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## Cumulative Impacts Analysis for Highway Projects

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Bill Numbers: [SF 817](#), [HF 186](#)

### Policy Overview:

Highway projects have a storied history rooted in systemic racism that [continues to harm](#) marginalized communities today, dividing and [severely polluting](#) communities of color and low-income communities at disproportionate rates.

This national trend [impacts Minnesotan communities](#) as well. Through waves of highway construction, beginning in the 1930s along Olson Memorial Highway (Mn 55) in [Near North](#), Minneapolis and then scaling to communities from [Rondo](#) in St. Paul to [Cedar Riverside](#) and [Old Southside](#) in Minneapolis along I-94 and I-35 in the 1960s, displaced communities and led to worse quality of life and access to opportunities.

Today, these communities near highways today often have concentrations of people of color and people in poverty, forcing environmental exposure that leads to [worse health and opportunity outcomes](#) for each group (and people who are members of both groups).

Currently, few protections in Minnesota law require the Minnesota Department of Transportation (MnDOT) to prioritize public health, environmental justice, and racial equity when planning highway projects that run through designated [environmental justice communities](#).

In 2023, the legislature passed a groundbreaking [cumulative impacts law](#) to protect marginalized communities from disproportionate pollution exposure. The law defines environmental justice areas and requires the Minnesota Pollution Control Agency (MPCA) to conduct a rulemaking process to address the cumulative impacts of pollution during permitting processes for permitted facilities (i.e., a factory or trash incinerator).

However, this new law does not apply to transportation projects, leaving one of the biggest sources of environmental injustice unaddressed.

**This legislation addresses this issue by:**

- Creating a new regulation that expands cumulative impacts analyses to include highway projects, requiring the Minnesota Department of Transportation (MnDOT) to conduct a similar cumulative impacts analysis for major highway projects that run through environmental justice communities, mirroring the MPCA process
- If a project's impact is found to exceed cumulative pollution limits, MnDOT would modify a project's scope or create a community benefits agreement to address community needs
- Creating an environmental justice ombudsperson within MnDOT to serve as a liaison, watchdog, and equity advocate within the agency. Colorado has created a [similar position](#) to investigate environmental justice complaints

This law would add long-overdue protections for communities and ensure better project outcomes. By mitigating these environmental and community concerns early, projects can proceed in accordance with environmental considerations that would achieve better outcomes and more efficient project delivery, protecting communities, stabilizing projects and union jobs, and guarding against costly project delays.

**Frequently Asked Questions:****How will this Policy Benefit Minnesotans?**

Minnesotans have long dealt with the cumulative impacts of infrastructure and policy decisions, burdening environmental justice communities disproportionately. While the 2023 law takes an essential first step towards righting these historic and ongoing impacts, the measure narrowly focuses on permitted facilities. It does not address highways, one of the largest sources of pollution facing Minnesotan communities.

This bill would require MnDOT to conduct similar analyses to evaluate the "cumulative" impact on the environment from multiple sources, not just the direct impact of a single project. This would apply to highway projects and protect frontline communities from their impacts, benefiting Minnesotans more broadly by creating healthier and safer living standards for many of our state's most vulnerable communities.

**What are cumulative impacts?**

Cumulative impacts are the combined effects of current and past pollution and other stressors and how they impact the health, well-being, and quality of life of residents in those communities. For many neighborhoods and communities in Minnesota, decades-old transportation, permitting, and zoning decisions by local, state, and federal governments have resulted in the concentration of heavily polluting industrial facilities and major highways near homes, schools, and parks. This has created major disparities in health outcomes and quality of life indicators.

**How would this law differ from the 2023 Cumulative Impacts Law?**

In 2023, the Minnesota legislature passed a groundbreaking [cumulative impacts law](#) to protect marginalized communities from disproportionate exposure to pollutants. The law defines environmental justice areas and requires the MPCA to conduct a rulemaking process to address the cumulative impacts of pollution during the approval process for permitted facilities (e.g. a factory or trash incinerator). However, this new law does not apply to transportation projects, leaving one of the [biggest sources of environmental injustice](#) unaddressed. This law would close that gap and strengthen and broaden environmental justice protections for Minnesotan communities.

