposed rules include public meeting and petition requirements. In order to reduce the cumulative effects of the rules for regulated parties, the proposed rule allows for combined public meetings for certain permit actions. The proposed rule also aligns with existing petition processes in environmental review to avoid confusion and reduce duplicate work.

The MPCA has simultaneously proposed Air Toxics Regulations rules that apply to certain facilities within the seven-county metropolitan area. Based on Agency records, around 73 facilities may be subject to both Air Toxics Regulations and Cumulative Impacts rules. The two rules have similar structures in that many facilities will only complete the first screening analysis and not face additional costs. Some facilities may have higher burdens under the two rules that lead to higher costs and longer permitting timelines. The Legislature mandated the scope and timelines of these two rulemakings. The MPCA minimized the cumulative burden of the two proposed rules by offering combined public meetings where applicable.

Environmental Justice Policy

Every Minnesotan—regardless of income, race, ethnicity, color, or national origin—has the right to healthy air, sustainable lands, clean water, and a better climate. As described in the Background section of the SONAR, decades of government and private sector policies and decisions have resulted in disproportionate impacts of pollution and climate change. These policies and practices include racial covenants in residential deeds, redlining (the practice of designating certain neighborhoods as

"hazardous" for investments and denying residents loans and insurance), zoning and permitting decisions, and roadway placement. Lower income Minnesotans and people of color lost agency and wealth as a result of these practices and also found themselves closer to sources of pollution. These discriminatory actions have had cascading effects on the structure of Minnesota that continue to persist.

Black, Indigenous, and people of color as well as individuals with limited English proficiency and low-income households in Minnesota are exposed to higher levels of air pollution relative to other populations. According to the Air We Breathe report published by the MPCA in 2025, these populations face a disproportionate exposure to air pollution due to an increased likelihood of busy roadways, industrial facilities, and other sources of air pollution in their neighborhoods. As described in the *Life and Breath: Twin Cities Metro* report created by the MDH and MPCA, "[t]he highest estimated rates of air pollution-related death and disease are found in neighborhoods with the largest percentage of Black, Indigenous and People of Color (BIPOC), low-income and uninsured residents, and people who live with a disability."

As these identity markers intersect, the disproportionate impact is often more profound. Understanding Minnesota and the United States' history, the MPCA focuses on incorporating EJ to the development of policy to reduce pollution and health disparities in communities most at risk. The MPCA recognizes that the disproportionate exposure to pollution is a prominent externality of longstanding and systemic discrimination so the MPCA shapes its policy and practices around addressing the effects of this historic inequality. MPCA's policy on EJ states:

> The MPCA expects the fair treatment and meaningful involvement of communities of color, Indigenous communities, and low-income communities in Agency actions and decisions that affect them. It is the policy of the MPCA that an outcome of its work, in addition to protecting and improving the environment and public health, must address environmental justice concerns
>
> "Fair treatment" means no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.
>
> "Environmental justice" means the right of communities of color, Indigenous communities, and low-income communities, to the enjoyment of a healthy environment and to fair treatment with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.
>
> Meaningful Involvement happens when:
>
> 1) People have an opportunity to participate in decisions about activities that may affect their environment and/or health;
> 2) The public's contribution can influence the regulatory agency's decision;
> 3) Community concerns are considered in the decision-making process; and
> 4) The decision makers seek out and facilitate the involvement of those potentially affected.

MPCA's EJ Policy concludes by stating:

> *Communities of color, indigenous communities, and low-income residents have a right to live in conditions that support a healthy and fulfilling life. The MPCA is committed to using its authority and influence to identify and support opportunities that improve environmental conditions and reverse generations of environmental inequities in areas of concern, enhancing environmental quality, and providing economic opportunities for future generations of Minnesotans.*

The MPCA's Environmental Justice Framework establishes a vision and high-level strategies for repairing past harm and preventing future harm across the work of the MPCA. This includes understanding conditions in EJ areas, meaningfully engaging with residents, and using our regulatory tools and other resources to reduce pollution and improve livability. The spectrum of MPCA's programs use the Framework as a guide to integrate environmental justice into our work.

The statute that this rule is authorized under, Minn. Stat. § 116.065, subd. 1(d) defines environmental justice as:

1) *The fair treatment and meaningful involvement of all people, the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies; and*

2) *in all decisions that have the potential to affect the environment of an environmental justice area or the public health of its residents, due consideration is given to the history of the area's and its residents' cumulative exposure to pollutants and to any current socioeconomic conditions that could increase harm to those residents from additional exposure to pollutants.*

When undertaking rulemaking, the MPCA considers how the effects of a proposed rule are distributed across Minnesota and works to actively engage all Minnesotans in rule development. The Agency provides a review of the impact in the Equity Analysis and Meaningful Involvement in this section of the SONAR. These analyses are not required under the APA (Minn. Stat. ch. 14) but are included here for ease of review with the rest of the Regulatory Analysis.

The rule strives to achieve environmental justice for people in the seven-county metropolitan area and cities of the first class, which holds great significance due to the area's population density and varied living conditions. As this rule applies to facilities and residents in EJ areas, it is germane for the EJ policy to consider how the promulgation of federal, state, and local policies, zoning decisions, and permitting practices expanded and reinforced systemic inequities and the need for this rule to begin to address these inequities.

Beyond exposure to pollution that lead to decreased health and quality of life, it is important to consider a broader range of conditions and factors that impacts our ability to lead a health and fulfilling live. Minnesota residents' quality of life often ranks among the best in the nation. The state boasts a robust and accessible park system, strong public school system, excellent healthcare and a strong job market alongside many public amenities. However, great disparities in accessing these benefits persist when taking race, ethnicity, and wealth into account. People of color, low-income, and indigenous residents often have a lower quality of life despite Minnesota's high rankings. Minnesota has the second largest gap in home ownership rates between Americans of Color and White Americans, American Indians have a life expectancy 17 years below the state average, and Black American households had a median income roughly $33,000 less than that of White-Americans in 2021 Minnesota.[55] Recognizing and understanding the differences in the quality of life between those living in EJ areas and those who are not is essential to constructing the Cumulative Impacts rule and engaging with Minnesota residents.

