

July 15, 2015



John L. Stine, Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road
St Paul, MN 55155

Re: Comments on MPCA Draft Environmental Justice Framework 2015 -2018

Dear Commissioner Stine,

The Center for Earth, Energy and Democracy (CEED) is an environmental justice organization based in Minneapolis, Minnesota. We submit the attached comments to the Minnesota Pollution Control Agency's Draft Environmental Justice Framework, in support of the commitment the MPCA is making to institutionalize environmental justice principles into its decision-making practices. The endeavor is an important one given the deep environmental pollution disparities that exist in our state.

Our suggested edits to the draft Framework stem from the breath of work done nationally by environmental justice policy experts over the past 20 years on how to integrate environmental justice into rulemaking and environmental regulatory agency programs.

Our comments are an effort to strengthen the Framework and MPCA's ongoing leadership and commitment to achieving environmental justice in our state.

Sincerely,

Shalini Gupta
Executive Director
Center for Earth, Energy and Democracy
2021 East Hennepin Avenue, Suite 155
Minneapolis, MN 55413

Cc: Ned Brooks, MPCA Environmental Justice Coordinator

Minnesota Pollution Control Agency

Environmental Justice Framework

2015-2018

May 15, 2015 – public comment draft

Contents	Error! Bookmark not defined.
Summary	2
What’s the issue?	2
Why it’s important?.....	2
MPCA’s environmental justice policy	4
How does the MPCA move from policy to action?.....	5
Strategies for implementing environmental justice into MPCA programs	7
Regulatory programs.....	7
Monitoring, assessment, and consideration of cumulative impacts.....	10
Prevention and assistance.....	11
Equity in rulemaking, policy development, and program implementation	12
Resources to support environmental justice integration	15
Enhanced screening for possible environmental justice concerns.....	15
Public participation, outreach and engagement	15
Agency training and development	17
Ongoing stakeholder and community involvement in framework implementation and improvement	18
Coordination with federal, state, local, and tribal governments	18
Measuring and reporting on progress.....	19

We want your feedback!

Please provide your comments on this draft to by July 15, 2015 to Ned Brooks, MPCA’s Environmental Justice Coordinator at ned.brooks@state.mn.us or 651-757-2557. You may also attend a community meeting, to be scheduled for mid-June 2015 to learn more about this document and provide your comments. Please check MPCA’s web site at www.pca.state.mn.us/ej for more information.

Comments requested by July 15, 2015

Summary

MPCA's authority to create and enforce regulations that put the nation's and the state's environmental laws into effect is one of the Agency's most important and powerful tools for protecting human health and the environment. All Minnesotans deserve to live in conditions that support a healthy and fulfilling life. One important part of this is living in an environment with clean air, clean water, and unpolluted land.

Working to achieve this is at the heart of the Minnesota Pollution Control Agency's mission to protect and improve our environment and enhance human health.

This Environmental Justice Framework will be used to guide MPCA leadership and staff in integrating environmental justice planning and practices into every aspect of MPCA's regulatory and programming activities. Through this document, a commitment is being made toward tangible changes, resource allocation, and development of key analytical and compliance measures that further environmental justice.

What's the issue?

Over the past 30 years, the MPCA, other government units, community organizations, businesses, and residents have come together to significantly reduce air and water pollution and to clean up contaminated sites. Many of these improvements have come by reducing emissions from larger sources through traditional regulatory methods – such as permitting, compliance, and enforcement. Other improvements have come by addressing pollution that originates from smaller and more diffuse sources, which are often more difficult to control.

And because of this work, most Minnesotans enjoy a natural environment that contributes to a high quality of life.

- But not all Minnesotans have benefitted from this work in the same way, and the impacts of pollution vary across the state. A wide range of past practices and decisions have contributed to differences in exposure rates among certain groups.
- Lower income Minnesotans and people of color in some parts of the state are exposed to more pollution than middle and upper income white Minnesotans.
- Older residents, children, many lower income Minnesotans, and people of color are often more vulnerable to health impacts from pollution due to existing health disparities.
- Climate change disproportionately threatens vulnerable groups and can amplify economic and health challenges that people already face.

Why it's important?

The MPCA is committed to making sure that pollution does not have a disproportionate impact on any group of people —the principle of environmental justice. Developing a sound EJ framework is necessary to confront the historical legacy of pollution in our state's overburdened communities. The MPCA recently renewed its commitment to fully integrate environmental justice into our work.

But we can't achieve environmental justice without actively involving people of all backgrounds, in all communities around the state — especially lower-income residents and communities of color — in the work that affects their communities.

Community differences can contribute to health disparities given the disproportionate access to environmental sustainability resources and exposures to unhealthy conditions. Living near toxic waste dumps, freeways and other sources of exposures that are harmful to health is highly correlated with race as well as socioeconomic status.¹ A 2014 University of Minnesota Study showed people of color are exposed to nearly 40 percent more polluted air than whites, and Minnesota is among the top 15 states in the nation with the largest exposure gaps between people of color and whites.²

In the Twin Cities alone, a recent MPCA and MDH study showed that in 2008, fine particle pollution caused an estimated 2,152 deaths, 321 hospitalizations for heart and lung conditions, and 402 emergency department visits for asthma. This was particularly significant for elderly people, people of color and low income people because they are more likely to suffer from health conditions that are further aggravated by air pollution.³

Furthermore, some of the most severe climate change-related weather disasters in the U.S. have had a disproportionate impact on low-income communities. Already vulnerable communities pose a unique challenge for mitigating climate change. For this reason, the federal government's Council on Environmental Quality has established as one of its climate adaptation national goals to "(p)rioritize the most vulnerable: adaptation plans should prioritize helping people, places and infrastructure that are most vulnerable to climate impacts and be designed and implemented with meaningful involvement from all parts of society"⁴.

