

# Steve Chouanard

According to the statute, the rules must account for any exposure of residents in environmental justice areas to facilities' air toxic emissions for the above seven counties. How do you recommend accomplishing this?

The MPCA should have to monitor local residents yards to see if and of the Air toxic emissions from the facility is actually getting to the residential homes

What approach would be most effective to regulate air toxics in MN? Some examples include the following:

- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas
- Type of industry

Are there other approaches you'd recommend?

Proximity of residential areas

Should the commissioner limit/regulate air toxics where there are no health risk values established, such as PFAS?

No

How can the MPCA make the determination of compliance for regulated parties as simple as possible? Should there be a phase-in period for newly regulated parties and new reporters?

yes

Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this? Some examples include:

- Type of industry
- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas

Are there other criteria you'd recommend?

Risk posed by pollutants and proximity to residential areas

What organizations, industry groups, etc. should we notify when this rule is on notice? Please provide their contact information.

Air Permit holders

How can we make reporting as simple as possible for regulated parties? Should there be a phase-in period for reporting?

yes

Do you have suggestions for how we establish a process to reevaluate the list of air toxics?

It should be based on how they dissipate into the environment. I chemical might be harmful, but if as soon as it leaves the smoke stack it breaks down with in 50 ft. it should not be considered as air toxic.

## Ben Appel

According to the statute, the rules must account for any exposure of residents in environmental justice areas to facilities' air toxic emissions for the above seven counties. How do you recommend accomplishing this?

Ask the people that approved the statute how they expect it to be accomplished.  
Ask the neighboring states what they do.

What approach would be most effective to regulate air toxics in MN? Some examples include the following:

- Amount of individual pollutants Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas
- Type of industry

Are there other approaches you'd recommend?

Ask the neighboring states what they do.

Should the commissioner limit/regulate air toxics where there are no health risk values established, such as PFAS?

No.

How can the MPCA make the determination of compliance for regulated parties as simple as possible? Should there be a phase-in period for newly regulated parties and new reporters?

Ask the neighboring states what they do.  
Yes there should be a phase in period.

Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this? Some examples include:

- Type of industry
- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas

Are there other criteria you'd recommend?

Yes. All of the above are good criteria.

How can we make reporting as simple as possible for regulated parties? Should there be a phase-in period for reporting?

Yes there should be a phase in period.

Do you have suggestions for how we establish a process to reevaluate the list of air toxics?

See what the neighboring states do.

Any other feedback you would like to share?

Minnesota continues to chase business & residents out of the state with over-regulation of many things. Don't add to the list of things that's driving people out of the state.

## John Tanke

Should the commissioner limit/regulate air toxics where there are no health risk values established, such as PFAS?

No

Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this? Some examples include:

- Type of industry
- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas

Are there other criteria you'd recommend?

Option D registration permit holders should be exempt from new air toxic rules.

## Allison Hofstedt

What approach would be most effective to regulate air toxics in MN? Some examples include the following:

Amount of individual pollutants, Risk posed by pollutants, Type of air permit held, Proximity to residential areas, Type of industry

Are there other approaches you'd recommend?

Proximity to residential areas

Should the commissioner limit/regulate air toxics where there are no health risk values established, such as PFAS?

Yes

How can the MPCA make the determination of compliance for regulated parties as simple as possible? Should there be a phase-in period for newly regulated parties and new reporters?

No

Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this?

Some examples include:

Type of industry, Amount of individual pollutants, Risk posed by pollutants, Type of air permit held, Proximity to residential areas

Are there other criteria you'd recommend?

No - tired of corporations profiting while poisoning - let them figure out how to do what they do without toxins

How can we make reporting as simple as possible for regulated parties? Should there be a phase-in period for reporting?

No

## John Doe

I would recommend adopting an air toxics "hot spot" program, similar to what the state of California has implemented to identify and eliminate air toxics from facilities. This program requires an assessment of potential health risks to the public and informs individuals who are exposed to significant amounts of toxics. Information can be made more readily available to the public by arranging "hot spots" onto a map that provides information to the public, similar to "Whats in my Neighborhood." Implementation of a program similar to this will reduce significant risks to the community by facilities.

## William Dworsky

According to the statute, the rules must account for any exposure of residents in environmental justice areas to facilities' air toxic emissions for the above seven counties. How do you recommend accomplishing this?

I would assume a website that was accessible would be best?

What approach would be most effective to regulate air toxics in MN? Some examples include the following:

- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas
- Type of industry

Are there other approaches you'd recommend?

all the above

Should the commissioner limit/regulate air toxics where there are no health risk values established, such as PFAS?

