

Minnesota's Cumulative Impact Law: What it is & Where it's at.

By: Emiliana Almanza Lopez, *Volume 44 Managing & Research Editor*

Introduction

In 2023, the Minnesota legislature passed a [Cumulative Impacts Bill](#) aimed to increase community participation and consideration in the permitting process for air-polluting facilities within a sub-section of areas defined as “environmental justice areas.”¹ The Minnesota Pollution Control Agency (MPCA) provides a high-level [video](#) overview of the cumulative impact law, and this blog post goes deeper to clarify who this law applies to and the actions it requires.² Understanding how this law functions can help communities and organizers utilize it in their work to protect Minnesota's neighborhoods.

The Cumulative Impact Bill (the Bill or the Law) assigns the MPCA the responsibility of conducting the rulemaking required by the Law's provisions. The MPCA is required to create opportunities for public involvement and for the agency to consider comments, questions, and concerns posed to it during this time. The MPCA began the cumulative impact rulemaking in 2023 and is expected to publish notice of hearing and draft rule text in the State Register this upcoming May.³

This blog post aims to simplify the administrative legal language of the Cumulative Impact Bill. It outlines the scope of the Law and defines key terms, gives an overview of the additional steps in the permitting process for impacted facilities and highlights what tasks are left to the rulemaking process, and offers a brief explanation of the cumulative impact rulemaking process (the rulemaking process).

Scope of the Cumulative Impact Law & Definitions

Who the Law Applies to:

The Law applies to air-polluting facilities that are both (1) located within a mile of an environmental justice area, and (2) are in either “Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington” county, or, “a city of the first class.”⁴ The term “facilities” refers to stationary sources of air pollution, think of a factory emitting lead (do not think of a car emitting carbon dioxide, a car is a *mobile source*).

¹ See MINN. STAT. § 116.065.

² *Cumulative Impacts Analysis*, MINN. POLLUTION CONTROL AGENCY, <https://www.pca.state.mn.us/trending-topics/cumulative-impacts-analysis> (last visited Nov. 15, 2025).

³ *Cumulative Impacts Rulemaking*, MINN. POLLUTION CONTROL AGENCY, <https://www.pca.state.mn.us/get-engaged/cumulative-impacts-rulemaking> (last visited Nov. 15, 2025).

⁴ MINN. STAT. § 116.065, subdiv.2. See also MINN. STAT. § 410.01 (defining cities classified as “first class” as those with “more than 100,000 inhabitants”).

What the Law Requires:

The Law requires these facilities to submit additional information in their major source air permit, or state air permit application(s), and “includes a permit required for new construction or facility expansion or the reissuance of an existing permit.”⁵ This blog uses the term “permit” to encompass both kinds of permits. Based on this application information, the MPCA commissioner (the commissioner) determines if the permitted action may have a substantial impact on the environmental health or health of the residents of a given environmental justice area, and whether a cumulative impacts analysis is required.⁶ If a cumulative impacts analysis is required, the permit applicant or holder (aka the facility) must conduct the analysis and required public meetings to continue their permit application process.⁷

Defining Environmental Justice Area:

An environmental justice area (EJA) is defined as “one or more census tracts in Minnesota”⁸ where:

- ≥ 40% “of the population is nonwhite;”
- ≥ 35% of household income is ≤ 200% “of the federal poverty level;”
- ≥ 40% “of the population over the age of five has limited English proficiency; or”
- the area is “located within Indian Country” as defined in 18 U.S.C. § 1151.⁹

The commissioner is required to publish and maintain a list of the state’s environmental justice areas on the agency website.¹⁰

Defining Cumulative Impacts:

The term “cumulative impacts” is defined as the “levels of past and current air, water, and land pollution” taken as a whole, “in a defined geographic area to which current residents are exposed.”¹¹ In short, “cumulative impacts” is functionally a way to consider “how” to measure the impacts of polluting facilities.

The term “cumulative impact” is not interchangeable with the phrase “cumulative impacts analysis.”

A “cumulative impacts analysis” refers to a specific analysis that facilities may have to conduct and report on, in accordance with the final MPCA rule.