Equity Analysis

To further implement the Agency's EJ policy, the MPCA evaluated how the proposed rule affects lower-

[55] *See Minnesota Department of Employment and Economic Development, Black Minnesotans: An analysis of employment, educational and other economic trends and disparities related to the labor force (January 2023) mn.gov/deed/assets/black-african-american-data-report-acc_tcm1045-539222.pdf*

income Minnesotans, people of color, and tribal communities. This analysis included:

- Evaluating the quality of MPCA's engagement with the public across the state. Among other things, this includes the actions the MPCA pursued, the communities that staff is present in, and the number of times staff goes to these communities
- Evaluating the MPCA's ability to create or incorporate concepts meant to reduce EJ area residents' exposure to pollution while staying within the bounds of the statutory authority.
- Evaluating how the proposed rule helps address Minnesotans' disproportionate exposure to pollutants.
- Discussions with EJ area residents affected by the rule to hear how the MPCA can better serve the public's needs. Feedback includes but is not limited to:
  - The felt impact of air, water, and land pollution in the community.
  - Understanding ways to increase the public's participation in processes created or led by the MPCA.
  - Building trust.
  - Notifying community members of facilities' actions.
  - Repairing past harm.
  - Having more points of involvement.
- Conversations with other state agencies about how their approach to reducing air pollution and community engagement leads to fair treatment.

The MPCA does not expect the proposed rules to have any negative environmental consequences on the general population or EJ areas; in fact, it will have a very positive impact on EJ communities. As stated previously, the intent of the rules is to:

- Reduce the disproportionate exposure of air pollution.
- Reduce the disproportionate burden and impacts of pollution on human health and the environment.
- Improve accountability.
- Improve air quality in population centers.
- Ensure ambient air quality is better than air quality standards and benchmarks.
- Improve the livability of Minnesota's communities.

Considerations for applicability to EJ concerns include:

- Approximately 70% of Black, Native, and other people of color in Minnesota live in the seven metropolitan countieshttps://data.census.gov/.[56]
- Approximately 48% of people at or below 200% the federal poverty level in Minnesota live in the seven metropolitan counties.60
- The percentage of Minnesota's communities who live with air pollution over risk guidelines are as follows: [57]
  - 53% of people classified as being low-income
  - 78% of indigenous people and people of color
  - 36% of all Minnesotans https://www.pca.state.mn.us/sites/default/files/lraq-1sy25.pdf.

Scott County contains the Shakopee Mdewakanton Sioux Indian reservation and Dakota County overlaps

[56] *United States Census Bureau. 2020 Census Data. https://data.census.gov/ (last accessed February 13, 2026)*
[57] *MPCA. The Air We Breathe 2025. https://www.pca.state.mn.us/sites/default/files/lraq-1sy25.pdf.*

with the Prairie Island Indian reservation. The Fond Du Lac Band of Lake Superior Chippewa has a reservation in Carleton County and property in a land trust in downtown Duluth. In addition to these areas, all Tribes in Minnesota have members who live in the seven metropolitan counties. And many Tribes have urban offices to support their members in the area.

The disproportionate burden of air pollution on people of color and people in poverty is a national trend. Locales with a high percentage of people in lower socioeconomic statuses face greater exposure to ambient criteria air pollutants.[58] The injustice of the disproportionate exposure is deepened by lower contributions to air pollution on behalf of communities of color despite their increased exposure.[59] The increased exposure has negative health effects on these communities and decrease their quality of life.[60]

Disparate environmental conditions have compounding effects on living conditions. The varied quality of the built and designed environments within metropolitan areas contribute to the unequal exposure of harmful air pollutants. For example, hotter conditions lead to the formation of more ground level ozone. Densely populated areas of the Twin Cities where high percentages of low-income, Indigenous, Southeast Asian, African diasporic, and Latinx people live have a more pronounced urban heat island effect with greater rates of ground-level ozone.[61,62] These conditions with greater exposure to pollution contribute to the fatal and non-fatal impacts people of color and people in poverty face in the Twin Cities as described in MPCA and MDH's Life and Breath Report.[63] Pursuing methods to make residents aware of these impacts and reducing the burden EJ area residents face is essential to improving public health.

The equity analysis indicated that communities that are disproportionately burdened with air pollution are anticipated to benefit from the proposed rule, although their air pollution exposure is likely to remain higher than the statewide average. The air toxics regulations rule may decrease pollution and increase awareness of facility operations in the EJ areas in the seven metropolitan counites. These positive externalities on environmental residents' health stem from the proposed Air Toxics Reduction Plan, notification process, and record keeping of the composition of the neighborhood if they are in an EJ area. The reduced pollution and increased transparency will begin to close the gap in air pollution exposure between communities of concern for EJ and the rest of the state, but is only one step among many that will be needed to achieve equitable air quality.

Meaningful Involvement

In order to meet the directive to strive for meaningful involvement, the MPCA works to seek and facilitate the involvement of those potentially affected by the proposed rule, particularly those populations that have historically not been as engaged in the public process.

---

[58] Hajat, A., Hsia, C., and M. O'Neill. (December 2016). Socioeconomic Disparities and Air Pollution Exposure: A Global Review. https://pmc.ncbi.nlm.nih.gov/articles/PMC4626327/.

