

PFAS - Judge Mortenson - 5-22-25

BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
OF THE STATE OF MINNESOTA

IN THE MATTER OF

Proposed Rules Relating to Amara's Law

PFAS in Products: Reporting and Fees

Minnesota Rules 7026.0010 - .0100

OAH DOCKET NO. 5-9003-40410

Public hearing taken via WebEx

Thursday, May 22, 2025

Met, pursuant to notice, at 2:00 p.m.

BEFORE:

JIM MORTENSON, ADMINISTRATIVE LAW JUDGE

REPORTER:

Colleen M. Sichko, Registered Professional
Reporter

**Shaddix & Associates - Stenographic Court Reporters
(952)888-7687 - reporters@janetshaddix.com**

1 APPEARANCES:

2 EMILY McMILLAN, Associate General
3 Counsel, Minnesota Pollution Control Agency

4 ANDRIA KURBONDSKI, PFAS Pollution
5 Prevention Program Lead, Resource Management and
6 Assistance Division, Minnesota Pollution Control
7 Agency.

8 PEDER SANDHEI, Green Chemistry and
9 Safer Product Program Coordinator, Resource
10 Management and Assistance Division, Minnesota
11 Pollution Control Agency

12 QUINN CARR, Rule Coordinator, Minnesota
13 Pollution Control Agency

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23 (WHEREUPON, the following proceedings were duly
24 had and entered of record, to-wit:)
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1 THE JUDGE: Well, good afternoon
2 everybody. My name is Jim Mortenson and I'm an
3 Administrative Law Judge with the Minnesota Office
4 of Administrative Hearings. I welcome everyone this
5 afternoon and I thank you for taking your time to be
6 here today to participate in this public rulemaking
7 process.

8 Today is Thursday, May 22nd, 2025, and
9 it's just after 2:00 p.m., and we're here for a
10 public hearing in the matter of the Minnesota
11 Pollution Control Agency's proposed rules governing
12 reporting fees by manufacturers upon submission
13 required information about products containing per-
14 and polyfluoroalkyl substances, or PFAS for short.

15 These proposed rules are found with the
16 Revisor at R-4828 and will be in Minnesota Rules
17 Chapter 7026. Specifically, these proposed rules
18 govern PFAS reporting requirements for manufacturers
19 and the fees to be paid with reports in accordance
20 with Minnesota Statutes, Section 116.943, which left
21 these details to the Pollution Control Agency to
22 determine. This matter is assigned Docket
23 Number 5-9003-40410 by the Office of Administrative
24 Hearings. Please use this case number when you
25 submit written comments to the record.

1 The Office of Administrative Hearings
2 is an Executive Branch court, independent of State
3 agencies such as the MPCA. Our role is to provide
4 hearings that are neutral and fair to all of the
5 participants, including overseeing Executive Branch
6 agency rulemaking such as this. The purpose of this
7 hearing is to allow the MPCA to present its case
8 regarding its proposed rules and to hear from the
9 public regarding the proposal before the rules are
10 finalized. Next slide.

11 Pursuant to state law, rulemaking
12 hearings are conducted so that members of the public
13 can be heard as part of the rulemaking process. I'm
14 here to ensure procedural fairness, to ensure that
15 we are courteous to each other so that all
16 interested parties can be heard, and to draw
17 knowledge from as many voices as possible. An
18 underlying assumption in this process is that we, as
19 a self-governing people, collectively rely on each
20 other to share wisdom and perspective about
21 particular topics being considered for our
22 collective well-being.

23 Now, there are differences between
24 constructive criticism and questions and
25 discourteousness. I'm here to police that, but it

1 is always important that government agencies hear
2 your thoughts, hear about your experience and hear
3 your expertise in the formation of public policies
4 through rulemaking. Next slide, please.