Not sure

How can the MPCA make the determination of compliance for regulated parties as simple as possible?  
Should there be a phase-in period for newly regulated parties and new reporters?

Yes a phase in period would be necessary.

Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this?  
Some examples include:

- Type of industry
- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas

Are there other criteria you'd recommend?

The above look good.

What organizations, industry groups, etc. should we notify when this rule is on notice? Please provide their contact information.

RIPA  
Reusable Industrial Packaging Association  
[www.reusablepackaging.org](http://www.reusablepackaging.org)  
Paul Rankin  
[prankin@ripaus.com](mailto:prankin@ripaus.com)  
301-577-3786

How can we make reporting as simple as possible for regulated parties? Should there be a phase-in period for reporting?

Yes, not sure of the time period 12- 24 months?

Do you have suggestions for how we establish a process to reevaluate the list of air toxics?

Questionnaire, testing, other?

## Deirdre Coleman

According to the statute, the rules must account for any exposure of residents in environmental justice areas to facilities' air toxic emissions for the above seven counties. How do you recommend accomplishing this?

Support community/localized monitoring and frequent regular testing of all facilities in the areas of concern. Increase fines, change permits, and respond to odor complaints. Don't add to the problem. Support community group organizations to help.

What approach would be most effective to regulate air toxics in MN? Some examples include the following:

- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas
- Type of industry

Are there other approaches you'd recommend?

I think the most straight forward is the amount of individual pollutants with a layer of risk. This would eliminate the need to change permits or ignore them. I also think that most who care about this issue will not know how to answer this question.

Should the commissioner limit/regulate air toxics where there are no health risk values established, such as PFAS?

Yes, just because the risk is not determined does not mean there are none. If not regulated, there will be severe and unintended consequences in the future.

How can the MPCA make the determination of compliance for regulated parties as simple as possible? Should there be a phase-in period for newly regulated parties and new reporters?

This sounds like an internal question. I'd only be concerned that this sounds like loopholes.

Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this? Some examples include:

- Type of industry
- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas

Are there other criteria you'd recommend?

Exemption, no, but circumstantial needs could be assessed. e.g. the HERC, show long term plans to reduce exposure or other benefit provided.

What organizations, industry groups, etc. should we notify when this rule is on notice? Please provide their contact information.

<https://thealliancetc.org/>  
Frogtown radio and KMOJ

How can we make reporting as simple as possible for regulated parties? Should there be a phase-in period for reporting?

NA

Do you have suggestions for how we establish a process to reevaluate the list of air toxics?

NA

Any other feedback you would like to share?

Not all Minnesotans need to participate in this work. Just the ones most impacted and with the least power. Give power to those communities by listening and doing, and reduce impact on those who need it most and have so many other burdens.

## Ashley A

According to the statute, the rules must account for any exposure of residents in environmental justice areas to facilities' air toxic emissions for the above seven counties. How do you recommend accomplishing this?

There has been significant technology advancements in monitoring air quality. I recommend investing in monitors to make informed decisions.

What approach would be most effective to regulate air toxics in MN? Some examples include the following:

- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas
- Type of industry

Are there other approaches you'd recommend?

Proximity to residential areas. There are many instances where "legacy" permits exist prior to fully understanding the impacts building houses near these facilities. Now, residents that are privileged enough to afford to move do, however the business continues to operate as if there are no issues.

Should the commissioner limit/regulate air toxics where there are no health risk values established, such as PFAS?

Today it is established that there are no health risks, however what happens when knowledge expands and we know more about PFAS? Any air toxics need regulation if not for health, for our climate.

How can the MPCA make the determination of compliance for regulated parties as simple as possible? Should there be a phase-in period for newly regulated parties and new reporters?

MPCA can barely regulate current permit holders. There are many complexities and jurisdiction issues they face. I would suggest an intake process that has committee review and phased approach to manage workload.

Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this? Some examples include:

- Type of industry
- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas

Are there other criteria you'd recommend?

No.

How can we make reporting as simple as possible for regulated parties? Should there be a phase-in period for reporting?

What is the desired outcome of reporting? To determine penalties? These parties have funding that allow reporting to skirt past getting attention. The burden falls on the residence surrounding the parties, when money is involved you cannot expect companies to self monitor. There should be an educational period for parties to learn reporting and why it is important

Do you have suggestions for how we establish a process to reevaluate the list of air toxics? Actually go see these sites. Use a heat map for highest impacts and make those a priority.