Unfortunately, many Minnesotans, including those with lower incomes, also face structural barriers that make it difficult to participate in public meetings, regulatory decisions, and other aspects of our work.

The changing racial and ethnic demographics of Minnesota make eliminating these structural barriers within MPCA especially important. In 1980, people of color accounted for only 3% of Minnesota's population. Now, while still below the national average, people of color represent about 18% of the population.

This increase is due in part to immigrants from other countries, with foreign-born Minnesotans now accounting for 7% of the population statewide and 11% in the metro area. Geographic pockets with higher concentrations of immigrants are present both in the metro area and in greater Minnesota. For example in 2013, 14% of Ramsey County residents were born in other countries. These more recently-arrived Minnesotans face a unique set of structural barriers to full participation, ranging from language and communication methods to MPCA having an established set of different cultures and customs cultural norms that construct structural barriers which inhibit the participation of these communities.

¹ National Environmental Justice Advisory Council, Cumulative Risks/Impacts Work Group. 2004. *Ensuring risk reduction in communities with multiple stressors: Environmental justice and cumulative risks/impacts*. Washington, DC: U.S. Environmental Protection Agency; Williams, D.R. and C. Collins. 2001. Racial residential segregation: a

² LP Clark, DB Millet, JD Marshall, "National patterns in environmental injustice and inequality: outdoor NO₂ air pollution in the United States," *PLOS One*, 9(4), e94431, (2014).

<http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0094431>

³ Minnesota Pollution Control Agency and Minnesota Department of Health. *Life and Breath: How air pollution affects public health in the Twin Cities*. Urban Air Quality and Respiratory Health Initiative, July 2015.

⁴ White House Council on Environmental Quality. 2010. *Progress Report of the Interagency Climate Change Adaptation Task Force: Recommended Actions in Support of a National Climate Change Adaptation Strategy*.

MPCA's environmental justice policy

The MPCA's updated policy states:

The Minnesota Pollution Control Agency (MPCA) will, within its authority, strive for 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.

Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies, and there is targeted reduction of existing pollution in areas overburdened with historical legacies of pollution.

Meaningful involvement means that:

- ~~People-Overburdened communities have an opportunity to~~ must participate in decisions about activities that may affect their environment and/or health;
- ~~The public's-Overburdened community member~~ contributions can ~~will~~ influence the regulatory agency's decision;
- Their concerns will be considered and acted upon in the decision making process; and
- ~~The~~ Decision makers seek out and facilitate the involvement of ~~involve~~ those potentially affected

The above concept is embraced as the understanding of environmental justice by the MPCA.

To demonstrate this renewed commitment, the MPCA included an environmental justice goal and objectives in its current strategic plan that guides the agency's work.

Goal: *Pollution does not have a disproportionate negative impact on any group of people -and there is targeted reduction of existing pollution in areas currently overburdened with historical legacies of pollution.*

Objectives

- *Develop and implement program strategies to identify and address environmental justice concerns.*
- *Identify and enhance opportunities for all Minnesotans to provide meaningful input into MPCA environmental decision-making.*

The MPCA, as a recipient of significant funding from the federal government, is also required to comply with Title VI of the Civil Rights Act, which prohibits the discrimination on the basis of race, color, or national origin in its programs or activities. According to the US Commission on Civil Rights: Title VI of the Civil Rights Act of 1964 provides a means for a federal agency (such as the EPA) to revoke, amend, or suspend a permit issued by its state or local funding recipient (such as the MPCA), or withhold federal funds from the state and local permitting authority if their programs are determined to violate Title VI.⁵

⁵ U.S. Commission on Civil Rights. *Not in My Backyard: Executive Order 12,898 and Title VI as Tools for Achieving Environmental Justice*. October 2003.

How does the MPCA move from policy to action?

This environmental justice framework will guide our work. The framework consists of a set of goals and strategies to integrate environmental justice into MPCA's main program areas as well as goals, strategies, resources, and tools to support integration. The Commissioner of the MPCA will ensure that the goals are being met and that practices are institutionalized within staff and programmatic oversight, expectations, and evaluations.

Goals

- Reduce pollution and increase livability.
- Remedy past harm and prevent future harm.
- Provide the benefits of our work to all Minnesotans.

These goals apply to all our work in all parts of the state, but are especially important in historically overburdened areas where residents may not have had equal access to decision-making and services.

To reach these goals, we will ~~work to~~:

- Establish strategies, processes, and practices to embed environmental justice in the way we do business. This requires increasing MPCA staff understanding and capacity of the latest methodological tools and scientific analyses of the distribution of burden.
- ~~Describe~~ Develop a concrete engagement plan for ~~to~~ our partners in government, community members, and the people we regulate, about our shared roles in addressing environmental justice and a systematic, transparent and understandable approach to do ~~so~~ participate effectively.
- Monitor our progress with established criteria for measurement and progress.

Implementation

Key implementation principles will help us more effectively and deeply integrate environmental justice into the MPCA's programs, regulatory decision-making and activities. These are:

Targeted and comprehensive risk-based approach. The MPCA will target areas where our work can have the most benefit for ~~vulnerable people~~ environmental justice communities and in areas that are already overburdened. The MPCA will direct activity toward the most important (what does "most important" mean?) pollution sources and will scale our efforts depending on the potential for risk (please clarify who will be defining the "potential for risk"). Assessment of risk is a complex process with many decision points – clarity and proactive community involvement at each decision point will be necessary.

Proactive and reactive. Many MPCA programs, especially our regulatory programs are "reactive." For example, MPCA's work on a facility permit usually results from a decision by a private company to build a new, or make changes to an existing facility. We must look for opportunities that are independent of a permit or enforcement action. We can do so by proactively targeting our permitting, compliance, technical assistance, and grant resources to address environmental justice concerns.