[59] Tessum, C., Apte, J., Goodkind, A., and J. Hill (November 2018). Inequity in consumption of goods and services adds to racial-ethnic disparities in air pollution exposure. https://www.pnas.org/doi/10.1073/pnas.1818859116

[60] Cook, Q., Argenio, K., and S. Lovinsky-Desir. (November 2021). The impact of environmental injustice and social determinants of health on the role of air pollution in asthma and allergic disease in the United States. https://www.jacionline.org/article/S0091-6749(21)01448-2/fulltext.

[61] Urban Heat Islands in the Twin Cities by Clare Focht. https://storymaps.arcgis.com/stories/515914dfef5743ebb4a853046c1597be.

[62] Reducing Urban Heat Islands: Compendium of Strategies. https://www.epa.gov/sites/default/files/2017-05/documents/reducing_urban_heat_islands_ch_1.pdf.

[63] Life and Breath: Twin Cities Metro Area Data. https://data.web.health.state.mn.us/documents/20147/0/LIFE+and+BREATH+III+METRO+BRIEF-FINAL.pdf/708c1326-4d48-d2a0-64e6-6ae7f6e2995f.

As described in the Public Participation and Stakeholder Involvement section, the rulemaking process provided many opportunities for stakeholder involvement throughout the development of the proposed rules. The Public Participation and Stakeholder Involvement section of the SONAR displays these instances.

The MPCA made a concerted effort to engage individuals experiencing the disproportionate impact of pollution in Minnesota. We believe our stakeholder outreach has ensured that many affected communities are aware of the rule. Additionally, during the formal public comment period, all interested and affected parties may submit comments on the proposed rulemaking.

Part of the MPCA's outreach focused on trying to hear from communities that are potentially impacted by the rule. The community engagement team conducted one-on-one conversations, interviews, focus groups, workshops, and other forms of engagement with the Minnesota residents. MPCA staff also tabled and attended events within MPCA-defined EJ areas to hear from stakeholders about how the rule may impact them. In addition to outreach conducted in EJ areas, the MPCA made virtual informational sessions accessible through posting the recorded webinars on YouTube.

Tribal Policy

This section discusses how the Agency's policies regarding tribal engagement and consultation were considered in this rulemaking. This analysis is not required under the APA (*Minn. Stat.* ch. 14), but is included here for ease of review with the rest of the Regulatory Analysis.

In compliance with the requirements of Minn. Stat. § 10.65, the Agency consults with Minnesota Tribal governments in the development of policy on matters that have Tribal implications, including at least annual consultation, and as often as required to address various topics and matters of interest to Minnesota Tribal governments. The MPCA also has a policy to coordinate and consult with Minnesota Tribal governments and offer opportunities for early input on actions taken by the MPCA. Specifically for this rulemaking, the MPCA conducted more informal consultation and communication with Tribes as part of the rule development process.

As described in the Public Participation and Stakeholder Involvement and Notice Plan sections, the MPCA contacted Tribes in Minnesota to notify them of opportunities to provide comment. The MPCA also included updates regarding the proposed rules in the monthly Tribal newsletters used to share broader updates with Tribes in Minnesota. In addition to providing notice to the tribal contacts who have registered to receive GovDelivery rulemaking notices, the MPCA has provided specific notice throughout the rulemaking process to contacts identified by the tribes as liaisons for air quality issues. The MPCA also offered to meet with Tribes one-on-one regarding topics related to the cumulative impacts rules.

The MPCA also presented information regarding the cumulative impacts rules to Tribes at meetings of the Minnesota Tribal Environmental Committee (MNTEC). This committee is comprised of environmental staff from Tribal Nations and Treaty Authorities in Minnesota and meets regularly to discuss the concerns of Tribal environmental staff. The committee has a process to request to attend and present at MNTEC meetings and the MPCA was accepted to present three times during this rulemaking.

- At the February 22, 2024, MNTEC meeting, the MPCA presented on the multiple rulemakings underway including the Cumulative Impacts rulemaking. The MPCA provided a general overview of the rulemaking including what the rules need to establish.
- At the December 13, 2024, MNTEC meeting, the MPCA presented on the Cumulative Impacts rulemaking specifically. This included a discussion regarding the requirements of Minn. Stat. § 116.065 that have implications for Tribes in Minnesota. The MPCA also shared early concepts

of how portions of the rules may be structured surrounding matters that have Tribal implications.

- At the November 25, 2025, MNTEC meeting, the MPCA presented on the Cumulative Impacts rulemaking again. This included discussion of early drafts of rule language based on feedback the MPCA received from Tribes during informal consultation and communication.

Consultation was not requested by any of the Minnesota Tribal governments nor the MPCA Commissioner's Office on this rulemaking.

The MPCA will continue to coordinate and communicate with Tribes as part of the rule development process. Tribes will have additional opportunities for input during the Notice of Hearing on the proposed rule amendments comment period, rule hearings, and post-hearing comment period. See the Notice Plan section of this SONAR for details of the MPCA's notice plan.

Climate Action

Climate change is no longer a far-off possibility. Minnesotans across the state are suffering its devastating effects right now—and it will get worse. Addressing climate change and working to mitigate its effects presents us with an opportunity to strengthen our economy, improve our health, and create a more equitable Minnesota for everyone in response to the coming challenges. To guide this work, the State of Minnesota has developed a Climate Action Framework that sets a vision for how our state will address and prepare for climate change. It identifies immediate actions we must take to achieve our long-term goal of a carbon-neutral, resilient, and equitable future for Minnesota.

Minnesota's climate has changed and will continue to change, affecting the health and economy of our communities. Frequent and intense storms—now occurring more often than at any time on record—are damaging homes, businesses, infrastructure, farms, and natural resources, and the trend is projected to continue. Record-breaking floods have damaged streets, wastewater facilities, businesses, and homes, costing local governments, business owners, and residents millions of dollars in cleanup and repairs. Huge wildfires in Canada and the western United States, brought on by changing conditions, have caused unhealthy air quality in our state. Minnesota lakes have lost an average of 10 to 14 days of ice cover in the past 50 years, affecting lake and fish health, outdoor recreation opportunities, and business owners. Climate change effects are harming wildlife habitat. Beloved northern tree species are expected to decline. Minnesota's state grain, wild rice (manoomin, psíŋ), and the habitats it supports are also affected. In addition, our health is threatened by more floods, longer allergy seasons, warmer temperatures, and expanded tick ranges.