Any other feedback you would like to share?

MPCA rarely meets my expectations. As someone who has worked closely with other this team and advocated for many residential voices, it typically goes to the party who can lobby the most and has the most money. Which is never the residents.

## Arthur Zimmerman

What approach would be most effective to regulate air toxics in MN? Some examples include the following:

- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas
- Type of industry

Are there other approaches you'd recommend?

Amount of individual pollutants

Should the commissioner limit/regulate air toxics where there are no health risk values established, such as PFAS?

Not unless there's a basis for the specific limit

Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this? Some examples include:

- Type of industry
- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas

Are there other criteria you'd recommend?

I would prefer the type of industry



# David Floysand

According to the statute, the rules must account for any exposure of residents in environmental justice areas to facilities' air toxic emissions for the above seven counties. How do you recommend accomplishing this?

The existing mapping incorrectly assumes very large geographic areas are Environmental Justice areas. There is now way the facility I work at falls within an environmental justice area. We are surrounded by the Mississippi river, in a large industrial park, and the very small area residential housing within a mile is all middle class housing.

If the basis of the law has to stay focused on "Environmental Justice for low income and minority groups" then there must be an objective process for determining these areas. There is too much political intrusion and motives in the existing laws that exaggerates the geographical area covered by Environmental Justice. One objective process is to use Tax records. This would provide the financial bench mark to determine low income areas and should be the basis of evaluation when determining if citizens within the 1 mile radius of an emission source qualify as environmental justice area. This can be lead by the individual citizen or groups of citizens through their local elected officials. The city officials can work with their city planning department who can then determine if the area within the citizens falls within an environmental justice area of an emission source. This protects sensitive financial information and more accurate mapping of environmental justice areas, which will change over time.

2. Consider changing the law so that it protects all citizens and communities.

What approach would be most effective to regulate air toxics in MN? Some examples include the following:

- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas
- Type of industry

Are there other approaches you'd recommend?

Air Toxics are already heavily regulated. Facilities are required to do thorough assessments, testing, maintenance, implement pollution controls. Environmental impact is part of the process when the MPCA reviews permits.

The RISK of the pollutants needs to continue to be the focus of the regulation. This protects all people, waters, land, and wildlife. You don't want to wait for an area become an environmental justice area before requiring an assessment and or additional protections.

Comments on options above:

-AMOUNT- This is related to Risk because it is the AMOUNT that affects the toxicity.

-RISK- Depends upon the amount. There are plenty of safe substances that would be toxic and considered a pollutant if it is emitted in high levels.

-Type of Air permit Held- Toxic amounts are toxics amounts whether they come from a small business or large. The focus needs to stay on the substance and the amount. Small businesses can do alot of damage; i.e. Water Gremlin in White Bear

-Proximity to residential areas- This goes back to risk- the more people exposed the greater the risk. But what is the exposure and what is the contaminant and its levels. Proximity is a factor of the Risk

of the pollutant

-Type of industry- focus on the pollutant- industries are allowing adapting and changing technologies.

Should the commissioner limit/regulate air toxics where there are no health risk values established, such as PFAS?

The commissioner should create classifications for product development.

These classifications should drive the speed at which products can be introduced or and manufactured. For example, natural occurring substances that are being refined or manipulated carry less risk and have more available information. A process could be created that requires producers and researchers to do a review and study that meets a certain reliability level. So you could have a "naturally occurring" category that drives a process based upon the risk of the substance that yields a reliable score of risk. For unnatural, synthetic, artificial, a process would need to be created that requires more precaution and study before releasing or approving a process that creates significant levels of product.

Production based on risk. Starting small and progressing toward larger scales once safety benchmarks are achieved. This also has to be balanced with the benefit of the product; i.e. is it life saving. The point being that we don't want a free for all just because someone can make a lot of money on a product that doesn't have any safety benefits. Yet, for products that may be for cancer treatment, surgeries, and or cures we don't want to discourage their development.

Also, PFAS is not an air pollutant, I haven't seen any reports on inhalation hazards from emissions. PFAS is a ground water, soil, and ingestion hazard. This is why you see exposure listed in micrograms/liter. Documentation of exposure is well established to be through ingestion not inhalation.

Personally, I have a well that I used for over 20 years at my house that had some of the highest levels of PFAS in the state. So I am familiar with the PFAS issue, and it is not an AIR contaminant as far as I know. That's a bad example, maybe asbestos or silica would have been better.