5 This hearing is part of a process by
6 which rules are adopted under the Minnesota
7 Administrative Procedures Act. During this hearing,
8 which is an important part of the rulemaking
9 process, the agency is required to, first,
10 demonstrate that it has fulfilled all relevant legal
11 and procedural requirements of the law and, second,
12 demonstrate the need for and reasonableness of each
13 portion of the proposed rules with an affirmative
14 presentation of facts. These are the two big -- two
15 of the three big issues I'll be reviewing as part of
16 this proceeding, and I encourage you to make
17 comments and ask questions about the proposed rules
18 with these issues in mind.

19 The other issue I will determine is
20 whether the agency has the legislative authority to
21 promulgate the rules. That's primarily a question
22 of law, but your comments are welcome on that point,
23 as well.

24 It is not my job as the judge in this
25 matter to rewrite the rules based on the views of

1 participants or my own views or to select one set of
2 proposed rules or policy priorities over another
3 set. My job is limited to ensure that the agency
4 followed statutory requirements for rulemaking and
5 that proceedings like this are conducted fairly. In
6 doing so, I may limit questioning that is repetitive
7 or immaterial and comments that are discourteous or
8 irrelevant. Next slide, please.

9 After I complete my introductory
10 remarks about the hearing procedures, I'll turn the
11 presentation over to the MPCA's panel and I'll admit
12 its exhibits in support of the proposed rule into
13 the record. After the agency concludes its
14 presentation, I'll begin taking public questions and
15 comments.

16 There's a court reporter on the line
17 with us today who is transcribing these proceedings
18 to create a clear record of the hearing. Because
19 there is a court reporter, we may need to take a
20 break from time to time, and I'll rely on the court
21 reporter to inform me when it's appropriate to take
22 a break. The hearing will conclude after the last
23 person wishing to speak is heard or -- and will
24 continue until 5:00 even if we appear to have
25 wrapped up folks; and if we need to add an

1 additional day of the proceeding because we've hit
2 the limit and there's still many people who wish to
3 speak, I'll discuss that with the agency folks so we
4 can accommodate that. Next slide, please.

5 When asking questions about the
6 proposed rules or making a comment, consider seeking
7 information about or commenting about their purpose
8 or intended operation, proposing a modification or
9 raising other relevant issues related to the
10 proposed rules. While all questions and comments
11 become part of the record, not all questions can be
12 immediately answered. In those cases, answers will
13 be responded to -- questions will be responded to in
14 writing following the hearing and the written
15 comment period. Next slide.

16 If we can have the agency panelists
17 introduce themselves? Yes, I'm putting you on the
18 spot.

19 MS. McMILLAN: Thank you, Your Honor.
20 My name is Emily McMillan, E-m-i-l-y
21 M-c-M-i-l-l-a-n. I am an Associate General Counsel
22 with the Minnesota Pollution Control Agency,
23 referred to as MPCA, address at 520 Lafayette Road
24 North, Saint Paul, Minnesota 55155. I am appearing
25 in this rule proceeding on behalf of the Minnesota

1 Pollution Control Agency.

2 I would like to give a quick
3 introduction to the MPCA staff here today as listed
4 on the slide, who will be making a presentation
5 about the proposed rule. Andria Kurbondski, who
6 will introduce herself shortly, is a PFAS Pollution
7 Prevention Program Lead in MPCA's Resource
8 Management and Assistance Division. Ms. Kurbondski
9 is a technical lead in this rulemaking. After the
10 introduction of the hearing exhibits, Ms. Kurbondski
11 will make a presentation on the proposed rule.

12 Peder Sandhei is a Green Chemistry and
13 Safer Product Program Coordinator in MPCA's Resource
14 Management and Assistance Division. Mr. Sandhei is
15 a technical lead in this rulemaking.

16 Quinn Carr is the MPCA rule coordinator
17 for this rulemaking. Mr. Carr manages the
18 administrative procedure aspects of the rule and is
19 the point of contact for process-related questions.