Adaptive, phased approach. We have placed priority on preparing implementation plans for areas of the agency's work that most often involve environmental justice concerns, such as permitting and other regulatory programs. ~~The MPCA expects that T~~ through experience with implementation, agency staff and stakeholders will identify areas for improvement. This includes integration of environmental justice into all of MPCA's regulatory stakeholder processes (i.e. Clean Air Minnesota, the Clean Power Plan) as

well as business incentive programs, grant making, research agendas, staff training, outreach activities, and communications. We will regularly modify our implementation of this framework to reflect new approaches.

DRAFT

Strategies for implementing environmental justice into MPCA programs

Regulatory programs

As an agency with significant regulatory responsibilities, one of the MPCA's primary duties is to limit pollution caused by businesses, organizations and individuals in order to protect human health and the environment. We develop permits to control activities that affect the environment, and take compliance and enforcement action to make sure regulations are followed. We also identify and clean-up past contamination sites and polluted water bodies through our remediation and impaired waters programs. By integrating environmental justice principles into these activities and programs the MPCA will work to reduce harm and strive to achieve a healthy environment for all Minnesotans.

Permitting, environmental review and remediation

Permits are an important regulatory tool used by the MPCA to protect the environment and human health in Minnesota. The MPCA manages more than 15,000 air, water, and land permits for facilities in the state. The permits contain requirements from state and federal environmental laws, including limits on the amount of pollution that can be released to the air, water, and land.

~~We understand that the~~The permitting process is ~~often a focal-critical~~ point for community involvement, particularly in areas where environmental justice concerns are present. Even though permits often require a formal public notice period, we ~~want to will~~ expand the opportunities to understand and address ~~neighborhood-community~~ concerns — and for the MPCA and the facilities to establish or build on relationships with the surrounding community.

For the permitting of new or expanding facilities, ~~a process called an~~ environmental review may be required. The overall purpose of environmental review is to provide an information-gathering document (an Environmental Assessment Worksheet or an Environmental Impact Statement) to inform permit decision-makers, the public, and others about the human health and environmental impacts of the project. For facilities located in areas of concern for environmental justice, the environmental review process ~~provides should an opportunity to~~ involve community members early on in the permitting process, allowing for robust public participation to identify and address community concerns. For specific guidance into the environmental review process, the MPCA will look to the Environmental Protection Agency's environmental justice guidance to the National Environmental Policy Act (NEPA) to see what aspects can also be integrated into our state review processes.⁶

MPCA's remediation programs investigate and determine appropriate clean-up and development plans for abandoned or uncontrolled hazardous waste sites, closed landfills, and leaking storage tank systems and other sites that pose risks to human health and the environment due to past contamination. These risks can include surface and groundwater contamination, outdoor air pollution and vapor intrusion into buildings. The MPCA works with owners or operators of these sites, past and present, community groups and surrounding residents throughout this process.

⁶ U.S. Environmental Protection Agency. *Final Guidance For Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses*, April 1998.

http://www.epa.gov/environmentaljustice/resources/policy/ej_guidance_nepa_epa0498.pdf

Environmental Justice Framework • May 2015

Center for Earth, Energy and Democracy (CEED) Comments to MPCA Draft EJ Framework – 7/15/15

Goals

Provide for meaningful involvement of community members in the environmental review, permitting, and remediation processes. Use MPCA tools to address environmental justice issues and provide community benefit to the extent ~~practicable and~~ within our authority.

Strategies

- 1. Utilize existing EPA tools and regulatory guidance on environmental justice when evaluating~~Identify~~ facility and permit types that need additional actions based on the potential for adverse effects.** This includes ~~increased levels of public involvement and additional work to avoid and diminish those impacts.~~MPCA integrating:
 - a. EPA's Guidance on Considering Environmental Justice During the Development of Regulatory Actions, released May 2015. This is the EPA's guide for determining when environmental justice should be considered during its Action Development Process when developing regulations; and
 - ~~1~~b. The companion Draft Technical Guidance for Assessing Environmental Justice in Regulatory Analysis (U.S. EPA 2013) which provides information on how to analytically (qualitatively and quantitatively) consider environmental justice in rules.
- 2. Develop a Community Engagement Plan that ~~e~~Employs enhanced civic engagement, public participation, and outreach tools for environmental justice community groups and residents to influence decision-making.** Inform community members early and often using trusted, community-identified sources, and detailed practices outlined in EPA's National Environmental Justice Advisory Council (NEJAC) "Model Guidelines for Public Participation".⁷ Provide easily accessible and understandable information to community members on activities that may affect their environment and/or health, in a timely manner. ~~Actively seek to understand and~~ Address community concerns and barriers to participation in our regulatory processes. Consider ways to liincrease community members' ability to participate. Implement other relevant outreach and public participation tools identified in MPCA's outreach and public participation plan (See pages 12-13)
- 3. Foster increased~~Increase~~ regulated party community involvement and actions.** Encourage facilities located in areas of concern for environmental justice to increase engagement with local government, community groups, and area residents early in the environmental review and permitting process to understand and address concerns. Work with regulated parties to explore ways to mitigate environmental and health-related impacts in the community and make other quality-of-life enhancements.
- 4. Consider ways to P**prioritize work in order to ~~enhance benefits to~~ environmental justice communities. Give priority to permitting and remediation work in areas of concern for environmental justice, such as investigating potential vapor intrusion, targeting permit reissuance, or review of non-expired permits for facilities in these areas.

~~4.~~

Compliance and enforcement

Through inspections, review of test results and reports, and complaint investigations (collectively referred to as compliance determination activities), the MPCA monitors the environmental performance

⁷ National Environmental Justice Advisory Council. *Model Guidelines for Public Participation: An Update to the 1996 NEJAC Model Plan for Public Participation*. A Federal Advisory Committee to the U.S. Environmental Protection Agency, January 25, 2013.

of facilities with permits and licenses or businesses that engage in other activities that affect Minnesota's environment. These include large and small facilities that emit pollutants into the air, water dischargers, hazardous waste generators, and solid waste landfills. The MPCA and local government partners conduct inspections and other compliance determination activities on a routine basis. When violations are noted, the MPCA uses its compliance tools and enforcement authority to address noncompliance.