How can the MPCA make the determination of compliance for regulated parties as simple as possible? Should there be a phase-in period for newly regulated parties and new reporters?

The MPCA can't make the determination because it is impossible for them to know. The people who are doing the research and development are the experts and they have to disclose what they know. Structure has to be put in place that discloses health and safety information.

For example, I spoke with a scientist that explained one of the problems with PFAS is that it mimics proteins in the body. It's well established and known to be a bio-accumulator but I haven't seen any disclosures on PFAS mimicking proteins that confuse the human body.

Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this? Some examples include:

- Type of industry
- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas

Are there other criteria you'd recommend?

Risk Posed by pollutants

What organizations, industry groups, etc. should we notify when this rule is on notice? Please provide their contact information.

-Minnesota Safety Council

-ASSE Northwest Chapter of Safety Engineers: <https://northwest.assp.org/>

- Local Chambers of Commerce

-Local Governments and municipalities

- All Air Permit holders

How can we make reporting as simple as possible for regulated parties? Should there be a phase-in period for reporting?

Provide a list for companies to review. Have them report back if they have anything on the list. Allow them to have the tools to validate Social Justice Areas. Again, my location is listed in a social justice area, but I am confident this is a mistake

Do you have suggestions for how we establish a process to reevaluate the list of air toxics?

Consult with NIOSH, ACGIH, the National Library of Medicine, technical groups (Doctors, Researchers, Etc), and industry on the latest developments

Any other feedback you would like to share?

Eliminate the politics of the Environmental Justice push and focus on what is best for all communities and areas. An area of poverty today may or may not stay that way, and new areas not on the map today will emerge. We have a lot of regulations on pollution, make sure to evaluate the current rules and regulations for effectiveness before creating new and possible redundant requirements. You need to represent everyone equally.

## Randy Keyser

According to the statute, the rules must account for any exposure of residents in environmental justice areas to facilities' air toxic emissions for the above seven counties. How do you recommend accomplishing this?

Must start with OWF outdoor wood furnaces. I live next to 3 neighbors 200-300 feet from me and the smoke is worse than the summer wildfires, I have asked the city of Ramsey to do something about it but they say they can't. If wood smoke causes COPD then why do we let these things burn 24 hours 7 days a week in the winter? more and more people are putting these things in for heat in their house, but why ?????, so more people are exposed to these toxins everyday. These things smoke and smell worse than burning barrels. Should have been banned along with when burning barrels were banned.

What approach would be most effective to regulate air toxics in MN? Some examples include the following:

- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas
- Type of industry

Are there other approaches you'd recommend?

OWF outdoor wood furnaces should be 1500 feet from other residents, and owner has to carry extra liability insurance to cover long term exposure to any neighbors getting COPD or Cancer from the toxic smoke.

Should the commissioner limit/regulate air toxics where there are no health risk values established, such as PFAS?

all air should be regulated or monitored, for toxins especially long term exposure. and to overlook complaints when individuals are exposed and concerned.

How can the MPCA make the determination of compliance for regulated parties as simple as possible? Should there be a phase-in period for newly regulated parties and new reporters?

need a permit and inspections and monitoring in place. and complaint inspections.

Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this? Some examples include:

- Type of industry
- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas

Are there other criteria you'd recommend?

reason for the pollutants to be

February 7, 2024

The Minnesota Chamber of Commerce (Chamber) submits these comments in response to MPCA's request for additional comments relating to a possible new air toxics regulation in the Twin Cities seven-county metro area. These comments are intended to supplement comments submitted by the Minnesota Chamber of Commerce on September 21, 2023 (the September 2023 Chamber Letter).

As an overview, the Chamber wishes to reiterate a primary comment set forth in the September 2023 Chamber Letter. We urge the MPCA to determine Section 5 of Article 8 does not authorize independent rulemaking for purposes beyond those stated in other sections of the legislation. In contrast to the other requirements of Article 8, Section 5 was not specifically codified in the statute. The omission of Section 5 has significant implications and a statutory directive is crucial before MPCA can proceed.

If MPCA determines it has the statutory authority to proceed with separate air toxics rules, we propose a cautious and incremental approach consistent with the overall purpose of the legislation: to address disparate impacts in Environmental Justice (EJ) areas. We believe a large-scale comprehensive air toxics regulatory effort would be an ineffective and inefficient means to accomplish that purpose. A targeted approach to focus air toxics regulatory efforts could potentially produce meaningful results and, we think, help to identify any actual disparate impacts so that the most significant impacts, once identified, can be prioritized. A targeted approach may include the following aspects:

1. Establish a program focused on the highest-priority pollutants in the areas of greatest concern.

We suggest the MPCA begin its rulemaking by identifying areas of greatest potential impact through an evaluation of the location and scope of EJ areas, current health data indicating disparate impacts, and predicted areas of greatest potential air toxics exposure based on MNRISKS or similar data. We also suggest MPCA begin by focusing only on those pollutants that pose the highest risk of disparate health impacts.

