

1.1 ..... moves to amend H.F. No. 637 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "**Section 1. [116.065] CUMULATIVE IMPACTS ANALYSIS; PERMIT DECISIONS**  
1.4 **IN ENVIRONMENTAL JUSTICE AREAS.**

1.5 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have  
1.6 the meanings given them.

1.7 (b) "Commissioner" means the commissioner of the Minnesota Pollution Control Agency.

1.8 (c) "Compelling public interest" means a factor or condition that is necessary to serve  
1.9 an essential environmental, health, or safety need of residents of an environmental justice  
1.10 area, and which cannot reasonably be met by alternative available means.

1.11 (d) "Cumulative impacts" means the impacts of aggregated levels of past and current  
1.12 air, water, and land pollution in a defined geographic area to which current residents are  
1.13 exposed.

1.14 (e) "Environmental justice" means:

1.15 (1) communities of color, Indigenous communities, and low-income communities have  
1.16 a healthy environment and are treated fairly when environmental statutes, rules, and policies  
1.17 are developed, adopted, implemented, and enforced; and

1.18 (2) in all decisions that have the potential to affect the environment of an environmental  
1.19 justice area or the public health of its residents, due consideration is given to the history of  
1.20 the area's and its residents' cumulative exposure to pollutants and to any current  
1.21 socioeconomic conditions that increase the physical sensitivity of those residents to additional  
1.22 exposure to pollutants.

1.23 (f) "Environmental justice area" means one or more census tracts in Minnesota:

- 2.1 (1) in which, based on the most recent data published by the United States Census Bureau:
- 2.2 (i) 40 percent or more of the population is nonwhite;
- 2.3 (ii) 35 percent or more of the households have an income at or below 200 percent of the
- 2.4 federal poverty level; or
- 2.5 (iii) 40 percent or more of the population over the age of five have limited English
- 2.6 proficiency; or
- 2.7 (2) located within Indian country, as defined in United State Code, title 18, section 1151.
- 2.8 (g) "Environmental stressors" mean factors that may make residents of an environmental
- 2.9 justice area particularly sensitive to exposure to pollutants. Environmental stressors include:
- 2.10 (1) cumulative impacts; and
- 2.11 (2) social and environmental factors, including but not limited to, poverty, substandard
- 2.12 housing, food insecurity, elevated rates of disease, and poor access to health insurance and
- 2.13 medical care.
- 2.14 (h) "Major source" means a major source of air pollution as defined by the federal Clean
- 2.15 Air Act, United States Code, title 42, section 7401 et seq.
- 2.16 Subd. 2. **Cumulative analysis; when required.** A permit applicant located in an
- 2.17 environmental justice area, or whose environmental impacts may affect an environmental
- 2.18 justice area, must conduct an analysis of cumulative impacts when seeking any of the
- 2.19 following permits or permit decisions under chapter 115 or 116 from the agency:
- 2.20 (1) a permit for construction of a new facility;
- 2.21 (2) a permit for expansion of an existing facility that would increase the volume or
- 2.22 toxicity of pollutants from the facility;
- 2.23 (3) reissuance of a major source permit; or
- 2.24 (4) a major permit amendment.
- 2.25 Subd. 3. **Cumulative impacts analysis; public meeting requirements.** (a) Any permit
- 2.26 applicant or permit holder required to conduct a cumulative impacts analysis under
- 2.27 subdivision 2 must hold at least one public meeting in the environmental justice area impacted
- 2.28 by the facility before the commissioner issues or denies a permit.
- 2.29 (b) The permit applicant or permit holder must:

3.1 (1) publish notice containing the date, time, and location of the public meeting, and a  
3.2 brief description of the permit or project in a newspaper of general circulation within the  
3.3 environmental justice area at least 30 days before the meeting;

3.4 (2) post physical signage in the environmental justice area impacted, as directed by the  
3.5 commissioner; and

3.6 (3) provide the commissioner with notice of the public meeting and a copy of the  
3.7 cumulative impacts analysis at least 45 days before the public meeting.

3.8 (c) The commissioner must post the notice and cumulative impacts analysis on the  
3.9 agency's website at least 30 days before the public meeting.

3.10 (d) The permit applicant or permit holder must:

3.11 (1) provide an opportunity for robust public and Tribal engagement at the public meeting;

3.12 (2) accept written and oral comments, as directed by the commissioner, from any  
3.13 interested party; and

3.14 (3) provide an electronic copy of all written comments and a transcript of oral comments  
3.15 to the agency within 30 days of the public meeting.