Defining Environmental Stressors:

“Environmental stressors” are defined as “factors that may make residents of an [EJA] susceptible to harm from exposure to pollutants.”¹² Factors include the “environmental effects on health from exposure

⁵ MINN. STAT. § 116.065, subdiv.1 (f) (defining “permit”); *see also* MINN. R. 7007.0200 (defining what a “major source” is); *see also* MINN. R. 7007.0250, subpart 5, 6 (outlining sources requiring state permit). *See generally* *Air Permitting: Guide for Residents*, MINN. POLLUTION CONTROL AGENCY, <https://www.pca.state.mn.us/air-water-land-climate/air-permitting-guide-for-residents> (last visited Nov. 25, 2025).

⁶ MINN. STAT. § 116.065, subdiv.3 (a)(1).

⁷ The Law does not explicitly say the facility is the entity conducting the cumulative impacts analysis, but it can be inferred from the phrase “require an applicant to conduct a cumulative impacts analysis.” *See e.g.* MINN. STAT. § 116.065, subdiv. 3 (d).

⁸ MINN. STAT. § 116.065, subdiv.1 (e) (defining “environmental justice area” defined by census tracts that are “based on the most recent decennial census data published by the United States Census Bureau”).

⁹ *Id.*

¹⁰ MINN. STAT. § 116.065, subdiv. 5 (e).

¹¹ MINN. STAT. § 116.065, subdiv.1 (c) (defining “cumulative impacts”).

¹² *Id.* at subdiv.1 (f) (defining “environmental stressors”).

to past and current pollutants in the [EJA]” and “social and environmental factors.”¹³ For example, these factors include but are not limited to residents’ “biomonitoring data,” both “peer-reviewed scientific or medical articles,” and metrics of “poverty, substandard housing, food insecurity, elevated rates of disease, and poor access to health insurance and medical care.”¹⁴

Environmental stressors are considered when the commissioner decides whether to issue or deny a permit. The Law does not mandate the commissioner to consider any specific environmental stressors. And there is no current guidance on which of these environmental stressors should be considered or prioritized in this decision-making process.

The MPCA is required to keep “an updated database of identified environmental stressors in specific census tracts and [to] make this database accessible to the public.”¹⁵ However, which “environmental stressors” will be made available and how that information will be presented and accessible remains an open question.

Overview of the Cumulative Impact Law

This section first looks at what the impacted permit applicants and holders must submit. Next, it lays out the circumstances where the commissioner *must* or *may* require a cumulative impacts analysis before issuing a permit decision. Then, it discusses the public meeting requirements for permits that require a cumulative impact assessment. Finally, it outlines the commissioner’s consideration requirements their permitting decisions.

Permit Applicant Required Information:

Major source air permits and state air permits are required for new facility construction, expansion or permit reissuance.¹⁶ Impacted permit applicants must include the following in their application submissions:

1. A “determination of whether the permit action sought is *likely* to impact the environment or the health of residents of an [EJA].”¹⁷
2. The data the applicant used in making their determination.¹⁸
3. And any other information or data “necessary for the commissioner to determine whether the potential impact of issuing the permit exceeds any benchmarks” that would trigger a mandatory cumulative impacts analysis.¹⁹

Determination of Need for a Cumulative Impacts Analysis:

¹³ *Id.*

¹⁴ MINN. STAT. § 116.065, subdiv.1 (f).

¹⁵ MINN. STAT. § 116.065, subdiv. 5 (f).

¹⁶ MINN. STAT. § 116.065, subdiv.1 (f).

¹⁷ MINN. STAT. § 116.065, subdiv.3 (b) (emphasis added).

¹⁸ *Id.*

¹⁹ *Id.* Please note that the benchmarks will be set in the rulemaking process currently underway.

The commissioner must assess whether the proposed permit would exceed any benchmarks that trigger a mandatory cumulative impacts analysis.²⁰ This determination is based on the information and assessment submitted by the facility in its permit application and a review “any other information the commissioner deems relevant.”²¹

The commissioner must require the facility-applicant to “conduct a cumulative impacts analysis” when the “potential impacts” of permit issuance would “exceed any of the benchmarks” set by rulemaking.²² A “cumulative impacts analysis” is also required when if “the commissioner determines” that permit issuance “may substantially impact the environment or health of the residents of an [EJA].”²³

The commissioner may (meaning they are not required to, but have the power to) require the facility-applicant to conduct a “cumulative impacts analysis” if 100 or more individual residents or property owners in the EJA “impacted by the facility” file a petition “requesting that a cumulative analysis be conducted” and include in it “material evidence” demonstrating that permit issuance would have “a potential adverse cumulative impact” on their EJA.²⁴ The commissioner may also require a “cumulative impacts analysis” if they determine that material evidence supports conducting one despite the facility-applicant’s potential permitting activity’s impact falls “below all the benchmarks”²⁵