2. Establish a monitoring network utilizing U.S. EPA reference method techniques for priority pollutants within identified EJ areas.

Based on the areas identified in the first step, MPCA should conduct actual air quality monitoring designed to determine if the areas highlighted by the screening process pose actual concern based on established health risk benchmarks. As noted below, and in the September 2023

Chamber Letter, any such benchmarks first should be adopted by rule.

3. If monitored data show exceedances of concern, establish an enforceable plan to reduce emissions below standards.

Using a state implementation plan (SIP)-like approach, MPCA should establish an enforceable

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[www.mnchamber.com](http://www.mnchamber.com)

plan to achieve emissions reductions or other measures from sources that are contributing significantly to monitored concentrations of concern, potentially determined using health risk benchmarks. MPCA would utilize permits and/or administrative orders to effectuate the measures.

The parallel for our proposed approach is the national ambient air quality (NAAQS) / SIP process to determine non-attainment (and establish an attainment plan) for federal criteria pollutants. We believe our proposed approach is the most efficient way to focus limited agency resources and deliver the greatest improvement in the areas where disparate impacts may exist. This approach is also based on sound science resulting from actual observed conditions.

Our proposed approach is different from a theoretical dispersion modeling-based approach of potential to emit data applied to all sources. Based on the MPCA's experience with the Air Emissions Risk Analysis (AERA) process, any such approach, broadly applied, would greatly overpredict actual impacts and absorb substantial agency resources for limited benefit – particularly in areas of greatest potential concern. One example is the Cleaner Air Oregon program implemented by the state of Oregon. Initiated in 2019, the modeling-based air toxics program has made minimal progress on facility reviews due to the significant time and resources necessary to review modeling analyses.

As part of MPCA's request for additional comments, the Agency requested feedback on specific questions. While our proposed approach addresses many of the questions in a more comprehensive manner, we set forth the MPCA questions below and provide additional comments.

1. According to the statute, the rules must account for any exposure of residents in **environmental justice areas to facilities' air toxic emissions for the above seven counties. How do you recommend accomplishing this?**

We understand MPCA is considering establishing these rules independent of the specifically mandated Cumulative Impact Analysis rulemaking. Our first suggestion, consistent with the overview above, is that the MPCA can best serve the intent of Article 8 by focusing exclusively on the Cumulative Impacts requirements to address "exposure of residents in environmental justice areas" and not pursuing independent air toxics rules without clear legislative authority.

If MPCA elects to proceed with separate air toxics rules, the approach outlined above is the best way to address exposures in environmental justice areas: to gather actual air quality monitoring data and to then address monitored impacts of concern. Any additional regulatory actions should build upon Minnesota's existing programs in a targeted way, rather than creating broad new requirements outside of the existing regulatory framework at the state and federal level.

2. What approach would be most effective to regulate air toxics in MN?

**Some examples include the following:**

- type of industry
- amount of individual pollutants
- risk posed by pollutants
- type of air permit held
- proximity to residential areas

**Are there other approaches you'd recommend?**

As described above, the Chamber supports an approach based on monitored levels of pollutants, prioritizing those pollutants that could pose the most risk of disparate health impacts in EJ areas. Under that approach, it is ineffective to focus on the type of industry, type of permit, or size of facility. As we have seen from existing monitoring, the proximity of emissions to areas of concern is often more relevant than the size of the facility or type of permit. Further, large facilities are already likely to be subject to federal Maximum Achievable Control Technology (MACT) standards, many of which already have been subject to their residual risk and technology review under the Clean Air Act.

If MPCA pursues any of the listed applicability approaches, the Chamber recommends it adopt rules exempting criteria air pollutants from the program, provide exemptions for any source already subject to federal rules for relevant pollutants, include clear emissions and concentration thresholds for applicability and action, create options for ambient monitoring in lieu of traditional regulatory approaches, provide exclusions for sources that have been subject to an MPCA impacts analysis of their air toxics emissions, and allow flexibility on data inputs for any required modeling-based analyses to best simulate real world conditions.

