

## Andrew Morley

Do the following categories adequately provide for the types of benefits that you would like to see in a community benefit agreement?

- facility implements measures at its facility to avoid contributing to stressors
- facility implements measures at its facility to minimize contributions to stressors
- facility implements measures in the community to reduce stressors to which the facility will contribute
- facility implements measures in the community to reduce stressors to which the facility will not contribute
- facility implements measures to provide a net environmental benefit

On behalf of the Minnesota Chamber of Commerce (Chamber), a statewide organization representing 6,300 businesses and more than a half million employees throughout Minnesota, we appreciate the opportunity to submit this letter in response to the Minnesota Pollution Control Agency's (MPCA) request for comments regarding Minn. Stat. 116.065, specifically subd. 6(c)(4) which requires the MPCA to enter into rulemaking to establish the content of a community benefit agreement (CBA) and procedures for entering into CBAs.

The MPCA held two public meetings on August 14, 2024 and October 23, 2024 to collect public input on CBAs. The Chamber submitted comments on September 18, 2024 in response to the first public meeting. This submittal therefore focuses on issues raised in the second public meeting. The MPCA's written materials for this meeting covered three aspects: 1. Communities' role in CBAs; 2. Community benefit categories; and 3. Community outreach and public meeting requirements. However, the MPCA is specifically requesting responses to the following five questions:

Question 1: Do the following categories adequately provide for the types of benefits that you would like to see in a community benefit agreement?

- a. facility implements measures at its facility to avoid contributing to stressors
- b. facility implements measures at its facility to minimize contributions to stressors
- c. facility implements measures in the community to reduce stressors to which the facility will contribute
- d. facility implements measures in the community to reduce stressors to which the facility will not contribute
- e. facility implements measures to provide a net environmental benefit

Response: Categories "a" through "e" above are taken from a rule developed by the state of New Jersey but omit the key word "feasible" before "measures". This is critically important because not all measures will be feasible for technical or economic reasons. While a facility should be open to suggestions that could avoid (category a) or minimize (category b) its contribution to stressors, the facility must reserve the right to argue whether such measures are feasible. Under category b, we recommend replacing "minimize" with "reduce". In the extreme, "minimize" could

mean “reduce to the lowest possible level regardless of cost”, which could well make an existing facility or a proposed modification to the facility unviable. <br> <br>Category “c” seems appropriate provided the measures are largely proportional to the facility’s contribution. It is fundamentally unfair to have one facility take responsibility for mitigating stressors for which other facilities (and parties other than facilities with air permits) are more culpable just because the facility happens to be going through an air permit action. In addition, to ensure that the measures are distributed equitably, and the burden does not fall unreasonably on one facility, a facility should be able to renegotiate its CBA if additional CBAs are triggered in the same EJ area. <br> <br>The Chamber opposes category d because it is unreasonable to expect a facility to reduce stressors to which it does not contribute. For example, such stressors could be a legacy of other long-closed facilities or associated with activities by the general population (traffic for example) unrelated to the facility. It is not the responsibility of facilities with air permits to fix wider societal problems. That said, the Chamber supports any facility acting as a good neighbor by voluntarily adopting measures in the community to reduce stressors, regardless of whether the facility contributes to those particular stressors. <br> <br>While category “e” sounds plausible, clarity is needed on the term “net environmental benefit”. If it means offsetting the adverse environmental impact of an existing facility or a proposed project by adopting measures to reduce stressors in the EJ area, the challenge will be to quantify the environmental benefits when comparing disparate stressors. Please refer to the Chamber’s August 15, 2024, comment letter which discussed the need to “weight stressors to each other based on significance to human health impacts”. <br> <br>Question 2: The MPCA is considering prioritizing the same categories from question 1 based on their ability to offset environmental and public health stressors in a community. Would you support this approach? <br> <br>Response: The Chamber can support the MPCA prioritizing categories “a” through “e”, above, based on their ability to offset environmental and public health stressors in a community, provided the word “measures” is replaced by “feasible measures”, as explained in the response to question 1 above. While any one of categories “a” through “d” could have the highest ability to offset stressors, some measures will not be reasonable, especially when costs are considered. Each permit action must be considered on a case-by-case basis with a degree of subjectivity in order to arrive at a solution acceptable to all parties. <br> <br>Question 3: Who should represent communities in a community benefit agreement? <br> <br>Response: The Chamber supports engagement by members of the local community in the development of a CBA. The example set by the City of Detroit establishes a “neighborhood advisory council” (NAC) comprising nine representatives from the project’s impact area, seven of which are selected by city council members or the city planning department and two of which are elected by residents of the impacted area. The Chamber agrees that each member should be both a resident of the impacted EJ area and nominated by residents of the impacted EJ area. <br> <br>The Chamber has concerns regarding the time needed to recruit members and for them to perform their work. Detroit’s process involves five meetings held over a three-month period. Adding three months to what is often an already lengthy air permitting timeline is regressive, especially given that this is likely to comprise just a portion of the entire CIA process timeline. <br> <br>Question 4: What methods should be required for holding public meetings? What information is most important to include in a public meeting notice? <br> <br>Response:

Public meetings related to CIAs or CBAs should follow a predictable structure and be properly and transparently scoped. MPCA public notices should include the specific goals for the meeting and provide guidance for members of the public with concerns outside the scope of the meeting. If MPCA is facilitating the meetings, agency staff should be prepared to advise the public on in- vs. out-of-scope topics. <br> <br>Question 5: What methods should be required for taking public comments and communicating back what was heard? <br> <br>Response: Subd. 4 of the statute prescribes the minimum requirements for public meetings. Unlike the MPCA, an individual facility may not be familiar with best practices for hosting public meetings or handling comments received. It would be beneficial if the MPCA were to provide guidance to facilities based on their experience. That said, the public meeting notice should not be too long or technical in order to avoid discouraging attendance by some members of the public. With respect to the handling of public comments, a process similar to that employed by the MPCA for the CIA rulemaking seems appropriate. This includes summarizing comments provided orally and in writing by public meeting attendees as well as comments submitted electronically by interested parties through the MPCA's [mpca.commentinput.com](http://mpca.commentinput.com) website. <br> <br>The Chamber appreciates the opportunity to comment on this important stage of the CIA rulemaking. <br> <br>Sincerely, <br> <br><br> <br>Andrew Morley <br>Director, Environmental Policy <br>Minnesota Chamber of Commerce <br>[amorley@mnchamber.com](mailto:amorley@mnchamber.com) <br>763-221-7523 <br>

The MPCA is considering prioritizing the following categories (the same categories from the previous question) based on their ability to offset environmental and public health stressors in a community. Would you support this approach?

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Who should represent communities in a community benefit agreement?

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