Tony Kwilas

August 15, 2024

Katie Izzo and Hassan Bouchareb
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

Dear Katie/Hassan,

The Minnesota Chamber of Commerce (Chamber) submits this letter in response to the Minnesota Pollution Control Agency's (MPCA or Agency) request for comments on the indicators and datasets[1] under consideration in developing a "cumulative impacts data tool" presented at the July 10 public working session. The Chamber appreciates the Agency's deliberate and transparent approach and is providing our unique perspective on behalf of a collective of permittees that could be directly involved in completing future cumulative impact analyses.

It is important to acknowledge some context for the comments that follow:

1. The state of the science for cumulative impacts is relatively new and developing, and this includes with respect to stressors. The Environmental Protection Agency's (EPA's) September 2022 Cumulative Impacts Research Recommendations for EPA's Office of Research and Development identified stressor identification and characterization as a knowledge gap and data area requiring "robust research" in order to inform the cumulative impacts process. While the Chamber recognizes that the Minnesota legislation puts MPCA on a three-year timeline for development of the regulation, MPCA should also keep in mind that there is no current federal standard or guideline for selecting and collectively analyzing stressors. Despite the legislative deadline, MPCA must address the research gap identified by EPA before selecting stressors or MPCA will likely face challenges to the validity of MPCA's future cumulative impacts analysis (CIA) process.

2. The Minnesota Chamber of Commerce's February 2024 report titled Streamlining Minnesota's environmental permitting process: Essential for economic growth identified significant issues associated with the timeliness and uncertainty of Tier 2 air quality permits and permit modifications, like those that are addressed by the legislation (major source and state air permits, permit reissuances and amendments to address facility expansions/modifications). The report included goals and actionable strategies to improve timeliness and certainty. The future cumulative impacts regulation is likely to exacerbate long timelines, not only for facilities within the areas addressed by the legislation

[1] MPCA's DRAFT Data inclusion criteria workshop handout appears to use "indicators", "data indicators" and "stressors" interchangeably. The legislation also refers to "factors" and "effects". This letter will use stressors to address all of these terms.

(within one mile of a census tract that is part of an environmental justice area, and in the applicable counties/cities), but for all permittees due to the burden of Agency resources to support implementation of the regulation. The future cumulative impacts regulation must account for the inefficiencies that already exist in the air permitting process and ensure that the addition of the CIA, and particularly the extent of stressors addressed, does not lengthen a permit process that already exceeds peer state processes by wide margins.

With that context we provide the following comments.

Focus the Analysis on Key and Most Impactful Stressors Contributing to Health Disparities

It is our understanding that the list of stressors in the MPCA's "Data to use in a cumulative impacts analysis" draft workshop handout is a comprehensive, but not exhaustive, initial list that the Agency will eventually narrow down to a smaller sub-set based on public comments, data availability and data integrity. We would recommend an approach to the analysis that focuses on a select few stressors that are the most impactful to human health disparities (be it environmental or social) with known verifiable data. This would maintain the consistency of the analysis, regardless of the permittee, and target the data-proven stressors contributing most significantly to human health disparities. As MPCA faces the task of developing and implementing a new program under its air permitting process, while facing acknowledged areas for improvement in statewide permitting timeliness and certainty, keeping the analysis focused on a small number (e.g., five to eight) of highly impactful (not assumed or perceived) stressors will allow the process to develop, and adjust and improve as necessary.

An outcome of this focused approach is that, as these main stressors are addressed with each new CIA, so could new stressors emerge as being more impactful and be added in the future. The selection of the stressors to include should be based on those most influential and impactful to human health.

Data Inclusion Criteria Should Include a Characteristic for Comparing Stressors on a Similar Scale

MPCA's "Data inclusion criteria" draft workshop handout includes a Data characteristic for "Clear meaning and balancing indicators across multiple impact [stressor] topics". The stated reason for this characteristic is that the stressors will be added to determine whether a substantial adverse impact exists. As addressed in the legislation (Subd. 5(b)), a decision to issue a permit should be made by looking at the impact of the permitted activity "in combination with" the environmental and social stressors. This should include an evaluation of whether either the permitted activity or any one of the stressors causes a disproportionate contribution to the substantial adverse impact. As an example, just looking at human health risk[2] from air pollution emitted from a variety of sources (the point source associated with permitted activity, other point sources in the area, non-permitted area sources, and mobile sources), these can be compared on a common scale of incidence of cancer risk per 100,000 individuals. This type of comparison in a metro area would typically show a disproportionate contribution to overall risk by mobile and area sources, and relatively small risk associated with any one point source. This comparison can only be done because the impact (cancer risk) can be measured on a similar scale. To the extent possible, stressors selected for analysis should be able to be evaluated on a similar scale to support the risk management decision of issuing or denying a permit action.