3. Should the MPCA limit/regulate air toxics where there are no health risk values established? Such as PFAS?

Any air toxics regulatory program should be based on sound science. Accordingly, the rule should only regulate pollutants for which risk values or benchmarks have been established through a formal regulatory review and approval process. As noted in the September 2023 Chamber Letter, many existing health risk benchmarks have not been adopted by rule. To the extent the MPCA plans to rely on such benchmarks to support further regulation of air toxics, these benchmarks should first be adopted through a rulemaking process that ensures transparency and public participation.

4. How can the MPCA make determining compliance as simple for regulated parties as possible? Should there be a phase-in period for newly regulated parties and new reporters?

If MPCA proceeds as suggested above, compliance will be based on specific limits on specific facilities (based on monitored data), established through permit or administrative order. Under that approach, compliance obligations will be clear and specific, therefore simplifying MPCA enforcement activities.

We would not support an ambiguous rule where health risk values or other risk levels are somehow self-enforcing. Not only would that create ambiguous compliance obligations, we believe it would also create significant enforcement challenges for the MPCA.

Any new regulatory requirements should include “bright line” aspects, potentially including emissions/concentration screening levels, de minimis emissions levels, and health benchmarks that outline when and where the rule and its requirements apply.

New requirements should rely on standard test methods and certified laboratories for compliance testing and analysis. Testing intervals and equipment should align with existing requirements and facility operating scenarios to represent emissions.

Any new requirements should also include smooth implementation plans, which may include phase-in periods or “grandfather” provisions for existing sources. Both regulated sources and MPCA would need some type of phase-in period to allow for program development, resource allocation, and expertise development.



5. Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this?

- type of industry
- amount of individual pollutants
- risk posed by pollutants
- type of air permit held
- proximity to residential areas

**Are there other criteria you'd recommend?**

As noted above, the rule should exempt criteria air pollutants and focus on sources that contribute significantly to monitored exceedances of health risk values for critical pollutants in environmental justice areas. Any source that does not significantly contribute would not be subject to new emissions reduction requirements or other measures. Conversely, emissions from small or non-traditional sources should be addressed if they are significant contributors to monitored levels of concern.

Any new regulatory requirements should include de minimis emissions thresholds for applicability. The absence of these emissions thresholds creates absurd outcomes that do not reduce public health risks. Examples include federal air quality standards that effectively include "one-molecule" thresholds for applicability in certain industries. These rules lead to outcomes such as water-based coating operations falling under solvent coating rules because a company cannot certify that any coating contains absolutely zero volatile organic compounds (VOCs).

Any new regulatory requirements should include exemptions for research and development, start-up / shutdown / malfunction scenarios, and similar short term and/or unpredictable events. Any rule applicability to unusual operating scenarios should be connected to specific data on the public health risk, as proposed in a monitoring approach.

[Michigan's program](#) is an example of one that exempts requirements for equipment already subject to regulation (e.g., BACT, MACT, LAER), low-risk pollutants, and emissions below thresholds set in rule.

Some industries and facilities are regulated by the US Food and Drug Administration or other non-environmental agencies, making reformulations or product changes that could result from an air toxics rule challenging. The rulemaking and implementation should consider extended timelines that may be required to receive approvals for product changes.

6. What organizations, industry groups, etc. should we notify when this rule is on notice? Please provide their contact information.

We suggest the outreach be as broad as possible and take place well before this rule is placed on notice. As noted in the September 2023 Chamber letter, we urge the MPCA to establish an advisory committee to help frame and develop the proposed rule. The advisory committee could also assist in developing appropriately targeted outreach programs.

7. How can we make reporting as simple for regulated parties as possible? Should there be a phase-in period for reporting?

Under the proposed approach outlined above, reporting obligations for a regulated entity would be a function of the emissions reductions or other measures specified in the applicable air quality permit or administrative order. New reporting or other requirements should rely on existing processes and tools where possible.

In reference to upcoming annual air toxics emissions reporting, we recommend streamlining this process to make reporting under federal Air Emissions Reporting Requirements (AERR) rules possible via data collected by MPCA, rather than requiring redundant reporting by sites to U.S. EPA separately.

Clear regulation of test data for use in annual emissions reporting should include allowances for exclusion of non-detect results from sources with no technical expectation of those pollutants. Such a policy would promote broader testing from reporting sites without fear of irrelevant undetected pollutants adding to site emissions and modeled toxicity (some facilities currently feel obligated to report using half the detection limit for non-detect pollutants).