The MPCA does not anticipate that this rulemaking will directly address climate change, although it is consistent with that overall goal, but the proposed rules do help MPCA indirectly address that goal. This section provides an analysis of how this rulemaking will help the MPCA address that goal, which is not required under the APA (*Minn. Stat.* ch. 14), but is included here for ease of review with the rest of the Regulatory Analysis.

Hazards, Risks, and Vulnerability Related to Climate Change

Climate change will introduce new and intensified hazards for regulated sources and activities. In general, current climate trends indicate that the climate is getting warmer and wetter, there is increasing frequency of more damaging rain, and there is cold weather warming. Future projections include the current trends continuing leading towards increased frequency of increasingly extreme events, more frequent and longer extreme heat waves, and more periods of drought.

The first step is identifying the current and anticipated future conditions of climate change in the

relevant location. These trends also vary by location and the timeframe considered.

The second step is identifying the risks that may apply given the locational hazards. These risks can relate to contributions to climate change and its impacts and/or to impacts which may result in risks or benefits related to portions of the proposed rules. These risks can also be associated with different media including air quality, water quality and quantity, land use, and public health.

The third step is considering the specific vulnerabilities associated with the locational hazards and climate risks identified. As discussed in earlier sections of this SONAR, certain groups of people and locations may be more susceptible to the harms of pollution. Considering the vulnerabilities present in a specific location and/or present for different groups of people provides a better understanding of how the risks may impact Minnesotans generally and may have greater impact for vulnerable populations.

Considering these hazards, risks, and vulnerabilities is critical in understanding how to directly respond to those hazards, risks, and vulnerabilities in general and to address the intended purpose of the proposed rules.

Mitigation, Adaptation, and Resilience

The fourth step is incorporating specific mitigation, adaptation, or resilience measures into efforts to address the hazards, risks, and vulnerabilities associated with climate change. In general, actions taken now to address climate change can reduce risks to current and future generations. Mitigation and adaptation actions, from international to individual scales, can also result in a range of benefits beyond limiting harmful climate impacts, including potential immediate benefits.

The proposed rules include portions related to understanding and evaluating the localized climate impacts of a stationary source, considering the vulnerabilities present, and potentially implementing various measures that could result in benefits for, and/or reduced impacts to, residents of EJ areas. These proposed rules will help further how our state will address and prepare for climate change by requiring an assessment of impacts related to climate change for sources that are required to conduct a cumulative impacts analysis. While this assessment is not intended to be a comprehensive review of climate change and the various ways to address climate change, this assessment does provide a starting point to understand how climate change can affect the health and economy of communities in Minnesota.

Notice Plan

Minn. Stat. § 14.131 requires that an agency include in its SONAR a description of its efforts to provide additional notification to people or classes of person who may be affected by the proposed rule, or explain why these efforts were not made.

The MPCA uses GovDelivery, a self-subscription service for interested and affected parties to register to receive rule-related notices and other information. Notification by US Mail is also available, although the Agency has no current subscribers requesting paper copies in this way. The MPCA lists its rule projects on its Public Rulemaking Docket, available on the webpage at https://www.pca.state.mn.us/get-engaged/proposed-rules; once projects are active, a self-subscription GovDelivery list for that specific rule is established and an electronic notice sent to all subscribers of the MPCA's New Rulemaking list, encouraging everyone interested in the topic of the new project to subscribe to its list. The webpage for each rulemaking project also includes a link to subscribe to its GovDelivery list.

In addition, the Agency purchases email lists from the Association of Minnesota Counties and the League of Minnesota Cities to reach out to new government officials who may not be familiar with the MPCA's GovDelivery service—these officials include Commissioners, County Board Chairs, Planning and Zoning

Administrators, Solid Waste Officers, City Managers, Administrators, Assistant Administrators, Clerks, Deputy Clerks, and other chief appointed city officials. The MPCA periodically sends an email inviting these individuals to subscribe to topics that interest them; the most recent copy of this message went to the listed government officials on June 5, 2025.

Required Notice

Request for Comments

For rulemaking, the first notice, required by Minn. Stat. § 14.101, is the RFC. The MPCA published the initial RFC for this rule in the *State Register* on July 24, 2023. To inform the public of the RFC, the MPCA notified interested parties who are subscribed to the "Rulemaking: Cumulative Impacts" GovDelivery list, the same day it was published. The GovDelivery notice was sent to 257 subscribers to this list.

The Agency published a second RFC for the Cumulative Impacts rule in the *State Register* on April 21, 2025, and again used the "Rulemaking: Cumulative Impacts" GovDelivery list to notify interested parties on the day of publication. This time the notice went to 2,001 subscribers to the list.

The MPCA maintains a list of rulemaking contacts for the 11 federally recognized tribes in Minnesota and edits the list quarterly. The MPCA provided specific notice of the RFC to the designated tribal contacts—this electronic notice contained the same information about the RFC in the GovDelivery notice and was sent on the same day.

In addition, the MPCA:

- Posted the 2023 RFC, the same day it was published in the *State Register*, on the MPCA's Public Notices webpage. (NOTE: The MPCA site has been reconfigured in the time since the 2023 RFC publication, so rulemaking notices are posted to the Proposed Rules page at https://www.pca.state.mn.us/get-engaged/proposed-rules; the original Public Notices link posted in the 2023 RFC now redirects there.)
- Posted the 2025 RFC, the same day it was published in the *State Register*, in the "Rules Open for Public Comment" section of the MPCA's Proposed Rules webpage at https://www.pca.state.mn.us/get-engaged/proposed-rules.
- Posted information about these amendments, the same day each RFC was published in the *State Register*, on the MPCA's rule-specific webpage at https://www.pca.state.mn.us/get-engaged/cumulative-impacts-rulemaking.