In areas of concern for environmental justice, in addition to continued routine inspections of facilities, MPCA will employ compliance and enforcement tools to identify and address environmental justice concerns by conducting supplemental inspections and by supporting permitting efforts. How violations are communicated, how clean up and remediation plans are developed, and where actions and fees associated with violations and noncompliance are targeted, will not happen in discussion only between the Agency and the permitted entity - all will be part of a community engagement plan and incorporate community decision-making.

Goal

~~Increase frequency of inspections to further~~ Ensure that facilities operating in areas of concern for environmental justice are in full compliance with applicable requirements and for facilities out of compliance, ~~explore appropriate~~ target activities to return them to compliance in ways that will also benefit the community.

Strategies

- 1. Conduct supplemental compliance and enforcement activities.** Conduct additional inspections or other compliance determination work at targeted facilities in areas of concern to ensure that they are in compliance with applicable regulations and permit conditions. Select facilities based on their potential to reduce the cumulative impact in an release pollutants of concern an environmental justice community in a particular area.
- 2. Resolve noncompliance with community benefit, in mind.** ~~Seek~~ Resolution of compliance issues at facilities located in enhanced review areas ~~must in ways that~~ benefit the community. Compliance and assistance programs should be targeted to environmental justice communities, with strong community engagement as to the investment of those dollars. For example, the community facility could propose a community improvement project as part of the facility's ~~si~~ means to correct violations, or to reduce a fine, or ~~by~~ mitigating risks above what is needed to be in compliance.
- 3. Support MPCA permitting programs with will provide additional compliance determination and assistance to facilities.** When an existing facility located within an environmental justice community submits a permit application to modify or expand its operations, or when the MPCA is renewing a permit, MPCA staff will research the facility's compliance history, determine current compliance status (either by inspection, site visit or file review), inform the community, and, ~~if needed~~, provide additional compliance assistance to facilities.
- 4. Communicate with affected communities.** When compliance issues at facilities in potential environmental justice areas occur, and when there is potential for adverse effects, provide information on the violation, the extent of the violation, and potential health impacts, in a timely manner to ~~known~~ community contacts, local government environmental and health agencies, and community-based communications outlets, except when prohibited by law such as during a formal investigation or ongoing enforcement action.

Monitoring, assessment, and ~~consideration~~ incorporation of cumulative impacts

A fundamental role of the MPCA is to evaluate and describe — both qualitatively and quantitatively — the condition of our environment, what causes it to be in the condition it is in, and what effectively could be done to make desired improvements. We do this by:

- Monitoring the air and water. A network of air monitors and systematic water monitoring approaches allow MPCA scientists to characterize the condition of our groundwater, lakes, wetlands, rivers and streams and air.
- Modeling and computational analysis. While our work is extensive, environmental monitoring is limited by where monitoring and sampling occurs and by what is measured. To fill in gaps, the MPCA uses tools to predict or estimate pollutant levels and their impacts on human health. Modeling also allows us to evaluate what *might* happen if permits or other requirements change or a new project moves forward, which can help us decide if proposed changes are protective of the environment and human health before they occur.
- Risk assessment and problem investigation. The MPCA compares information to standards and benchmarks and investigates sources of environmental impacts. These levels are evaluated along with health information from the Department of Health, such as disease rates and emergency room visits, to identify threats and impacts, inform standards development, guide our regulatory and assistance programs, and measure progress in achieving environmental goals.

Part of our work includes evaluating and preventing actual or potential impacts. As part of this process the MPCA considers the cumulative impacts of pollutants as a way to provide additional context for decision-making. The effects of multiple pollutant sources, multiple exposure pathways (where the exposure occurs and how- through inhalation, ingestion or skin contact), and multiple contaminants with similar effects are regular considerations in many of MPCA's environmental decision-making processes. These factors are taken into account in air and water permitting, risk assessment, environmental review, and remediation activities. While the quality of the data and tools available to consider these factors vary, it is important to note that in these ways, consideration of cumulative impacts is an integral part of the decision-making framework of MPCA programs.

Less common in MPCA decision-making is the consideration of non-chemical stressors (such as loss of open space or road safety concerns), socioeconomic conditions, or differences in community vulnerability when evaluating the cumulative impacts of a project. ~~Although there currently are no~~ Quantitative methods to incorporate non-chemical stressors and community vulnerability into typical regulatory evaluations, this field is ~~are~~ growing and some existing evaluations do already incorporate these concepts. ~~Evaluations incorporating non-chemical stressors and community vulnerability are largely qualitative due to the diverse nature of the data and the more recent emergence of this field of study.~~

Goal

Through the uses of monitoring, modelling, comprehensive risk assessment and cumulative impacts analysis ~~tools and resources, strive to identify and understand~~ environmental impacts, ~~to that are inform~~ integrated into decision-making and target efforts to meet our environmental justice goal of ensuring that no Minnesotan is disproportionately impacted by environmental pollutants, and there is targeted reduction of existing pollution in areas currently overburdened with historical legacies of pollution.

