

Jeff Udd

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

These comments are submitted by the Duluth Seaway Port Authority (DSPA), which is an independent public agency created by the Minnesota State Legislature with the mission to bring business to the Port of Duluth-Superior, economic development to the region, and advocate for maritime, freight transportation, and industrial interests.

The DSPA provides comments on this question but believes the term “stressor” needs to be defined, specific to an air permit action in the cumulative impacts rulemaking. We believe that stressors, in terms of this rulemaking, be defined as those directly tied to the permittee and their permitted operations.

The existing air permitting process, based on scientifically sound risk assessment and adherence to long-established state and federal rules, is a robust and rigorous process designed to protect public health and the environment. Ensuring compliance with the permit conditions that result from the permitting process is also a long-established obligation of the state and federal regulatory agencies. The DSPA believes that if both the permit and compliance activities are adequately supported by the MPCA, the need for a cumulative benefit agreement (CBA) should be rare.

In the event that a CBA is required, we reiterate our previous comments and caution against imposing mitigation actions using categories of benefits that are beyond the direct impacts associated with a permittee’s air emissions. The DSPA is a strong proponent of ensuring that all permittees comply with the appropriate environmental regulations to avoid or minimize direct impacts from their operations on the surrounding community, which correlates to categories 1 and 2 above. We do not, however, support additional requirements that are focused on categories that go beyond a permittee’s boundaries and/or direct contributions from air emissions regulated by the permit (categories 3-5 above). Industrial permittees have an important role to play when it comes to ensuring their operations do not negatively impact surrounding communities, and the DSPA supports that role. But we do not support the concept of relying on industry to eliminate all the stressors that may be impacting an Environmental Justice community, particularly those where the permittee is not directly contributing to those stressors. Social engineering through the air permitting

program is not good public policy.

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?

- 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

As discussed in the response to question 1, the DSPA would support prioritizing categories 1 and 2 listed above.

Who should represent communities in a community benefit agreement?

The MPCA should consider whether processes that are already in place in cities and counties affected by this rulemaking effort can provide this representation. For example, a permittee wishing to construct new or expand existing operations has a number of steps and subsequent approvals needed in order to implement the project. Those steps already include permitting (local, state, and federal), environmental review, planning and zoning decisions, and city council and/or county board approval. Each of these steps may include opportunities for public input and resulting conditions or restrictions on the project based on that input. Developing requirements to establish specific advisory committees or groups, such as the Detroit example, may not fit every community that is impacted by this rulemaking, and in some cases may result in conflicting requirements. The parties to a community benefit agreement (CBA) should be limited to the permittee and MPCA to avoid confusion and uncertainty. The CBAs could be subject to public comments during the public comment period for the proposed air quality permit.

What methods should be required for holding public meetings? What information is most important to include in a public meeting notice?

Methods and information for public meetings should not be overly prescriptive so it can be tailored to the situation and community involved. A list of options could be developed for public meeting formats and design and specific public meeting plans can be developed from those options through discussions between the MPCA and the permittee.

What methods should be required for taking public comments and communicating back what was heard?

The MPCA should consider public noticing the CBA in conjunction with the air permit. The standard process for responding to individual comments or comment themes would apply.

The Duluth Seaway Port Authority appreciates the opportunity to comment on this important rulemaking effort and looks forward to the next steps in the process.