Notice of Intent to Adopt and Other Required Notifications

On May 18, 2026, the MPCA is publishing a Notice of Intent to Adopt Rules in the *State Register*, requesting comments on planned rule amendments to *Minn. R.* ch. 7007. The same day, the Notice and SONAR will be posted with the proposed rule text on the Agency's rule-specific webpage at https://www.pca.state.mn.us/get-engaged/cumulative-impacts-rulemaking, with a link also posted on the Proposed Rules page at https://www.pca.state.mn.us/get-engaged/proposed-rules; the MPCA will also include a direct link to the CAH's eComments listing for this rule on the Cumulative Impacts page.

The Agency is required under Minn. Stat. § 14 to identify and send notice to several groups. The steps the MPCA has taken or will take to meet those statutory requirements are laid out in detail below.

1. The MPCA intends to send an electronic notice with a hyperlink to electronic copies of the Notice, SONAR and proposed rule amendments to all parties who have registered with the MPCA for the purpose of receiving notice of rule proceedings, as required by Minn. Stat. § 14.14, subd. 1a, on the date the Notice is published in the *State Register*. Any parties within this group that have requested

non-electronic notice will be sent copies of the Notice and the proposed rule amendments in hard copy via US Mail at least 33 days before the end of the comment period to account for the required 30 days plus an extra three for delivery.

2. The MPCA intends to send a cover letter with a hyperlink to electronic copies of the Notice, SONAR and proposed rule amendments to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rule amendments, and to the Legislative Coordinating Commission, as required by Minn. Stat. § 14.116 (or paper copies of the same documents if a legislator prefers to receive them that way). The timing of this notice will occur at least 33 days before the end of the comment period to account for the required 30 days plus an extra three days for delivery via US Mail to any legislators who prefer paper copies. This statute also states that if the mailing of the notice is within two years of the effective date of the law granting the Agency authority to adopt the proposed rules, the Agency must make reasonable efforts to send a copy of the Notice and SONAR to all sitting legislators who were chief House and Senate authors of the bill granting the rulemaking authority; although the Legislature directed the MPCA to conduct this rulemaking in Minn. Stat. § 116.065 in 2023, which falls outside of this two-year requirement, the Agency will also send these documents by email or US Mail to any such sitting legislators at least 33 days before the end of the comment period.
3. Consistent with Minn. Stat. § 14.131, the Agency will send a copy of the SONAR to the Legislative Reference Library when the Notice of Intent to Adopt Rules is published.
4. Minn. Stat. § 14.111 requires the Agency to provide the Commissioner of Agriculture with a copy of the proposed rule changes no later than 30 days before publication of the proposed rule in the *State Register*, if the rule will affect farming operations. This requirement does not apply because the proposed amendments will not have any effect on farming operations in Minnesota.
5. Minn. Stat. § 115.44, subd. 7 requires the MPCA to send notice to the governing body of each municipality touching the waters for which standards authorized under Minn. Stat. § 115.44 are sought to be adopted. This requirement does not apply because the proposed amendments do not involve standards authorized under Minn. Stat. § 115.44.
6. Minn. Stat. § 116.07, subd. 7(j) requires the MPCA to send notice to the members of legislative policy and finance committees with jurisdiction over agriculture and the environment before final adoption of any new rules or amendments authorized under Minn. Stat. § 116.07, subd. 7. This requirement does not apply because the proposed amendments do not involve new rules or amendments authorized under Minn. Stat. § 116.07, subd. 7.

Additional Notice Plan

Pursuant to Minn. Stat. § 14.14, subd. 1a, the Agency believes its regular means of notice plus the additional efforts detailed in this section will adequately provide notice of this rulemaking to parties interested in or regulated by these rules. In addition to the required notice, the Agency will make the Notice of Intent to Adopt Rules, SONAR, and proposed rule text available on the MPCA webpages listed above, along with a link to the CAH's eComments page for this rulemaking. Links to the Notice, proposed rule text, and SONAR will also be posted on the CAH's eComments page.

The MPCA's plan to reach additional parties includes the following:

1. Provide an extended comment period. The MPCA will provide a 60-day pre-hearing comment period on the proposed rule amendments. Extending the comment period beyond the 30-day minimum provides additional opportunity for potentially interested parties to learn about the proposed rule amendments and submit comments.

2. Hold a public meeting during the 60-day comment period to provide information on the proposed rule amendments and to take questions from stakeholders.
3. Post updates to the Agency's Facebook, Instagram and Nextdoor accounts on the day of *State Register* publication, as well as reminders on each platform one week before the comment deadline and one day before the comment deadline, with links to the Cumulative Impacts rulemaking webpage and CAH eComments page.
4. Provide specific notice to tribal authorities. The MPCA maintains a list of the 11 federally recognized tribes in Minnesota and edits the list quarterly. The MPCA will send specific electronic notice to the designated contacts for Minnesota Tribal Nations. The notice will be sent on or near the day the proposed rule amendments are published in the *State Register*, with a hyperlink to the webpage where electronic copies of the Notice, proposed rule amendments, and SONAR can be viewed. Note: some tribal contacts may already subscribe to receive GovDelivery notices about this rulemaking.
5. Provide specific notice to permittees potentially affected by the proposed rule. The notice will be sent to the permittees on or near the day the proposed rule amendments are published in the *State Register*. The MPCA will send notice either electronically or by US Mail to each permittee that includes a hyperlink to the webpage where the Notice, proposed rule amendments, and SONAR can be viewed.
6. Provide specific notice to interested organizations. The notice will be sent electronically to the following business associations, community organizations and environmental groups on or near the day the proposed rule amendments are published in the *State Register*, with a hyperlink to the webpage where electronic copies of the Notice, proposed rule amendments, and SONAR can be viewed. Note: some members of these entities may already subscribe to receive GovDelivery notices about this rulemaking.