Strategies

1. ~~Consider~~**Evaluate**- known or potential environmental justice concerns and overburdened areas when planning for environmental monitoring. When deciding where, when and what to monitor, expressly ~~consider~~ **evaluate the number of facilities and the cumulative** contaminants of concern in overburdened areas. ~~Strive to~~ **Generate** and use the **latest analytical methods** and highest quality data to inform environmental decision-making.
2. ~~Consider~~ **Conduct more a** comprehensive risk assessment and cumulative impact analysis. In areas of concern for environmental justice, ~~determine if~~ **conduct** additional analysis (multiple sources, non-chemical stressors and community vulnerability) **that** will ~~better~~ inform decisions. MPCA programs (air permitting, remediation, wastewater permitting, etc.) **should** identify ~~when~~ and how they ~~support~~ **conduct** more comprehensive cumulative impact analysis. **Given the severe impact of nonpoint transportation sources of emissions on vulnerable populations, the MPCA must incorporate a thorough cumulative impact assessment when evaluating its regulated authority around point sources.**
3. **Communication and outreach.** ~~Seek to and understand~~ **Evaluate and incorporate** concerns community members have about environmental risks. Clearly explain to community members when and how we conduct risk assessments **and where the key community decision points are for proactive and early community involvement**; how we consider cumulative impacts in our existing standards, procedures and reviews; and when additional analysis is conducted. When concerns are expressed about non-chemical stressors and community vulnerability, involve other ~~government entities~~ **analytic expertise that who may will** be able to assist in addressing concerns that are not within the scope of MPCA authorities. Explain findings and proposed decisions, including how community concerns were ~~addressed~~ **incorporated**.

Prevention and assistance

In addition to our regulatory and pollution clean-up work, the MPCA also employs tools to prevent or minimize the negative impacts of pollution on public health and the environment. This work often targets smaller, diffuse sources such as cars and trucks and small businesses. Challenged by our lack of regulatory authority over many of these sources, our approaches and tools include assistance, grants, education, outreach, and collaborative work with partners. Through providing resources that build knowledge, capacity, and resilience, MPCA strives to empower communities and foster attitudes and actions that strengthen the natural environment, economy, and social well being.

Goal

MPCA prevention and assistance work ~~contributes to improved~~ **improves** environmental quality and livability in areas of concern for environmental justice and that small businesses and residents in areas of concern for environmental justice experience the full benefits of MPCA's services and work.

Strategies

1. **Using cumulative impact models, MPCA will refine its understanding of how to utilize its regulatory authority around point sources in environmental justice areas that are showing high**

~~sources of nonpoint sources, in order to reach our goals of reducing existing pollution in areas that currently overburdened. Identify programs and tools with greatest potential to contribute to environmental and human health benefits. Considering pollutants and sources of greatest concern in overburdened areas, the MPCA will identify regulatory mechanisms, programs and creative strategies that are likely to lead to the greatest reductions in those nonpoint pollutants, as well as overall pollution burden reduction, and have the largest positive effect on impacted environmental justice communities and their quality of life.~~

- ~~2. Consider ways to Pprioritize work.~~ Identify and give priority to prevention and assistance work that ~~has the potential will to~~ eliminate or reduce harmful pollution in areas of concern for environmental justice. This could include modifying existing pollution prevention grants and technical assistance programs to prioritize work in areas of concern, or creating new programs that specifically target work in these areas. MPCA will support and increase outreach and education efforts focused on reducing pollution in areas of concern for environmental justice, collaboratively with leadership from environmental justice communities.
- ~~3. Employ-Develop a public participation and outreach toolsplan.~~ Facilitate awareness and Increase access to prevention and assistance programs and resources that ~~have the opportunity will to~~ benefit overburdened communities. Widely promote Proactively target the availability and selection of grants, technical assistance, and services to community organizations, local units of government, and individuals living or serving in areas of concern for environmental justice.
- ~~4. Foster-Increased partner involvement and actions.~~ In areas of concern for environmental justice, the MPCA will ~~look for opportunities to~~ reduce risk and improve access to services through building and leveraging partnerships with other state agencies, local units of government, and community organizations that are based in low income and community of color leadership. MPCA will ~~strive to~~ increase the impact and effectiveness of its prevention and assistance work through the sharing of resources, knowledge, skills, and experience with others working toward common goals.

Equity in rulemaking, policy development, and program implementation

The MPCA's mission is to protect human health and the environment; and one of the MPCA's main concerns is developing responses to address problems that threaten human health and the environment. To implement the MPCA's environmental justice policy, it is important to consider the meaningful involvement of all people in developing responses to environmental concerns and to ensure that the responses do not create disproportionate impacts, and reduce existing pollution in already overburdened communities.

When determining whether or not to undertake a certain action, one consideration is the ultimate equity impacts of the proposed action. Equity analysis can be is roughly defined as looking at the allocation of "goods" (benefits) and "bads" (costs or burdens), either monetary or non-monetary, within the affected society. In other words — who pays and who benefits? More particularly, does the proposed action change the distribution of the "goods" and "bads" among different groups of concern within society? Is anyone made better off? Is anyone made worse off? Identifying overburdened communities, the health risks associated with pollution emissions, and associated regulatory policies and practices.

~~An equity analysis helps to understand any equity shifts that would be caused by a proposed action, though it is generally not determinative in deciding whether a particular action should be implemented. Rather, it sheds light on whether the beneficial outcomes of an action outweigh any adverse distributional effects, and can also point towards adverse impacts that may need to be mitigated.~~

The MPCA will ~~work to~~ evaluate equity impacts whenever we consider possible actions to address environmental concerns. These equity impacts ~~can~~ provides key analytic information to any entity considering implementing ~~the a~~ possible action, whether that be the Legislature, the Governor, the MPCA or other state agencies, or public-private partnerships.

One important way that the MPCA takes action to respond to environmental concerns is by adopting rules. The consideration of EJ issues will rest on ~~the principles~~ the active engagement by agency staff on the definitions of meaningful involvement and fair treatment, focusing on specific overburdened communities groups ~~in Minnesota: in our society-~~, Indigenous, low-income ~~populations~~ communities and ~~historically under-represented~~ communities of color, that statistics show experience a disproportionate share of the pollution legacy in our state.

Goals

MPCA develops rules and policies to:

1. Ensure that all populations have a voice and effective representation in rule and policy development.
2. Ensure that new rules and policies ~~do not exacerbate~~ improve existing conditions where burdens are disproportionately borne or benefits not experienced by populations of concern.
3. ~~Move toward creating~~ Create rules and policies that ~~help~~ ensure that the distribution of environmental quality is fair and equitable among all Minnesotans.