After reaching a decision, the commissioner must create and publish a written document detailing the reasons for their decision to require (or not require) a “cumulative impacts analysis.”²⁶ This document must include the information considered and how that information was weighed.²⁷

Public Meeting Requirements of a Cumulative Impacts Analysis:

Before the commissioner makes a permit issuance decision for a facility-applicant required to conduct a “cumulative impacts analysis” the permit applicant “must hold at least two public meetings in the [EJA] impacted by the facility.”²⁸ The purpose of these meetings is for the permit applicant to “provide an opportunity for robust public and Tribal engagement” and an opportunity to “accept written and oral comments . . . from any interested party.”²⁹

²⁰ *Id.* at subdiv.3 (c) (this includes information submitted through a community petition for a cumulative impacts analysis).

²¹ *Id.* (this includes material evidence submitted in a community petition for conducting a cumulative impacts analysis).

²² *Id.* at subdiv.3 (d) (emphasis added).

²³ *Id.* (emphasis added).

²⁴ *Id.* at subdiv.3 (e) (emphasis added).

²⁵ *Id.*

²⁶ *Id.* at subdiv.3 (f) (This document must be published “on the agency website within 30 days of the determination.”).

²⁷ *Id.*

²⁸ MINN. STAT. § 116.065, subdiv.4 (a).

²⁹ *Id.* at subdiv.4 (d) (the acceptance of written and oral comments is “as directed by the commissioner”).

The first meeting must be before the cumulative impacts analysis is done, and the second must be held afterwards.³⁰ And, when a “permit applicant or holder is applying for more than one permit that may affect the same [EJA]” they can request to combine or consolidate these public meeting requirements.³¹

Before either meeting can occur, the facility must publish notice of it in the impacted EJA at least 30 days in advance.³² And before the second meeting can occur, the facility must conduct the cumulative impacts analysis and give the commissioner a copy of the analysis with a notice of the second public meeting.³³ The commissioner must post both items “on the agency website at least 30 days before the second public meeting.”³⁴ Meaning, the public must have access to the facility’s “cumulative impacts analysis” at least 30 days before the second public meeting.

Permitting Decisions in Environmental Justice Areas:

If a permit applicant or holder is required to conduct a “cumulative impacts analysis” and does so in compliance with the statutory and regulatory requirements, the commissioner must then decide whether to issue the facility the permit(s) or not.

In deciding to issue or deny a permit in an EJA, the commissioner is required to consider: (1) “the cumulative impacts analysis conducted,” and (2) “the testimony presented, and comments submitted” in the facility-held public meetings described in the section immediately prior.³⁵ The commissioner may issue their permit decision after 30 days from the date of the last public meeting.

The core of the commissioner’s permitting decision is whether “issuing the permit, in combination with the environmental stressors present in the [EJA] and considering the socioeconomic impact of the facility to the residents of the [EJA], would have a substantial adverse impact on the environment or health of the [EJA] and its residents.”³⁶ Put another way, does . . .

$\begin{array}{c} \text{(issuing the permit + EJA “environmental stressors”)} \\ + \\ \text{(consideration of socioeconomic impact of facility on EJA)} \\ = \\ \text{a substantial adverse impact on the environment or residents’ health of the EJA?} \end{array}$
--

If the answer is yes, the commissioner must deny the permit, “unless the commissioner enters into a community benefit agreement with the facility owner or operator. . . .”³⁷ And if the answer is no, the commissioner may issue the permit.

If the commissioner enters into a community benefit agreement with the facility owner or operator, then the MPCA “may grant a permit that imposes conditions on the construction and operation of the facility

³⁰ *Id.*

³¹ *Id.* at subdiv.4 (f).

³² *Id.* at subdiv.4 (b)(1).

³³ *Id.* at subdiv.4 (b)(3) (the facility-applicant must give the commissioner notice “at least 45 days before the second public meeting”).

³⁴ *Id.* at subdiv.4 (c).

³⁵ MINN. STAT. §116.065, subdiv.5 (a).

³⁶ *Id.* at subdiv.5 (b).