    - 100% Campaign
    - Aggregate & Ready Mix Association of Minnesota
    - American Indian Community Housing Organization
    - American Petroleum Institute
    - Area Partnership for Economic Expansion
    - Associated General Contractors of Minnesota
    - Association of Metropolitan Municipalities
    - Association of Minnesota Counties
    - Center for Earth, Energy, and Democracy
    - Citizens Environmental Quality Committee
    - Clean Water Action Minnesota
    - Climate Generation
    - Coalition of Greater Minnesota Cities
    - Community Members for Environmental Justice
    - Communidades Latinas Unidas en Servicio
    - Comunidades Organizando el Poder y la Acción Latina
    - Concrete Paving Association of Minnesota
    - Conservation Minnesota
    - CURE Minnesota
    - Dakota County Regional Chamber of Commerce
    - Duluth Area Chamber of Commerce
    - Duluth Seaway Port Authority
    - Environmental Initiative—Clean Air Minnesota
    - Environmental Justice Coordinating Council
    - Fresh Energy
    - Frontlines Communities Protection Coalition
    - Greater MN Partnership

- Great Plains Institute
- Health Professionals for a Healthy Climate
- Health Students for a Healthy Climate
- International Union of Operating Engineers Local 49
- Izaak Walton League of America—Minnesota Division
- Isaiah MN
- LIUNA Minnesota and North Dakota
- Latino Chamber of Commerce of Minnesota
- League of Minnesota Cities
- Little Earth
- Metro Cities MN
- MetroNorth Chamber of Commerce
- Metropolitan Council
- Migizi
- Minneapolis Regional Chamber of Commerce
- Minnesota Academy of Family Physicians
- Minnesota AgriGrowth Council
- Minnesota Asphalt Pavement Association
- Minnesota Association of Small Cities
- Minnesota Association of Soil and Water Conservation Districts
- Minnesota Black Chamber of Commerce
- Minnesota Building and Construction Trades Council
- Minnesota Business Partnership
- Minnesota Center for Environmental Advocacy
- Minnesota Chamber of Commerce
- Minnesota City/County Management Association
- Minnesota Doctors for Health Equity
- Minnesota Environmental Science and Economic Review Board
- Minnesota Environmental Justice Table
- Minnesota Environmental Partnership
- Minnesota Hmong Chamber of Commerce
- Minnesota Hospital Association
- Minnesota Interfaith Power & Light
- Minnesota Nurses Association
- Minnesota Pipe Trades Association
- Minnesota Public Health Association
- Minnesota Resource Recovery Association
- MN350
- Native Sun Community Power
- North Central States Regional Council of Carpenters
- Physicians, Scientists, and Engineers for Healthy Energy
- Rochester Area Chamber of Commerce
- Sierra Club North Star Chapter
- St. Paul Area Chamber of Commerce
- TakeAction Minnesota
- Tending the Soil
- The Nature Conservancy
- Unidos MN
- Union of Concerned Scientists
- Urban League Twin Cities
- Voices for Racial Justice
- Waḳaŋ Ṭípi Awaŋyaŋkapi

7. Provide notice in electronic newsletters. The MPCA uses electronic newsletters to provide updates and information about rulemakings, as described in the Public Participation and Stakeholder Involvement—Newsletters subsection of this SONAR. The Agency will provide notice in its Air Mail news SONAR letter with information where electronic copies of the Notice, proposed rule amendments, and can be viewed. Although it is not possible to assure that the Air Mail newsletter will be published exactly at the start of the public comment period, the MPCA

will provide the maximum possible notice by either offering notice of the comment period in the Air Mail edition that is published closest to the beginning of the public comment period or sending a special bulletin notice to all subscribers of the Air Mail newsletter when the rules are proposed.

8. Continue to update the rulemaking-specific webpage at https://www.pca.state.mn.us/get-engaged/cumulative-impacts-rulemaking with schedules for hearings and any other public meetings, new documents including timely responses to comments received during this Notice's public comment period, and other relevant documents and information.

On April 27, 2026, the Agency received confirmation from the CAH that these steps meet the notice requirements for parties or classes of people who may be affected by the proposed amendments to these rules under Minn. Stat. § 14.14, subd. 1a.

Performance-Based Rules

Minn. Stat. § 14.002 requires state agencies, whenever feasible, to develop rules that are not overly prescriptive and inflexible, and rules that emphasize achievement of the MPCA's regulatory objectives while allowing maximum flexibility to regulated parties and to the MPCA in meeting those objectives.

The MPCA aims to create rules that offer clarity and adaptability, making compliance as straightforward as possible for regulated parties. The MPCA fulfills this requirement by employing various approaches designed to balance the need for effective regulation with flexibility in implementation. These approaches include:

- Structuring the rules to meet the objectives of the statutory language in requiring the necessary information to understand and evaluate the potential impacts of issuing a permit while providing flexibility to regulated parties in how they provide the required information and analyses.
- The rules allow for extensions to timelines where additional information is needed, allowing for more time to ensure compliance and more time to make an informed decision. The rules also allow for opportunities to revise or modify analyses, correct inaccurate or incorrect information,
- Providing environmental stressor information in a readily available format for regulated parties to use in complying with the proposed rules. Regulated parties are able to obtain the required information in a pre-filled format, saving time and resources regulated parties need to spend on data collection and data entry.
- Providing opportunities for regulated parties to describe the positive and negative impacts from their stationary source as part of both the initial assessment and the cumulative impacts analysis, including the regulated party's determination of whether a cumulative impacts analysis is required and whether issuing the permit would have a substantial adverse impact.
- Identifying clear benchmarks for when a cumulative impacts analysis is required and clear decision making criteria for when a cumulative impacts analysis is required based on the MPCA's determination of whether issuing the permit has the potential to substantially impact the environment or health of residents of an EJ area.
- Providing opportunities for regulated parties to conduct outreach and engagement during the preparation of a cumulative impacts analysis using methods they believe would develop and foster community relations and engagement.
- Identifying clear criteria for when issuing a permit would result in substantial adverse impacts for certain quantitative environmental and health impacts as well as clear decision-making criteria for when a qualitative, or less-quantitative, environmental or health impact is a substantial adverse impact.