Strategies

1. ~~Employ~~ **Develop a public participation and outreach ~~tools~~ plan for agency actions.** Public participation and enhanced outreach strategies and tools will be used to facilitate early and meaningful involvement in the rulemaking process. ~~In addition to using plain language in rule-related notices and supporting documents, this will also include communicating about rules outside of the legally required avenues and standard avenues. It is likely also to require additional kinds of documents (fact sheets, FAQs, etc.) to describe rules in a way that promotes meaningful involvement. The EPA's National Environmental Justice Advisory Council (NEJAC) "Model Guidelines for Public Participation" is a resource MPCA will use for institutionalizing effective community engagement. NEJAC is a federal advisory committee that was established by charter on September 30, 1993, to provide independent advice, consultation, and recommendations to the Administrator of the U.S. Environmental Protection Agency (EPA) on matters related to environmental justice.⁸ The document serves as an effective guide to federal and state agencies on how to "meaningfully" engage environmental justice stakeholders in decision-making processes.~~

~~1-~~

2. **Review and document distributional impacts of rules and policies. Prepare** an equity analysis for each rule that shows the effects of the proposed rule ~~—the costs and benefits or gainers and losers—~~ and how the proposed rule ~~changes the~~ moves toward achieving parity in existing distribution of burdens and benefits between the groups of concern and other groups. This includes MPCA integrating:

- a. EPA's Guidance on Considering Environmental Justice During the Development of Regulatory Actions, released May 2015. This is the EPA's guide for determining when

⁸ National Environmental Justice Advisory Council. *Model Guidelines for Public Participation: An Update to the 1996 NEJAC Model Plan for Public Participation*. A Federal Advisory Committee to the U.S. Environmental Protection Agency, January 25, 2013.

environmental justice should be considered during its Action Development Process when developing regulations; and

- b. The companion *Draft Technical Guidance for Assessing Environmental Justice in Regulatory Analysis* (U.S. EPA 2013) which provides information on how to analytically (qualitatively and quantitatively) consider environmental justice in rules.

~~2.~~

~~3.1. Conduct equity analysis of policies and program implementation, when applicable. Outside of~~
~~in addition to~~ rule-making, other policy development ~~and,~~ implementation of all MPCA rules and ~~other~~ initiatives ~~may inherently~~ have equity implications. ~~When possible~~ Equity concerns ~~should be~~ ~~are~~ identified by the MPCA ~~or stakeholders,~~ and the MPCA will conduct a quantitative and qualitative analysis of possible equity impacts to inform and be incorporated into policy development and program implementation decisions.

DRAFT

Resources to support environmental justice integration

Enhanced screening for possible environmental justice concerns

As a first step to considering environmental justice concerns, the MPCA will use screening tools to identify potentially overburdened areas and areas that warrant additional review for environmental justice concerns. This information will direct and influence actions under other parts of this framework, such as increased community outreach, enhanced regulatory or pollution prevention attention, as well as additional monitoring or risk analysis. This screening is only a first step. It does not provide a definitive designation that an area is subject to a disproportionate burden. It simply flags an area as one where additional consideration or effort is needed to identify and potentially mitigate disproportionate adverse impacts.

Goal

MPCA program staff, community members and regulated parties are able to identify areas where additional review or action is needed or desired to address possible environmental justice concerns.

Strategies

- 1. Develop data-driven screening methodology.** Identify data sources and procedures to provide information about possible environmental justice concerns in a geographical area using demographic and environmental variables. Variables will provide information ~~on~~ such as race and income levels, language proficiencies, potential environmental exposures, number of facilities in the immediate and surrounding area, vulnerabilities to climate changes impacts and other factors to inform efforts to facilitate community engagement and the potential for disproportionate burdens. Data sources should include other state agency data, county and city data.
- 2. ~~Include~~ Develop a detailed plan for community engagement in the screening process to gather community knowledge.** The EPA's National Environmental Justice Advisory Council (NEJAC) "Model Guidelines for Public Participation" is a resource MPCA will use for institutionalizing effective community engagement. Seek out information from community members about conditions in their community, including non-chemical stressors. Use this information to verify and supplement data-driven sources.
- 3. Apply the screening methodology to identify areas for enhanced review and action by MPCA programs and facilities located in these areas.** MPCA program areas act as appropriate to adapt program work to engage community members, further evaluate risks, mitigate disproportionate impacts, and other actions.

Public participation, outreach and engagement

All MPCA stakeholders must have opportunities to participate in decisions about activities that affect them and have equal access to programs and services. One goal of environmental justice efforts is to pay particular attention to previously underrepresented communities and address the structural barriers that ~~have limited their~~ ability of MPCA to engage in with the the MPCA's community work. In areas of concern for environmental justice, the MPCA will take additional steps to provide increased

opportunities to be involved, and ~~to seek out and facilitate~~ involve the participation of communities that may not have previously experienced meaningful involvement. The MPCA will also provide easily accessible, timely and understandable information to community members on activities that may affect their health and quality of life.

In addition to the activities related to specific MPCA actions and programs, the MPCA also recognizes the need to develop and maintain meaningful relationships with a broad and representative variety of community stakeholders, organizations and individuals to establish the foundations for long-term collaborative work. To this end, the MPCA will work with community members to establish strategies and a detailed Community Engagement Plan, that takes established lessons learned for more long-term, accountable and comprehensive community engagement. Specifically, the EPA's National Environmental Justice Advisory Council (NEJAC) "Model Guidelines for Public Participation" is a resource MPCA will use for institutionalizing effective community engagement.

Goal

The MPCA employs specific measures that improve civic engagement generally and increase public participation in all aspects of the Agency's work. This includes increasing and improving communication and ~~outreach during~~ access to our traditional regulatory roles such as permitting, rulemaking, and environmental review, as well as when promoting technical assistance, grants, and other services.