³⁷ *Id.*

to protect public health and the environment.”³⁸ Such agreement *must* be signed before or on the day the permit is issued.³⁹

While the Law does not specify the contents of a community benefit agreement or its procedural elements, these required elements will be established through the rulemaking process.⁴⁰ The MPCA’s final rule will need to include the following components of a community benefit agreement:

1. Active outreach to impacted EJA residents to “achieve significant community participation. . . .”⁴¹
2. A process to account for “considerations other than or in addition to economic considerations” of the prospective permitted action, that prioritizes the “considerations that directly impact the [EJA] residents. . . .”⁴²
3. And a requirement for holding one or more public meetings in the impacted EJA.⁴³

Application in Indian Country & Tribal Consultation:

If there a permit applicant’s facility is in Indian Country, the commissioner must consult with the “the Tribal government with jurisdiction over the applicable [EJA].”⁴⁴ After the commissioner consults with the Tribal government, the Tribal government “may elect that the facility seeking the permit action be subject to” the Cumulative Impact Bill. If the Tribal government wants the permit applicant to be subject to the Bill, they “notify the commissioner in writing” of this decision.⁴⁵ However, the “process by which a Tribal government can elect to apply this section [the cumulative impact law] to a permit application” is not established in the Law itself and must be done in the rulemaking process.⁴⁶

Brief Summary of the Cumulative Impact Rulemaking Process & Timeline

The MPCA has been working on the cumulative impact [rulemaking process](#) since July 2023. During this process, they decide on all the standards, procedures, and methods the cumulative impacts law charged them with. The agency is required to conduct this rulemaking process with “robust public engagement, including public meetings, and Tribal consultation,”⁴⁷ and, as part of this public engagement, must “provide translation services and translated materials upon request during rulemaking meetings.”⁴⁸

What the Bill Left to Rulemaking:

³⁸ *Id.* at subdiv.5 (c).

³⁹ *Id.* at subdiv.5 (d).

⁴⁰ MINN. STAT. §116.065, subdiv.6 (c)(4).

⁴¹ *Id.* at subdiv.6 (c)(4)(i).

⁴² *Id.* at subdiv.6 (c)(4)(ii).

⁴³ *Id.* at subdiv.6 (c)(4)(iii).

⁴⁴ See MINN. STAT. § 116.065, subdiv.2 (b); MINN. STAT. § 10.65 (Consultation is defined under state law as “direct and interactive involvement of the Minnesota Tribal governments in the development of policy on matters that have Tribal implications,” by proactively and affirmatively “identifying and seeking input from [the] appropriate Tribal governments.”). See also MINN. STAT. § 116.065, subdiv.1 (e) (defining “environmental justice area”); Minn. Stat. § 116.065, subdiv.1 (g) (defining “Indian Country”); see also 18 U.S.C. § 1151.

⁴⁵ MINN. STAT. § 116.065, subdiv.2 (b).

⁴⁶ MINN. STAT. § 116.065, subdiv.6 (c)(6).

⁴⁷ *Id.* at subdiv.6 (b).

⁴⁸ *Id.* at subdiv.6 (d).

The MPCA is responsible for defining many key aspects of the cumulative impacts law’s regulatory process through rulemaking. The MPCA must address the following items in their rulemaking process.

- Establishing benchmarks that would trigger a necessary cumulative impacts analysis.⁴⁹
- Defining what amounts to a “substantial adverse impact” on an EJA’s environmental or human health, including the “conditions, criteria, or circumstances.”⁵⁰
- Establishing required “contents of a cumulative impacts analysis.”⁵¹
- Establishing contents of a community benefit agreement and its procedures.⁵²
- Establishing the process for EJA communities to petition for a cumulative impacts analysis to be done.⁵³
- Establishing procedures and methods for “holding public meetings and handling public comments” required for permit applicants or holders who must conduct a cumulative impacts analysis.⁵⁴
- Establishing a process for Tribal governments to use, should they elect to have the Law apply to facilities within their jurisdiction seeking relevant permits.⁵⁵

Timeline of the Rulemaking Process:

The MPCA has worked over the past two years to meet these statutory requirements. In 2023, they held open-house information sessions, a public comment period, and a “summary webinar.”⁵⁶ In 2024, the MPCA conducted “community conversations” on cumulative impacts analysis programs, the contents of the cumulative impacts analysis, community benefit agreements, and an “[o]verview of the cumulative impacts rulemaking process.”⁵⁷ The agency also had “working sessions” for core topics of the rule in 2024, which included sessions on: data indicators, community benefit agreements, and benchmarks for triggering a cumulative impacts analysis.⁵⁸

This year, the MPCA focused on community engagement through focus groups, interviews and tabling, providing informational meetings and work sessions, and conducting an “informal comment period on rule concepts.”⁵⁹ The agency is also drafting “rule text and supporting technical and economic analysis.”⁶⁰ Before the end of the year, the MPCA will host one last engagement open house in the Twin Cities on [Dec.4th at 5pm.](#)

⁴⁹ *Id.* at subdiv.6 (c)(2).