- Providing opportunities for regulated parties to conduct outreach and engagement during the preparation of a CBA using methods they believe would develop and foster community relations and engagement.

Additionally, the MPCA constructed these rules to be similar to programs that already exist and are implemented in Minnesota. Where possible, the proposed rules parallel the requirements that exist in other Minnesota regulatory programs like environmental review and the CL&E process. Using similar processes to evaluate environmental and health impacts provides for a common understanding of what is expected and facilitates compliance. It also allows to avoid duplicative work and provides regulated parties with the flexibility to use the same resources and analyses to satisfy other potentially applicable regulatory programs.

Consideration of MPCA-Specific Statutory Requirements

The law also requires state agencies to analyze several other factors as part of their rulemaking process. This section addresses the other statutory requirements beyond those outlined in the APA, specific to the MPCA.

Consideration of Economic Factors

In exercising its powers, the MPCA is required by identical provisions in Minn. Stat. § 116.07, subdivision 6 and Minn. Stat. § 115.43, subdivision 1 to give due consideration to:

> *…the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may result there from, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances…*

The MPCA has met the requirements of this statute by the discussions provided in the Regulatory Analysis section regarding the possible economic effects of the proposed rule.

Differences From Federal and Other State Standards

Minn. Stat. § 116.07, subd. 2 requires that for proposed rules adopting air quality, solid waste, hazardous waste, or water quality standards, the SONAR must include an assessment of any differences between the proposed rule and existing federal standards adopted under the Clean Air Act, title 42, section 7412(b)(2); Clean Water Act, *United States Code*, title 33, sections 1312(a) and 1313(c)(4); and the Resource Conservation and Recovery Act, *United States Code*, title 42, section 6921(b)(1); similar standards in states bordering Minnesota; and similar standards in states within EPA Region 5; and a specific analysis of the need and reasonableness of each difference.

At the direction of the Legislature, Minnesota has taken a leadership role in addressing cumulative impacts in air permitting decisions. Minnesota would be the first state in EPA Region V to adopt rules requiring the considering of cumulative impacts in EJ areas. No bordering states have similar rules or laws. At this time, there is no similar federal regulation.

States outside the Midwest have adopted similar laws and rules, most notably Massachusetts, New Jersey, New York, and Washington.

Massachusetts

In 2021, Massachusetts passed a law that requires the Department of Environmental Protection (DEP) to assess impacts to EJ areas for Comprehensive Plan Applications. In 2024, the state promulgated rules in 310 CMR 7.00 that establish which permits are required to conduct a Cumulative Impact Analysis depending on their size and distance from an EJ area[64]. The rules also require public notice and comment periods similar to the proposed rules. DEP chose 33 stressors to analyze existing conditions as part of their Cumulative Impact Analysis and established a modeling and risk assessment framework for permit actions. The Massachusetts law and rule do not have a CBA component and do not require the DEP to deny permits based on the Cumulative Impact Analysis. These differences are established in the statute.

New Jersey

In 2020, New Jersey enacted S.232, an Environmental Justice Law, which requires the state's DEP to assess impacts to overburdened communities for certain facilities before any permit can be issued. The law applies to air, land and water permits and requires the agency to deny permits where a facility to cause or contribute to adverse environmental outcomes.

The DEP New Jersey's law and rules (adopted in 2023[65]) are similar in several important ways to Minnesota's law and proposed rules. In both states, the law determines the criteria for areas subject to the rules and identifies a similar multi-stressor approach that includes environmental and health data. Both rules require significant public engagement during permit applications in EJ areas. Minnesota's law and rules are different in their narrow geographic scope versus NJ's statewide applicability. Minnesota's law and rules also include a CBA pathway for permit approval as opposed to New Jersey's required denial. These differences are established in the statute.

New York

In 2022, New York enacted S8830 to regulate the siting of facilities in disadvantaged communities. Similar to Minnesota's law and proposed rule, the New York regulations require a report on existing burdens before any non-minor permit can be issued. The Department of Conservation cannot issue permits that will cause or contribute to disproportionate impacts in disadvantaged communities. These differences are established in the statute.

Washington

In 2021, Washington enacted the Healthy Environment for All Act[66] that requires covered state agencies to consider the cumulative environmental health impact before taking any significant agency action. Similar to the proposed Minnesota rules, the state maintains a database of health impacts and overburdened communities to inform these assessments. The law also requires enhanced engagement with overburdened communities. The law does not specifically provide for CBAs or require permit denials depending on the results of an assessment. These differences are established in the statute.

Consultation With MMB on Local Government Impact

[64] *Massachusetts DEP website accessed December 5, 2025. https://www.mass.gov/info-details/cumulative-impact-analysis-in-air-quality-permitting#regulations*

[65] *APRIL 17, 2023 NEW JERSEY REGISTER*

[66] *Agency website accessed November 26, 2025. https://ecology.wa.gov/about-us/who-we-are/environmental-justice/heal*

As required by Minn. Stat. § 14.131, the MPCA will consult with Minnesota Management and Budget (MMB). We will do this by sending MMB copies of the documents that we send to the Governor's office for review and approval on the same day we send them to the Governor's office, before publishing the Notice of Intent to Adopt. The documents will include: the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The MPCA will submit a copy of the cover correspondence and any response received from MMB to the CAH at the hearing or with the documents it submits for review by an Administrative Law Judge.