**Should Minnesota wait until the 2023 Cumulative Impacts law completes rulemaking in 2026?**

A cumulative impacts law for transportation is urgently needed. Many communities continue to suffer from pollution and adverse health impacts, and highways are a major contributor. Environmental justice communities like Brooklyn Center are currently facing highway expansion projects, with little protection or consideration of the severe pollution and health impacts the community has already been subjected to. Why delay action when communities are being impacted now?

Furthermore, this bill is designed to accelerate the policy's implementation by mirroring the outcome of the MPCA rulemaking process for permitted facilities. The bill requires that MnDOT, to the fullest extent possible, adopt the rulemaking outcomes that are currently being created by the MPCA. By passing this law this session, the implementation process for a transportation cumulative impacts law can begin, and

long-overdue protections for major highway projects can quickly follow the launch of the permitted facilities rule.

**How would this law actually change MnDOT's processes to protect frontline communities?**

This bill aims to remedy Minnesotans' disproportionate exposure to transportation pollutants. The law would build upon the previous one, and would create new protections that would require the Minnesota Department of Transportation (MnDOT) to conduct a cumulative impacts assessment whenever a major highway project is planned in or near a designated environmental justice community.

Prior to inclusion of a major trunk highway project (defined by project cost) in the state transportation improvement program (STIP) or a metropolitan transportation improvement program (TIP), MnDOT must conduct an impacts analysis if any of the following applies:

- (A) the potential impacts of the project exceed any of the benchmarks for conducting an impacts analysis as established by the commissioner or*
- (B) the project may substantially impact the environment or health of the residents of an environmental justice area; or*
- (C) MnDOT determines that the analysis is warranted following an assessment of any petitions, material evidence, and any other relevant information; and*

Through the cumulative impacts analysis process, MnDOT would determine if the proposed project would adversely impact an environmental justice community. MnDOT must make a determination of adverse impacts if:

- (i) the impacts analysis concludes that performance of the project, in combination with the environmental stressors present in the environmental justice area and considering the socioeconomic impact of the facility to the residents of the environmental justice area, would have substantial adverse cumulative impacts on the environment or health of the environmental justice area and its residents; or*

*(ii) MnDOT identifies a reasonable likelihood of substantial adverse cumulative impacts based on public comments and testimony or any other relevant information.*

If it is determined that the project would cause adverse impacts, MnDOT must:

- (1) alter the scope or design of the project and perform a revised impacts analysis that meets the requirements under this section;*
- (2) enter into a community benefit agreement with a participating governmental unit; or*
- (3) halt project development and disallow inclusion of the project in the appropriate transportation improvement program.*

The bill would require MnDOT to develop criteria for how the transportation cumulative impact analysis would work. This includes defining a substantial adverse environmental and health impact and establishing the structure of a community benefits agreement and process. As mentioned above, to speed up the implementation process and mitigate redundancy, this bill requires that MnDOT, to the fullest extent possible, adopt the rulemaking outcomes that are currently being created by the MPCA.

### **How will the Cumulative Impact Law Impact Union Jobs?**

The Cumulative Impacts Law for transportation projects would enhance union job stability and opportunities by ensuring more sustainable project development. Rather than hindering construction work, this legislation would create additional employment opportunities through required mitigation measures and community benefit agreements. It will ensure more stable projects by considering potential environmental and community concerns proactively.

When projects are identified as having adverse impacts, the resulting modifications often include additional infrastructure improvements and environmental mitigation work, expanding the scope of construction activities and creating more diverse work opportunities for skilled union labor. Furthermore, by addressing community concerns early in the planning process, projects are less likely to face delays or cancellations due

to environmental justice challenges, providing more predictable and secure employment for union workers in the transportation construction sector.

**How does this policy interact with NEPA and MEPA regulations?**

MnDOT would still go through the state and federally required environmental review process (NEPA and MEPA), however, the cumulative impacts assessment would ensure that projects that would cause disproportionate harm in environmental justice communities are not added to MnDOT's funding plan (STIP). The proposed process is very similar to the requirement in the Highway GHG reduction law that requires major highway projects to be assessed to see if they conform to the goals for reducing transportation sector GHG emissions and vehicle miles traveled *before* MnDOT may add them to the STIP.