⁵⁰ *Id.* at subdiv.6 (c)(3).

⁵¹ *Id.* at subdiv.6 (c)(2).

⁵² *Id.* at subdiv.6 (c)(4).

⁵³ *Id.* at subdiv.6 (c)(5).

⁵⁴ *Id.* at subdiv.6 (c)(7).

⁵⁵ MINN. STAT. § 116.065, subdiv.6 (c)(6).

⁵⁶ *Cumulative Impacts Rulemaking*, MINN. POLLUTION CONTROL AGENCY, <https://www.pca.state.mn.us/get-engaged/cumulative-impacts-rulemaking> (last visited Nov. 15, 2025).

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

Next year, the MPCA must publish a “notice of hearing” and the “draft rule text in the State Register” by mid-to-late May 2026.⁶¹ This publication “allows the public to review and comment on the proposed rule, the statement of need and reasonableness, and any technical support documents.”⁶² After publication, an independent administrative law judge will review “the proposed rule and all the rulemaking documents” and “conduct a public hearing at which the public may testify and ask questions of the MPCA.”⁶³ The final rule is expected to be adopted in late 2026.⁶⁴

Once the draft rule is published, the public will better understand the benchmarks for a cumulative impacts analysis and the process for a cumulative impacts analysis petition; what level of potential harm qualifies as “substantial adverse impact,” and what a community benefit agreement will entail.

Summary

This blog post discusses the core components of the Minnesota cumulative impacts law, what the responsibilities assigned to the MPCA, and the current status of the MPCA rulemaking process. Instead of a written summary, please refer to a simplified flowchart of Minn. Stat. 116.065 (FIGURE 1).

If you would like to dig into this topic more, the MPCA provides Environmental Justice Area Maps, including a [Statewide Interactive Map](#), an EJA [Twin Cities Map](#), an EJA [Duluth Map](#), and an EJA [Rochester Map](#). The Agency also made a [Facility List](#) this past October detailing the facilities that the cumulative impacts law and subsequent MPCA rule may affect.⁶⁵ For those interested in learning more about cumulative impact research, you can access the MPCA’s [website](#) and the EPA’s 2022 Cumulative Impact Research [Report](#). Lastly, for folks interested in learning more about community benefit agreements, the Climate & Community Institute published a [report](#) in October 2025 on community benefit agreements that explains what they are, how they have been used, and best practices.⁶⁶

⁶¹ *Id.*; see also MINN. STAT. § 116.065, subdiv.6 (requiring the MPCA to “publish the notice of intent to adopt rule” by May 25, 2026).

⁶² *Cumulative Impacts Fact Sheet*, MINN. POLLUTION CONTROL AGENCY, [HTTPS://WWW.PCA.STATE.MN.US/SITES/DEFAULT/FILES/CUMULATIVE-IMPACTS-FACT-SHEETS.PDF](https://www.pca.state.mn.us/sites/default/files/cumulative-impacts-fact-sheets.pdf) (last visited Nov. 25, 2025).

⁶³ *Id.*; see generally *Rulemaking: Process for Adopting Rules*, MN HOUSE RSCH. (Aug. 2025), <https://www.house.mn.gov/hrd/pubs/ss/ssadprule.pdf> (providing more information on rulemaking processes and requirements).

⁶⁴ *Id.*

⁶⁵ *Cumulative Impact Rulemaking*, MINN. POLLUTION CONTROL AGENCY, <https://www.pca.state.mn.us/get-engaged/cumulative-impacts-rulemaking> (last visited Nov. 15, 2025) (also providing information on: analysis indicators, datasets, and prioritization; community benefit agreements and community engagement; cumulative impacts analysis requirements, content and “substantial adverse impacts”; and summaries and recordings for past community working sessions, comments submitted during the two comment periods, and draft rule text).