Strategies

- 1. Tailor outreach and public participation to specific community.** Seek to understand the community characteristics and specific barriers to meaningful involvement. Of specific note are NEJAC's recommendations on what Comprehensive and Customized Community Engagement planning entails, including the development of a rapid assessment of the level of customized community engagement required to guide a public process, as it relates to a specific agency action and in varying community contexts. Appendix C outlines an "Environmental Justice Public Participation Checklist for Government Agencies", which should be directly incorporated and utilized. Additionally it articulates that stakeholders should foster capacity building in communities by offering various forms of technical assistance throughout the public participation process, such as funding resources, workshops and trainings.
- 1. ~~Develop~~ Conduct** outreach and public participation to engage and inform the community via trusted sources and ~~to work to~~ remove barriers they may have to participate. ~~Begin communication~~ Communicate to community members at the earliest possible opportunity.
- 2. Use plain and understandable language.** Written materials, presentations and informal communication should be easily understandable, free of jargon and undefined acronyms, and available in multiple languages, when appropriate. Clarify the impact that public input will have on decision making in each scenario and the decision making process timeline.
- 3. Hold community meetings and events early and frequently.** Community meetings and events can be effective ways to share information and understand community concerns. In addition to and in advance of formal and required public meetings, employ a variety of formats early on and frequently to share information, listen to residents' issues and answer questions.
- 4. Expand public notification methods.** During certain actions, such as some permits and rulemaking, the MPCA is required to formally notify the public through specified traditional media. When environmental justice is of concern, the MPCA will employ additional methods specifically tailored to reach potentially underrepresented audiences as early in the process as practical, and as often as appropriate possible.

5. **Encourage facility or regulated party to plan for public participation.** In addition to employing the approaches above, the MPCA will ~~suggest or~~ request that the regulated party, such as a facility applying for a permit, prepare and implement a public participation plan that includes the same strategies as above.
6. **Build upon previous efforts to deepen community connections and understanding.** Collaborate with a range of stakeholders to foster supportive and mutually beneficial partnerships, authentic relationships and culturally competent long-term engagement. Expand the network of community stakeholders that we interact with to ensure representation from affected communities, and inclusion of as many community members and organizations working on environmental justice as possible.

Agency training and development

MPCA acknowledges that environmental justice policy and regulation is complex, with other states having a longer history of integrating these issues into their regulatory, planning and community engagement processes. Thus, Integrating environmental justice principles into MPCA's work will require staff and MPCA leadership to implement new procedures and approaches. Successful adoption and practice ~~may will~~ also require new skills, new learning, and in some cases new perspectives. It is essential that MPCA staff approach their work inclusively and respond appropriately to the needs and perspectives of people from diverse racial, economic, and cultural backgrounds. Studies have shown that implicit bias plays a factor in institutionalized racism, thus we~~We~~ must also be diligent to ensure that cultural bias does not contribute to different access, service, and outcomes to MPCA's services.

Goal

Develop and maintain a workforce that values diversity, is trained in environmental justice issues, and delivers services in a multi-culturally competent, sensitive and equitable manner.

Strategies

1. **Recruit, hire, and maintain a diverse work force.** Conduct a review of MPCA's job description development, eligibility requirements, recruitment procedures, and selection process that might construct barriers to attracting a diverse applicant pool and final selection. Increase awareness of MPCA's mission and employment opportunities among diverse groups and communities. Build and strengthen partnerships and connections that will aid in recruiting a diverse pool of candidates for MPCA and state of Minnesota positions. Encourage and facilitate applicants and consider flexible benefits in order to attract from diverse backgrounds for student worker and regular positions. Create a workplace culture that values diversity and is inclusive. Ensure that Environmental Justice programmatic staff and coordinators have substantive experience working on environmental justice issues and in environmental justice communities.
2. **Departmental EJ plan development and Trainings.** ~~and develop~~ All department managers and staff will develop an environmental justice plan, articulating the accountable practices by which they will incorporate the principles into their departments, as outlined in this Framework. Training will be given in multicultural competency, institutional racism, MPCA EJ policy, Civil Rights Act Title VI requirements, and other areas identified to support MPCA's capacity to assure equal access and achieve equitable outcomes.
3. **Train relevant program staff** in procedures and policies to integrate environmental justice principles into their specific area of work (incorporated into work plan for each specific area of work). Collect employee feedback to monitor success of training and work environment.

Ongoing stakeholder and community involvement in framework implementation and improvement

This document is MPCA's initial attempt to define strategies and develop implementation approaches to integrate environmental justice principles into our daily work. Community and stakeholder feedback played a ~~significant~~ role in developing the elements of this framework. These approaches reflect lessons learned from past experiences as well as stakeholder feedback during 2014 and early 2015.

While much work remains to be done, we are already implementing some of the strategies and will continue to expand implementation while we work to develop the remaining approaches described in this plan. The MPCA fully expects that through experience with implementation, agency staff and stakeholders will identify areas for improvement.

The MPCA will regularly improve and modify implementation of the strategies in this framework based on initial experience, learning and feedback, and communicate changes in any policies and practices to environmental justice communities. The MPCA expects and invites regular feedback from all stakeholders to further develop and shape implementation.

Goal

Ensure the structure of Feedback from a variety of MPCA stakeholder processes remove barriers for environmental justice stakeholder participation, and informs improvements to MPCA's environmental justice and broader agency wide programmatic work ~~and all interested stakeholders have a satisfying level of access and opportunity to contribute.~~

Strategies

- 1. Community advisory group.** Establish an advisory group made up environmental justice community members and advocates that meets regularly to provide feedback to the MPCA on framework finalization and implementation.
- 2. Targeted engagement.** MPCA has numerous existing stakeholder engagement processes around environmental policy that directly effect environmental justice communities, such as Clean Air Minnesota and the Clean Power Plan. As needed or requested, provide In each of these types of processes, MPCA will work to ensure the incorporation environmental justice research agendas, data analyses, and stakeholder recruitment and retention. These are spaces where there are already opportunities for additional stakeholders to provide input and feedback on MPCA's work including with businesses, local and tribal governments and others.
- 3. Environmental justice all-stakeholder events.** Convene and sponsor events that provides an opportunity for all stakeholders to learn, share experiences and provide feedback related to environmental justice work. MPCA presents on implementation progress.