3.16 (e) If the permit applicant or permit holder is applying for more than one permit that  
3.17 may affect the same environmental justice area, the permit applicant or permit holder may  
3.18 request that the commissioner require that the facility hold a single public meeting that  
3.19 addresses all of the permits sought. The commissioner may approve or deny the request.

3.20 (f) The commissioner may incorporate conditions in a permit for a facility located in or  
3.21 affecting an environmental justice area to hold multiple in-person, meetings with residents  
3.22 of the environmental justice area affected by the facility to share information and discuss  
3.23 community concerns.

3.24 Subd. 4. **Environmental justice area; permit decisions.** (a) In determining whether to  
3.25 issue or deny a permit, the commissioner must consider the testimony presented and  
3.26 comments submitted in public meetings held under subdivision 3. The permit may be issued  
3.27 no earlier than 30 days following the last public meeting.

3.28 (b) The commissioner must deny an application for a permit subject to this section for  
3.29 a facility in an environmental justice area if the commissioner finds that issuing the permit  
3.30 in combination with the public health stressors present in the environmental justice area  
3.31 would contribute to adverse cumulative environmental stressors in the environmental justice  
3.32 area, unless:

4.1 (1) the applicant and community based organizations or coalitions representing resident  
4.2 interests, enter into a community benefit agreement; and

4.3 (2) there is a compelling public interest to issue the permit, as determined by the  
4.4 commissioner, based on criteria established in the rules required under subdivision 5.

4.5 (c) If the commissioner determines that a compelling public interest exists and the  
4.6 applicant enters into a community benefit agreement with the community, the agency may  
4.7 grant a permit that imposes conditions on the construction and operation of the facility to  
4.8 protect public health and the environment.

4.9 (d) Issuance of a permit under this section must include a requirement that the facility  
4.10 provide information to the community describing the health risks that the facility poses.

4.11 (e) A community benefit agreement must be signed on or before the date a new permit  
4.12 or major permit amendment is issued in an environmental justice area.

4.13 (f) The commissioner must publish and maintain on its website a list of environmental  
4.14 justice areas in the state.

4.15 Subd. 5. **Rulemaking.** (a) The commissioner shall adopt rules under chapter 14 to  
4.16 implement and govern the cumulative impacts analysis and issuance or denial of permits  
4.17 for facilities that impact environmental justice areas as contained in this section.

4.18 (b) During the rulemaking process, the Pollution Control Agency shall engage in robust  
4.19 public engagement and Tribal consultation, including public meetings.

4.20 (c) Rules developed under this section must:

4.21 (1) define conditions, criteria, or circumstances that qualify as a compelling public  
4.22 interest, which must not include economic considerations unless the economic benefit  
4.23 considered directly and substantially benefits residents of the environmental justice area of  
4.24 concern;

4.25 (2) establish clear, quantitative criteria for establishing whether a facility fulfills an  
4.26 essential environmental, health, or safety need;

4.27 (3) establish benchmarks that protect public health, that a permit may not exceed;

4.28 (4) establish procedures for entering into community benefit agreements, which must  
4.29 include consultation with members of the public and community based organizations or  
4.30 coalitions representing the interests of residents within the environmental justice area;

4.31 (5) establish the content of a community benefit agreement;

5.1 (6) establish a petition process and form submitted to the agency by environmental  
5.2 justice area residents to support the need for a cumulative impact analysis;

5.3 (7) establish and define criteria for requiring a cumulative impact analysis;

5.4 (8) establish a process for conducting cumulative impacts analysis; and

5.5 (9) maintain an updated database of the identified stressors in specific census tracts. The  
5.6 agency must use this database to create a baseline comparison for projects requiring  
5.7 cumulative impacts analysis and the agency must provide an analysis of stressors for the  
5.8 relevant census tracts to an applicant upon their initial application. The agency must make  
5.9 this database accessible to the public.

5.10 (d) The agency must provide translation services and translated materials upon request  
5.11 during rulemaking meetings.

5.12 (e) The agency must provide public notice on the agency's website at least 30 days before  
5.13 public meetings held on this rulemaking. The notice must include the date, time, and location  
5.14 of the meeting. The agency must use multiple communications methods to inform residents  
5.15 of environmental justice areas in the public meetings held for the rulemaking.

5.16 **EFFECTIVE DATE.** This section is effective the day following final enactment."

5.17 Amend the title accordingly