20 THE JUDGE: Thank you very much.

21 As Ms. McMillan said, these are the
22 people who will provide testimony about the proposed
23 rules and will be available to answer questions the
24 best they can about these proposed rules today.
25 Next slide, please.

1 The agency has filed with my office its
2 exhibits in support of these rules and I will
3 receive those exhibits into the record a bit later,
4 but they are available on the agency's website and
5 that's presented on the screen here.

6 Most of the hearing time today is
7 allotted for questions and comments from members of
8 the public. That's the key reason we're here today,
9 and there are two ways you can submit questions and
10 comments into the record. First, you can do so
11 orally here today and, second, you can submit
12 questions and comments in writing through our
13 eComments website by mail or by fax. The contact
14 information is on the screen.

15 Comments are not accepted by email.
16 Email is not a recognized method for commenting in
17 OAH proceedings because it's not reliable enough for
18 the creation of a formal rulemaking record. Emails
19 can be missed or misdirected or sometimes get caught
20 in a spam filter and are never received. We also do
21 not accept comments through social media platforms.
22 Next slide, please.

23 The preferred method for submitting
24 written comments is through the eComment website.
25 It allows the agency and others to see your comments

1 as soon as they are submitted. You can also read
2 the comments of others on this website. Next slide,
3 please.

4 Today's proceeding, however, is to hear
5 from folks orally. If you want to comment at
6 today's hearing, here's what you need to do. Please
7 click the chat icon on your screen. This will
8 indicate to the facilitator that you wish to speak.
9 For those of you participating by telephone, you can
10 press *3 on your telephone, and as those requests to
11 speak come in, we'll put commenters into a queue and
12 then start working through that list. You may also
13 press *3 on your phone if you're using that method
14 to remove yourself from the phone queue, but you can
15 still keep listening. Next slide, please.

16 For those commenting by WebEx, please
17 turn on your video by clicking the video icon. That
18 will allow me to see you, as well as the court
19 reporter. Commenters will be unmuted or invited to
20 unmute themselves so that you can make your comment.
21 My goal today is to hear from everyone who wishes to
22 make a comment, and please be mindful that there are
23 others who also wish to speak, so consider focusing
24 your comment to be as clear and succinct as
25 possible. Please limit your comments to five

1 minutes or less. If you go over five minutes, I may
2 cut you off in order to ensure everyone gets a
3 chance to speak. If there's time after everyone is
4 heard once, I may provide you with a chance to
5 finish your comments. Next slide, please.

6 So in making comments during today's
7 hearing, here are some general directions. Please
8 fully identify yourself, spelling your first and
9 last name, and identify any organization you
10 represent. These are important for the record.
11 Please speak slowly, clearly and loudly so that the
12 court reporter can accurately record your identity
13 and your comment or question. Next slide, please.

14 Please remember that this is a legal
15 proceeding and respect for the process includes
16 respect for each other. Because we are human beings
17 and imperfect, I have my role to play to ensure the
18 process stays respectful. The court reporter is
19 also empowered to intervene if they cannot hear what
20 is being said. Next slide, please.

21 The court reporter's transcript is the
22 official record of what is said here. It will
23 include the comments, the agency presentation, and
24 any questions and answers. I may include quotes in
25 my report which come from the transcript. Next

1 slide, please.

2 If you are unable to comment today,
3 please remember that you can also file written
4 comments. It doesn't matter whether your questions
5 or comments are entered into the record orally or in
6 writing, they are given the same consideration.

7 Next slide, please.

8 So please remember the three issues
9 that I'll be considering include whether the MPCA
10 has legal authority to adopt these rules, whether
11 the MPCA has complied with the legal and procedural
12 requirements, and whether the rules are needed and
13 reasonable; and, and this is very important, if your
14 comment relates to a particular part of the rule,
15 please identify that part you are addressing. If
16 you want to supplement your oral comments, you can
17 also do that in writing during the comment period.
18 Next slide, please.