Weight Stressors to Each Other Based on Significance to Human Health Impacts

A cumulative analysis by design is intended to add up different pollutants and stressors to define or measure an overall value to a community's health burden. Not all stressors carry the same impact on a human's overall

[2] Evaluated using risk assessment procedures common to the USEPA, MPCA, and the Minnesota Department of Health.

health, so when common scales cannot be established between stressors, we would recommend MPCA consider a weighted or equivalency approach to adding up each environmental and non-environmental stressor for a total cumulative impact. Existing studies of what causes the most stress to a human's overall health, called Leading Health Indicators, could be used to select the stressors and quantify a weighting spectrum/metric for different stressors. An illustrative approach is how greenhouse gas (GHG) reporting uses carbon dioxide (CO_2) equivalency to weight other GHG pollutant's warming potential against that of CO_2. In the cumulative impact case, this wouldn't be based on different pollutants, but rather on how different stressors are more impactful on human health than others (e.g., comparing economic stability and income versus air quality).

Ensure Consistency of the Baseline Stressor Data Used in the Cumulative Analysis Across Different Permittee Types and Locations

The Chamber's October 5, 2023, comments on the proposed preliminary rulemaking touched on our preference for "data and guidance to be provided to the permittee." We reiterate this stance here in our recommendation that a standard should be met across all cumulative analyses where the MPCA provides the baseline data criteria to be evaluated. This would ensure a baseline consistency in all analyses completed. We acknowledge that not all situations are alike, so some permittees may be required to provide further analysis or detail as required, but at a minimum, all facilities should be provided the same data for the analysis and it should not be the responsibility of the individual permittee to prepare the stressor data sets.

Specific Strategies to Focus Stressor Selection

MPCA's "Data to use in a cumulative impacts analysis" draft workshop handout identifies 63 stressors to be considered for inclusion in the CIA. The following could be considered in reducing the list to a focused list of relevant stressors to be considered.

- Industrial or industry specific amounts of pollution at facilities
- Amount of allowable/potential emissions
- Amount of actual emissions

Risk to human health and the environment is a function of not only amounts of pollution emitted, but also the dispersion/migration of those pollutants in the environment, the receptors exposed to the resulting pollutants, the routes of exposure, and the toxicity of the particular pollutants. Rather than amounts of pollution, the risk-related stressors provide a better indication of potential for health impact (e.g., air pollution cancer and non-cancer risk). We believe that the risk calculations should be based on actual emissions.

- Land pollution list and built environment list

The presence of a particular type of facility (Brownfield site, foundry, landfill, airport, etc.) may or may not pose a significant health risk. The risk associated with the facility will be a function of emissions, discharges, and the risk assessment concepts in the comment above. Stressors should include the risk associated with nearby facilities (based on MNRisk data, for example), and not merely the presence of those facilities.

Review Current MPCA Datasets to Ensure Accurate, Quality Public Data

In anticipation of potential existing datasets being used in the cumulative impact analysis tool, we encourage MPCA staff to prioritize coordination with permittees to ensure the data accurately reflects the current status of the facility. For example, included amongst the list of "Data to Use" under the heading "Permitted Facilities"

is “number of permitted sources nearby” which would require a facility’s X,Y coordinates in relation to a defined source. Previous databases of permitted facilities like the MPCA Nearby Source GIS tool have incorrectly sited permitted facilities. Additionally, we think it is important for whichever MPCA unit is responsible for the upkeep to ensure the data provided to permittees is verified as being accurate and approved for use in an analysis, avoiding the approach that the Risk Evaluation and Modeling Unit has taken in MPCA’s most recent revisions to the Air Modeling Manual.[3]

The Chamber appreciates MPCA’s efforts to address these issues as the Agency proceeds into this important stage of rulemaking development. We again reiterate our request that the Agency establish a rulemaking workgroup to seek consensus on as many issues as possible prior to publication of the draft rule. We would also be pleased to discuss these comments with the Agency in further detail.

Sincerely,

Tony Kwilas
Director, Environmental Policy
Minnesota Chamber of Commerce
tkwilas@mnchamber.com
651-292-4668

[3] In MPCA’s September 2023 draft of “MPCA Air Dispersion Modeling Practices” Section 3.10.2.7 Nearby Source Selection specifies that “The REAM unit is providing modeling information ‘as is’ with no content review, approval, or verification, either expressed or implied…The MPCA REAM unit makes no claim on the suitability of the requested data. The project proposed carries the burden to verify the accuracy of the proposed modeling emission and non-emission data. “