Impact on Local Government Ordinances and Rules

As required by Minn. Stat. § 14.128, subdivision 1, the Agency has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. The MPCA has determined that the proposed rules will not have any effect on local ordinances or regulations. The implementation of the proposed rules will be managed by the MPCA and are not intended to require resources from local government partners. A local government may be a partner in the regulation of businesses, but the MPCA does not expect that additional local ordinances or regulations will be associated with that partnership.

Costs of Complying for Small Business or City

Agency Determination of Cost

As required by Minn. Stat. § 14.127, the Agency has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed $25,000 for any small business or small city. The Agency has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed $25,000 for any small business or small city. This determination is based on the applicability and timelines set forth in the proposed rule as well as the probable costs of complying with the proposed rules.

The Agency conducted a general analysis of facilities potentially affected by the proposed rule to identify if any may meet the definition of a small business or small city under Minn. Stat. § 14.127. Under this statute, a small business has fewer than 50 full-time employees and is an entity organized for profit or as a nonprofit, and includes an individual, partnership, corporation, joint venture, association, or cooperative, whereas a small city is defined as any one statutory or home rule charter city that has fewer than ten full-time employees. No small cities with an existing individual state or individual federal air permit were identified in the areas subject to the proposed rule. Publicly available data indicate that a small number of individual state and federal permittees may qualify as small businesses per Minn. Stat. § 14.127; however, these facilities are not expected to incur costs associated with the proposed rule during the first year after the rule's effective date.

Individual state permits do not expire, therefore, existing facilities that may qualify as small businesses or small cities would become subject to the proposed rule only when applying for facility expansion. Individual federal permits expire every five years and, under the proposed rule, the renewal process requires an assessment to determine whether a cumulative impact analysis is required. No existing individual federal permits held by potential small businesses expire within one year of the proposed rule's effective date. As a result, these facilities are not expected to incur costs associated with the proposed rule within the first year. In addition, the proposed rules do not apply to applications for a permit reissuance for permits with expiration dates within 24 months of the effective date of the rule. This will mean that any small businesses applying for reissuance during the first year after the rule takes effect will not be affected.

Individual federal permittees may also become subject to the proposed rule through applications for facility expansion. The Agency cannot predict with certainty whether a small business or small city may apply for new construction or facility expansion during the first year. Given the limited number of small businesses and the absence of small cities currently holding individual state or individual federal permits, the Agency does not expect new applications within the first year.

If a new permit or facility expansion application is submitted during the first year, the MPCA does not anticipate significant additional costs beyond those typically associated with preparing such applications. Only the initial assessment compliance step, as outlined in the Cost to Comply section, would be expected to be completed during the first year. Based on the economic survey conducted by MPCA, the initial assessment is estimated to take 55 hours for an estimated cost of $26,000. Much of the time and cost associated with an initial assessment would already be part of a new permit or facility expansion application. Any additional requirements of the initial assessment are not expected to impose significant additional burden, and, therefore, actual costs of the initial assessment for new permit applications are expected to be a small portion of the estimated $26,000. The MPCA will also develop resources to further reduce time and cost requirements of the initial assessment process. Applicants could avoid the proposed requirements by timing submittal appropriately and evaluating whether a cumulative impact analysis may be required in advance.

Authors, Witnesses and SONAR Exhibits

Authors

The primary authors of this SONAR are as follows:

- Hassan Bouchareb, Engineering Specialist Senior, Environmental Analysis and Outcomes Division, MPCA
- Maren Bardal, Staff Attorney, Operations Division, MPCA
- David Bael, Economic Policy Analyst, Environmental Analysis and Outcomes Division, MPCA
- Derek Bozzell, Small Business Ombudsman, Resource Management and Assistance Division, MPCA
- Quinn Carr, Product Stewardship Data Analyst, Resource Management and Assistance Division, MPCA
- Alexa Golemo, Planner Principal State, Operations Division, MPCA
- Derek King, Research Scientist 3, Environmental Analysis and Outcomes Division, MPCA
- Robert Little, Engineering Specialist Senior, Industrial Division, MPCA
- Bennett Olupo, Senior Community Engagement Specialist, Operations Division, MPCA
- Sarah Sevcik, State Program Administrative Coordinator, Industrial Division, MPCA
- Michael Thiel, Research Scientist 2, Environmental Analysis and Outcomes Division, MPCA
- Brenda Vaness, Environmental Specialist, Industrial Division, MPCA
- Max Zaret, Research Scientist 3, Environmental Analysis and Outcomes Division, MPCA

Witnesses and Other Staff

For the hearing, the Agency anticipates having the following listed authors testify as witnesses in support of the need for and reasonableness of the rules:

- Maren Bardal is an MPCA staff attorney and will introduce the required jurisdictional documents into the record.
- Hassan Bouchareb is the MPCA air program lead for this rule and will provide the Agency's summary presentation.
- Katie Izzo is an MPCA rule coordinator and will be available to testify on any Minnesota APA-process questions related to this rulemaking project, if needed.

Exhibits

In support of the need for and reasonableness of the proposed rules, the Agency anticipates that it will enter the following exhibits into the hearing record:

- Cumulative Impacts Mapping and Analysis Platform (CI-MAP) technical support document

Conclusion

In this SONAR, the MPCA has established the need for and the reasonableness of each of the proposed amendments to Minn. R., chapter 7007. The Agency has provided the necessary notifications and documented its compliance with all applicable administrative rulemaking requirements of Minnesota statute and rules.

Based on the forgoing, the proposed amendments are both needed and reasonable.

Katrina Kessler

Katrina Kessler, Commissioner
Minnesota Pollution Control Agency

April 29, 2026
Date