19 Minnesota Statutes, Section 14.15,
20 subdivision 1, gives me the authority to keep the
21 hearing record open for up to 20 working days after
22 the end of the public hearing. I have issued that
23 Order on the record today and the comment period is
24 extended for 20 working days from the close of the
25 hearing. Thus, you have until June 23rd, 2025, at

1 4:30 p.m. to submit comments.

2 After the close of the comment period,
3 there will be a five-working-day rebuttal period.
4 That five-day period is meant for comments on the
5 comments, not to introduce new matters. So you'll
6 have until June 30th, 2025, at 4:30 p.m. to submit
7 rebuttal to the comments presented. Next slide,
8 please.

9 Following the close of the record, I'll
10 prepare a report that contains my conclusion about
11 whether the Department has met its statutory burdens
12 in this matter, specifically whether the agency has
13 documented its authority to enact the rules, whether
14 the agency has fulfilled all the required
15 procedures, and whether the agency has demonstrated
16 the need and reasonableness for each portion of the
17 proposed rules. You can expect my report within 30
18 days after the last comment deadline unless an
19 extension is necessary. My report will be published
20 on the OAH website on the day it is issued. Next
21 slide, please.

22 A final reminder that if you are a
23 lobbyist, you must register with the Minnesota
24 Campaign Finance and Disclosure Board. That
25 information is on this slide.

1 Now I'm going to turn the presentation
2 over to the agency's representatives, who will
3 introduce the agency's exhibits for me to admit into
4 the record -- I trust that will be Ms. McMillan --
5 and then they will begin the agency's presentation.
6 We will likely have a short intermission before we
7 start with the public comments after that point.

8 With that, I believe, Ms. McMillan, you
9 will want to take the floor.

10 MS. McMILLAN: Thank you, Your Honor.
11 As you stated, the Minnesota Pollution Control
12 Agency is proposing a rule governing per- and
13 polyfluoroalkyl substances, referred to as PFAS,
14 reporting requirements and fees as directed by
15 Minnesota Session Law 2023, Chapter 60, Article 3,
16 Section 21, House File 2310.

17 Before the presentation, I would like
18 to submit into the hearing record the hearing
19 exhibits. The exhibits are also posted on the
20 agency's website. The purpose of these documents
21 is, as you outlined, to document the legal authority
22 of the Minnesota Pollution Control Agency to adopt
23 the proposed rule, demonstrate that the agency has
24 fulfilled all relevant legal and procedural
25 requirements for promulgating the rule, and

1 demonstrate that each portion of the proposed rule
2 is needed and is reasonable.

3 I will quickly review the exhibits and
4 relate each exhibit to one of the three purposes I
5 just mentioned. There is an index of the exhibits
6 at the front of the hearing exhibits.

7 Exhibit C contains the text of the
8 proposed rule.

9 Exhibit D contains the Statement of
10 Need and Reasonableness, referred to as the SONAR,
11 that was published with the rule. The SONAR
12 documents the statutory authority of the Minnesota
13 Pollution Control Agency to adopt the proposed rule.
14 The MPCA has legal authority to promulgate PFAS
15 reporting and fee rules under Minnesota Statute
16 116.943, subdivisions 6 and 9. The SONAR in
17 Exhibit D also demonstrates that each portion of the
18 proposed rule is needed and is reasonable. The
19 SONAR includes both a general description of why the
20 rule is needed and reasonable and a detailed
21 description of why each proposed rule part is needed
22 and reasonable.

23 Many of the other exhibits demonstrate
24 that the agency has fulfilled all relevant legal and
25 procedural requirements. These include the

1 following:

2 Exhibit A-1, the Initial Request for
3 Comments that started the formal rulemaking process.

4 Exhibit A-2, the Second Request for
5 Comments to combine the previously separate
6 reporting and fee rules into one rulemaking.

7 Exhibit C, the Revisor's approval of
8 the proposed rule.

9 Exhibit E, the certificate verifying
10 submission of the SONAR to the Legislative Reference
11 Library.

12 Exhibit F, the Notice of Intent to
13 adopt, as sent, as posted electronically on the MPCA
14 webpage and as published in the State Register.