8. Do you have suggestions for how we establish a process to reevaluate the list of air toxics?

As described above, we propose an air quality monitoring approach to gather information on pollutant concentrations using standard monitoring techniques. If there are measured concentrations of a pollutant that is not currently a listed air toxic, then it should be evaluated using sound science to determine if it should be added as an air toxic. Any such pollutant should go through the same process MPCA uses to adopt and approve the initial list of pollutants and any related health risk thresholds.

As part of any rulemaking, MPCA should establish a list of air toxics consistent with the enabling legislation and the Clean Air Act and periodically modify that list. MPCA should establish an advisory committee to make recommendations on an air toxics list and future revisions to any list that is created. Any future revisions should be data-driven and include public input prior to changing pollutant lists or related limits, thresholds, or benchmarks.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Kwilas". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

Tony Kwilas  
Director, Environmental Policy  
Minnesota Chamber of Commerce  
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# Amanda Roloson

According to the statute, the rules must account for any exposure of residents in environmental justice areas to facilities' air toxic emissions for the above seven counties. How do you recommend accomplishing this?

I think it's important for people to have an easy way to communicate their experiences with air quality.

Identify hot spots in the community. For example, 1860 E 28th, when I bike along the Greenway, I often experience poor air quality, try to hold my breath, and often I will take another route to avoid breathing this air.

There should be a way for folks who share a similar experience to report it and know there is a way to make a complaint. I think many people are unhappy but do not know the proper channels to address these situations.

How can you communicate and spread the word that there is a conversation taking place? Public radio? Flyers/Surveys? Park/Public Space signage with QR code?

What approach would be most effective to regulate air toxics in MN? Some examples include the following:

- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas
- Type of industry

Are there other approaches you'd recommend?

I think one issue with trying to limit specific toxicants is that there is very little regulation unless you prove something is a problem.

Proving a chemical is toxic is very time consuming, and can be very difficult depending on many factors including difficulty discovering what exactly is being emitted in the first place.

Therefore limiting proximity to residential spaces would reduce all of the toxicants and pollution whether we know what they are or not. That said, I think it would need to be in combination with restricting emissions of the most harmful substances.

I am not educated enough on industry specifics to comment.

Should the commissioner limit/regulate air toxics where there are no health risk values established, such as PFAS?

While there may not currently be health risk values established, there is abundant clear evidence that PFAS are a class of chemical contributing to degradation of human health. There is also abundant information on negative effects of PFAS on the environment, wildlife, etc in addition to understanding of how difficult they are to eliminate once produced.

To wait until regulations are in place with a class of chemicals creating such known harm is immoral.

In the medical world, if a study is clearly causing harm to the subjects, you end the study. You do not continue to further harm the subjects to "prove" it's harmful. The same logic should apply here.

Other chemicals are causing large numbers of the population to complain and need to be addressed.

Chemicals in many fragranced cleaning and personal products including laundry products are not regulated. Here is an article discussing how many folks experience ill health effects from such chemicals.

They've been experiencing ill effects for several decades and continuing to ignore these complaints, while waiting for more official evidence is unconscionable.

<https://pubmed.ncbi.nlm.nih.gov/19326669/>

How can the MPCA make the determination of compliance for regulated parties as simple as possible? Should there be a phase-in period for newly regulated parties and new reporters?

I think there needs to be regular monitoring, ideally through a computer device that can detect and alert changes in real time.

There would also need to be documentation of the process, what pollution is produced by a time frame and the actual numbers need to match.

I believe be companies should have a phase in period. It's possible this period could have steps to get closer to the goal and choosing to pay penalties should not be a feasible solution.

The victims of their air quality don't see a dime of fees and instead pay healthcare costs.

Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this? Some examples include:

- Type of industry
- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas

Are there other criteria you'd recommend? I don't understand the question clearly.

What organizations, industry groups, etc. should we notify when this rule is on notice? Please provide their contact information.

The ADA

Do you have suggestions for how we establish a process to reevaluate the list of air toxics?

I hope that the emissions of buildings and personal product VOCs including businesses like hair salons and Laundromats would be considered.

I believe they are so common and such a huge contribution to air toxics that is generally overlooked, but needs to be taken into consideration.

Any other feedback you would like to share?

This is not the right forum, but indoor air quality in regards to cleaning products, air fresheners, etc are currently unregulated and prevent access to essential needs like grocery stores, doctor/dentist offices, public restrooms, etc.

I would be happy to have a discussion with the right people if you can create a connection.

