
Pass a Cumulative Impacts Law for Transportation Projects

Bill Numbers: Senate, [SF 4676](#) | House, [HF 4627](#) (2023-24 Session)

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Policy Overview:

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

This national trend has impacted 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.

Legacies of redlining, racial covenants, and other race based exclusionary policies siloed residents of color into areas that were sacrificed to build these roadways. Highway construction displaced some of these residents, but forced others to remain. Communities near highways often have large 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).

Highways have many [harmful health impacts](#), including increased rates of asthma, dementia, cancer, and stunted lung growth. They create “sacrifice zones,” where the poisoning of thousands is deemed an acceptable cost of accommodating high-speed car and truck traffic. 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.

Legislators must address this issue this session in one of two ways:

- Expanding the existing cumulative impacts law to include major highway projects (as defined by project cost) that run through environmental justice communities.
- Creating a new regulation that requires the Minnesota Department of Transportation (MnDOT) to conduct a similar cumulative impacts process for major highway projects that run through environmental justice communities.
- Creating an Environmental Justice Ombutsperson 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 poisoned by transportation infrastructure. If it were determined that a MnDOT trunk highway project would have a disparate impact on surrounding residents, the agency would not be able to proceed until those impacts were remedied and a community benefits agreement was finalized.

2023 and 2024 Legislative Progress

Thanks to community support, the cumulative impacts law for transportation was introduced in 2024 in both the House and the Senate with multiple authors in both chambers. The bill also received an informational hearing in the House, where community members and advocates discussed the many ways that highways harm marginalized communities and why existing protections do not go nearly far enough to ensure that every neighborhood has access to clean air and healthy communities. Our Streets joined RISE for Muslim Women's Day at the State Capitol.

How will this Policy Benefit Minnesotans?

Minnesotans have long dealt with the cumulative impacts from infrastructure and policy decisions, putting a disproportionate burden on low income people and people of color. While the 2023 law takes an important first step towards writing these historic and ongoing impacts, the measure narrowly focuses on permitted facilities and 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 harmful highway projects and protect frontline communities from their impacts, benefiting Minnesotans more broadly through creating better and safer standards of living 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.

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 that the community has already been subjected to. Why delay action when communities are being impacted now?

Furthermore, this bill is designed to accelerate the 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 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 have adverse impacts on 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. 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 would this law impact MnDOT's process for planning and building highways?

Currently, MnDOT identifies a project as specific work on a specific stretch of highway and estimates the cost of the work before the project is added to the Statewide Transportation Improvement Program (STIP). The STIP is required by federal law and regulations. Its main purpose is to match funding to projects that MnDOT and the Metropolitan Planning Organizations (MPOs) want to move forward. It is mostly a scheduling effort for fiscally constrained transportation budgets.

Under the Minnesota Environmental Protection Act (MEPA), MnDOT is supposed to undertake environmental review "as early as practical in the formulation of an action" (*Minn. Stat. Section 116D.04, Subd. 2a*). If required, environmental review begins by identifying the purpose or need for action to be taken (*Minn. Rules Part 4410.2300, Subpart E*).

MNDOT's current process reverses this by identifying a project first and then looking at purpose and need second. The result is often a purpose and need statement that is so narrow (e.g. increase vehicle capacity) that only the project that was already identified (e.g. expand the highway) meets the specified need. MNDOT is currently treating environmental review as part of project development once a project is added to the STIP rather than a part of project selection before projects are added to the STIP. If environmental review were undertaken before a project is added to the STIP, it could help look at a broad range of alternatives, locations, and highlight the need for mitigations.

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.

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.

Why should a cumulative impacts assessment occur before a project is added to the STIP? Would this prejudice and bias the environmental review process? Would MnDOT have adequate information about the project to measure impacts?

MnDOT would still go through the state and federally required environmental review process, however the cumulative impacts assessment would ensure that projects that would cause disparate 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.

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.

Furthermore, 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?

While closely related, NEPA (National Environmental Policy Act) is a broader legal framework that requires federal agencies to consider the environmental impacts of their proposed actions, while a cumulative impact analysis is a specific component of the NEPA process that focuses on assessing the combined environmental effects of a proposed action when added to other past, present, and foreseeable future actions in a given area; essentially, it looks at the "cumulative" impact on the environment from multiple sources, not just the direct impact of a single project.

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 projects. This is precisely why this law is needed.

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

No, 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 for 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.

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 specific cost thresholds or potentially impacting environmental justice areas
 - Considers both immediate and historical environmental stressors on communities
2. **Project Review Process:**
 - Requires MnDOT to evaluate total environmental impact, not just project-specific effects
 - Establishes clear criteria for determining adverse impacts
 - Creates a framework for community benefits agreements 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