As with the VMT/GHG assessment, if a project does not conform, MNDOT must alter the project's design, identify mitigations that allow the project to conform, or halt project development. (*Minn. Stat. Section 161.178 Subd. 2(b)1-3.*) Much of the assessment can be viewed as a climate-specific form of environmental review. The section specifically calls out the assessment as part of project development that is performed before a project is added to the STIP, directly contradicting MNDOT's view that project development, including environmental review, should only happen after a project is added to the STIP.

From a technical standpoint, if MnDOT is able to accurately assess VMT and climate impacts before a project is added to the STIP, it is also possible to assess the localized pollution and health impacts as part of a cumulative impacts assessment.

**How are Cumulative Impacts and the NEPA/ MEPA Process Different?**

NEPA is a broad federal law requiring agencies to assess environmental impacts of their actions. A cumulative impact analysis examines how a project's effects combine with past, present, and future pollution in an area and addresses these harms. Rather than looking at a project in isolation, it evaluates the total environmental impact from multiple sources over time.

Currently, the environmental review process required by MEPA and NEPA focuses on measuring and mitigating the potential additional impacts that a project may create. This process is not adequate for considering the cumulative impact of the decades of severe pollution, disinvestment and health hazards that environmental justice communities have

been subjected to. Environmental review for major highway projects in environmental justice communities must consider the cumulative effects of past, present, and reasonably foreseeable harms.

Generally speaking, states have the ability to strengthen laws like NEPA and add additional requirements, making cumulative impacts analysis complementary, not conflicting and may strengthen federal funding applications due to robust environmental review and early mitigation of potential challenges at the project level.

**Will this law slow down construction of highway projects across the state?**

The cumulative impacts law will only affect a small percentage of highway projects that directly impact [designated environmental justice communities](#).

Looking at the Metro District's 2024 [State Transportation Improvement Program \(STIP\)](#), only 4 out of 57 projects would meet the \$15 million threshold and environmental justice requirements requiring a cumulative impact analysis. Including the Stone Arch Bridge repair project would bring this to 5 out of 58 projects, though this bridge is technically designated as a local street in the STIP despite being a MnDOT project.

For projects that are impacted by the law, the cumulative impacts process will complement, not conflict with the environmental review process that is currently mandated. While the cumulative impacts process may lengthen the project development timeline for a handful of projects, it will also save time and money in the long run by avoiding costly lawsuits, project resets, and delays that arise when projects are planned that don't address community concerns about pollution and health impacts.

**Key Summary and Takeaways**

Minnesota's highway construction has historically disproportionately impacted marginalized communities, particularly visible in projects like I-94 and I-35 construction through Minneapolis and St. Paul neighborhoods in the 1960s. These decisions, combined with practices like redlining and racial covenants, created lasting environmental justice concerns that continue today.

The proposed legislation addresses a critical gap in Minnesota's environmental justice protections by extending cumulative impact analysis requirements to major highway projects. This builds upon the groundbreaking 2023 law that currently only covers

permitted facilities like factories and incinerators, while leaving transportation projects - a major source of environmental harm - unaddressed.

**Key Components of the Proposed Law:****1. Impact Assessment Requirements:**

- Mandates cumulative impact analysis before adding major highway projects to the STIP
- Applies to projects exceeding \$15 million cost threshold and potentially impacting environmental justice areas (as defined by the MPCA)
- Considers both immediate and historical environmental stressors on communities

**2. Project Review Process:**

- Requires MnDOT to evaluate total environmental impact from all past and present pollution sources, not just project-specific effects
- Establishes clear criteria for determining adverse impacts
- Creates a framework for community benefits agreements or project mitigation when impacts are identified

**3. Implementation Framework:**

- Aligns with ongoing MPCA rulemaking to streamline adoption
- Creates position of Environmental Justice Ombudsperson within MnDOT
- Provides specific remediation requirements when adverse impacts are identified

**For more questions, please contact:**

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