Thank you for your time and your hard work to these matters.

## Andrew Wojtowicz

According to the statute, the rules must account for any exposure of residents in environmental justice areas to facilities' air toxic emissions for the above seven counties. How do you recommend accomplishing this?

The first thing I would recommend is outlining the Environmental Justice (EJ) Areas, what qualifies as an EJ Area, and how are EJ Areas determined. Minnesota Administrative Code Chapter 60 Sec.5 Subdivision 1 (5) defines what an environmental justice area means, but not where those areas are located in Minnesota. I would suggest creating an interactive map. EJ areas aren't going to stay the same forever and should be documented like the county assessor's map. The map could show the EJ area, facilities within the EJ area that should be reporting, and what the expected EJ area would be when they are re-configured. The MPCA should also have a notification process in place for facilities should an EJ area change in the future which may include or exclude facilities.

There also needs to be an easily accessible list of what is considered an "air toxic". Minnesota Statute 116.062 defines what an air toxic means, but it does not identify what is part of the list. This leaves facility unsure of what to include. The State needs to have a defined list.

What approach would be most effective to regulate air toxics in MN? Some examples include the following:

- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas
- Type of industry

Are there other approaches you'd recommend?

The most effective approach would be to consider several factors: risk posed by pollutants, type of air permit held, and type of industry. This would allow the MPCA to develop a tiered implementation instead of a "one size fits all" plan. First, pollutants should be analyzed to see which pose a risk. If a facility operates in an EJ Area but does not emit pollutants that pose a high risk, their requirements should be less burdensome. Type of air permit held and type of industry could be considered together. The MPCA already has Option permits that are specific to different industries and have different levels of state air permits based on facility activities and potential/actual emissions. When looking at regulating by industry, the MPCA should consider that the EPA has reviewed certain industries and determined these facilities are not a major source of air pollution and they were delisted by the agency. One example of the EPA delisting an industry is asphalt plants.

Should the commissioner limit/regulate air toxics where there are no health risk values established, such as PFAS?

The commissioner should not limit/regulate air toxics that do not have an established health risk value. A health risk value is needed to establish what the limit should be.

How can the MPCA make the determination of compliance for regulated parties as simple as possible? Should there be a phase-in period for newly regulated parties and new reporters?

There should be a phase-in period for newly regulated parties and new reporters. The MPCA should look at establishing a tiered reporting system. Some facilities will emit very small quantities of air toxics and the MPCA should consider reduced reporting requirements for facilities that demonstrate low emissions year after year. Iowa has minor source facilities complete emission inventories every

3 years. If a facility demonstrates actual emissions are below a certain level, they are exempt from reporting on the next reporting cycle. Title V major sources are required to report emission inventories annually in Iowa.

The MPCA should look at existing information. All facilities with air permits in Minnesota must already submit an annual emission inventory report. Using existing emission inventory reporting programs would be the most efficient.

Are there sources that should be exempt from air toxics rules? If so, what criteria should determine this? Some examples include:

- Type of industry
- Amount of individual pollutants
- Risk posed by pollutants
- Type of air permit held
- Proximity to residential areas

Are there other criteria you'd recommend?

I believe that if a source is required to report Air Emission Inventories, or other emissions numbers to a regulatory agency they should be exempt. So, determination of who can and can't be exempt would be limited to the type of industry and type of air permit held.

What organizations, industry groups, etc. should we notify when this rule is on notice? Please provide their contact information.

The Minnesota Asphalt Pavement Association

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How can we make reporting as simple as possible for regulated parties? Should there be a phase-in period for reporting?

Reporting is most easily completed via some sort of e-services portal. This will make accessing the software easy for everyone involved, and we won't have to worry about mailing forms back and forth. I believe having a phase-in period for certain industry would be smart. Having the more significant air toxic contributors submit first and work your way down until all the major issues with the reporting software are fixed. Also, for industry that is already reporting emissions in the form of Emission Inventories, or similar, they should be able to submit that data for this requirement as well. This would reduce the potential for doubling up workloads for something that we already are completing.

Do you have suggestions for how we establish a process to reevaluate the list of air toxics? Reevaluating the list of air toxics should be completed separately for each industry.

Reevaluation should consider new technologies that have been released to mitigate an air toxic, emission values over the reporting periods since the last evaluation, and the human health hazard of the air toxic.

Any other feedback you would like to share?

We appreciate the opportunity to provide additional feedback. I believe that allowing industry into these conversations is will help all parties when decisions are made.

Thank you, again.