Coordination with federal, state, local, and tribal governments

While the MPCA has significant authority and responsibility to protect the environment of Minnesota, we share this role with the U.S. EPA, Tribal governments, county and municipal governments. Local governments in particular also play a key role in communicating to communities and land use decisions that factor in to many concerns about environmental justice. Similarly, decisions and actions by other state agencies also impact our work. And we have overlapping responsibilities and missions with many of our sister state agencies, especially the Minnesota Department of Health. Given our shared roles and common interests with other governments, we also have an opportunity to learn from and support each other's work.

Goal

The MPCA coordinates its work with all levels of government to improve joint effectiveness in reducing disparities in exposures, health effects and other overlapping public interests.

Strategies

- 1. Coordinated work with state agencies, county and local government** in Minnesota to reduce disparities across multiple agencies/jurisdictions and to foster meaningful involvement in our work. Establish and build on relationships with our partners in government in the state. Involve local government staff, elected officials and others in actions and projects in areas of concern for environmental justice. As MPCA is incorporating EPA's leading guidance on environmental justice, MPCA will provide guidance to local and other state agencies on how to structurally integrate environmental justice policy planning into their work.
- 2. Learn from the experiences, expertise and tool development around environmental justice of other states' agencies and the EPA.** Identify best practices, tools and lessons learned from the EPA and other states that could inform integration in Minnesota. Participate in national information-sharing and working groups such as those convened by EPA, leading national environmental justice organizations, or the Environmental Council of States.
- 3. Tribal coordination.** Ensure environmental justice issues are considered in our government-to-government interactions with Minnesota tribes. See Governor Mark Dayton Executive Order 13-10
- 4. Collaborate with EPA.** Identify ways that the expertise and resources of the EPA could help to advance our environmental justice work in Minnesota and ways that MPCA can support EPA's work in the state to further advance environmental justice.
- 4.5. Strengthen the Interagency Climate Adaptation Team.** Climate change will exacerbate the environmental justice concerns outlined in this framework document, thus the MPCA takes very seriously its leadership in coordinating the Interagency Climate Adaptation Team, across state agencies. The MPCA will engage environmental justice communities that will be most impacted by these planning efforts in their development. As there is no current mandate for any Minnesota agency to develop a climate adaptation plan and evaluate benefits to climate vulnerable communities, MPCA will actively enhance these efforts through its coordination role, pilot project development, grants and allocation of budgeting and staffing for this effort. MPCA will also evaluate regulatory changes that may need to be made to further advance comprehensive planning that protects environmental justice communities in the face of a changing climate.

Measuring and reporting on progress

The MPCA is committed to achieving results. To monitor our progress in meeting the goals of this framework, the MPCA has identified three types of measures that we will routinely track. Measures in environmental justice communities and non-environmental justice communities will be tracked in order to assess issues of disproportionate impact and the achieving of equity. An annual Environmental Justice report will be issued, reporting on these measures.

Pollution and health — changes over time in potential exposures and effects:

- Air pollution measures, statewide and in areas of potential EJ concern
 - Monitored levels of key air pollutants of concern (PM_{2.5}, formaldehyde, ozone, nitrogen dioxide)
 - Predicted (modeled) cancer and non-cancer risks (MnRiskS)

- Emissions of criteria pollutants
- Health statistical markers, including Asthma healthcare use rates, statewide and in areas of potential EJ concern
- Water quality measures statewide and in areas of potential EJ concern
- Status of cumulative impact and comprehensive risk assessment methodologies and level of integration into MPCA processes and decision-making.
- Number of complaints, violations, fee amounts, and status of resolution
- Status of permits; clean up and development plans for past and current contaminated sites statewide and in EJ areas of concern

Meaningful involvement — activities and satisfaction of community members related to public participation ~~and~~, engagement, and input incorporation with members of the EJ community:

- Development and successful implementation of the an MPCA's environmental justice-outreach and engagement plan
- ~~• Participation in community events and activities~~
 - Number of meetings or community events that the MPCA attended or participated in
 - Number of suggestions implemented by MPCA that were recommended by-community members attending MPCA events or meetings
 - Number of interested people overburdened community members routinely engaging in MPCA work.
- Content of cCommunity input is tracked, and is reflected in agency outcomes
- Satisfaction of community members related to meaningful involvement in MPCA public participation activities

Programmatic measures — progress in integrating environmental justice into the MPCA's work:

- Number/portion of MPCA programs that have developed EJ Plans and fully incorporated EJ strategies
- Creation and documentation of tools/guidance/procedures for addressing EJ in identified program areas.
- Report Identifying current legal barriers to achieving environmental justice framework goals.
- Employee and community survey of diversity values, staff attitude shifts, and training effectiveness.
- Number and quality of trainings given to staff on the latest methodologies around cumulative impact and comprehensive risk assessments, and other environmental justice regulatory tools available and being released.
- Budgetary, grants, and other financial allocation of resources to environmental justice focused research, community outreach, clean up efforts, and other MPCA EJ Framework strategies.

The MPCA will regularly communicate with stakeholders and seek feedback on implementation of this framework during periodic meetings, electronic communication and personal contact. We will also periodically report on our progress in achieving the goals of this framework.

|

During initial implementation, beginning in 2016 and until at least 2018, the MPCA will prepare report a report every year on or before January 15. After 2018, the reporting frequency will be evaluated in consultation with stakeholders.

|

DRAFT