⁶⁶ James J. A. Blair, et al., *Building Community Power: Community Benefits Agreements Across the Global Energy Supply Chain*, CLIMATE AND COMMUNITY INSTITUTE, Oct. 2025, <https://climateandcommunity.org/wp-content/uploads/2025/10/Building-Community-Power-report.pdf>.

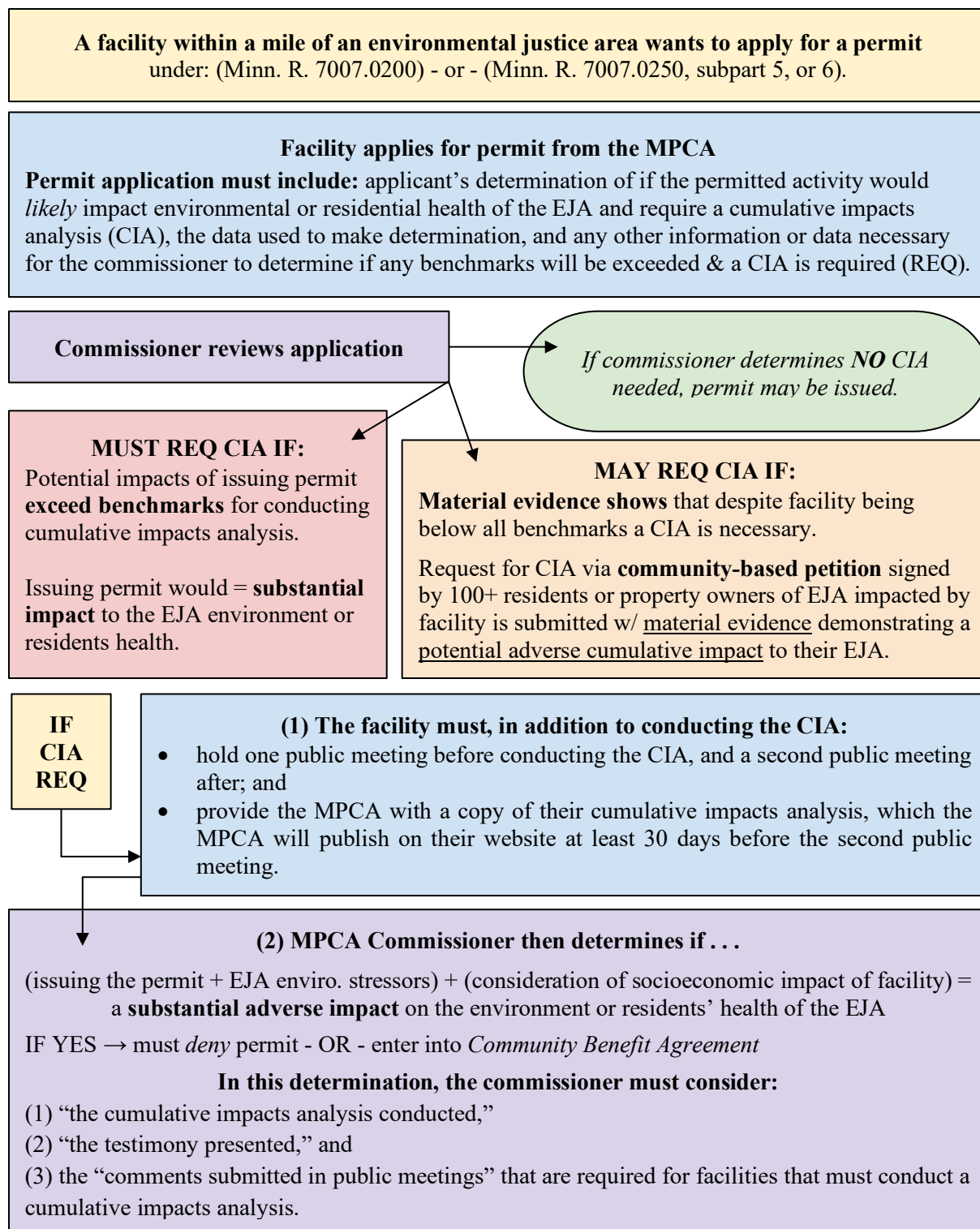


FIGURE 1: Flowchart of steps within the cumulative impact law. See MINN. STAT. § 116.065.