15 Exhibit G-1, the Certificate of Mailing
16 the Notice of Intent to Adopt Rules with a Public
17 Hearing.

18 Exhibit G-2, the GovDelivery bulletin
19 with recipient count.

20 Exhibit G-3, the Certificate of
21 Accuracy of the mailing list.

22 Exhibit H, the Certificate of
23 Additional Notice.

24 Exhibits K-1 and K-2, evidence of
25 compliance with requirements to notify legislators.

1 Exhibit K-3, the approval by Management
2 and Budget of the agency's fiscal analysis of the
3 impact of the rules.

4 And Exhibit K-4, a courtesy copy of the
5 transmittal letter showing the agency sent the
6 proposed rules to the Commissioner of Agriculture.

7 Exhibit I includes copies of comments
8 on the proposed rule that were received by the MPCA
9 during the prehearing comment period.

10 At this time, the MPCA will also
11 introduce Exhibit L, which is now added to the
12 hearing record materialities. This exhibit is a
13 copy of the slides from the presentation MPCA will
14 be making today at the hearing.

15 So, Your Honor, I would like to offer
16 the exhibits into the record at this time.

17 THE JUDGE: Thank you very much. The
18 Department's exhibits listed A through L and all of
19 their subparts are admitted into the record.

20 MS. McMILLAN: Thank you, Your Honor.
21 Now Ms. Kurbondski will make a presentation
22 outlining the proposed rule and summarizing the need
23 for and reasonableness of the proposed rule. The
24 presentation will take about 25 minutes.

25 MS. KURBONDSKI: Thank you. My name is

1 Andria Kurbondski, spelled A-n-d-r-i-a, last name
2 K-u-r-b-o-n-d-s-k-i, and I am with the MPCA, here to
3 give you a summary of the proposed rules. Next
4 slide, please.

5 Today we will be going over the statute
6 background and summary. We will be talking about
7 the PFAS and product reporting elements and the
8 required fees that go along with the reporting.
9 Next slide.

10 Just a little bit of background on how
11 we got to this statute. We have been seeing these
12 PFAS chemicals developed in the 1940s by US chemical
13 companies for their unique properties. We see them
14 rapidly expanding throughout the '50s and '60s,
15 particularly in products like nonstick cookware,
16 stain-resistance fabrics and the like.

17 A lot of these chemicals were used for
18 things like durability. These chemicals are really
19 good for resisting heat, oil, water, corrosion,
20 extending product life in harsh environments. They
21 have performance benefits, enhance stain resistance,
22 waterproofing, lubrication and giving nonstick
23 properties. They have been able to be used in
24 widespread applications from electronics to
25 textiles, food packaging, medical devices,

1 construction materials and more. Due to this
2 functional versatility, they have created a large
3 range of roles and barriers, coatings, adhesives,
4 surfactants and fire suppressants.

5 However, in the early 2000s some
6 manufacturers started phasing out some of these
7 longer chain PFAS chemicals like PFOA and PFOS due
8 to regulatory pressure and health studies findings.
9 Around that time we were starting to see studies
10 finding these chemicals found worldwide in the
11 environment, in animals and the majority of humans.
12 Next slide.

13 So as I mentioned, those -- the problem
14 with these very versatile chemicals is that some of
15 them may be harmful at very small amounts. Some of
16 these are able to build up in people over time and
17 all types of them accumulate in the environment over
18 time. Due to their very strong chemical bond, they
19 are very difficult to remove or destroy from the
20 environment and/or people and animals.
21 Manufacturing of these chemicals over the decades of
22 use have led to widespread contamination. Next
23 slide, please.

24 Here in Minnesota we have had kind of
25 the -- our main three steps for our response to PFAS

1 contamination. Our first step we want to take that
2 is the most impactful is preventing PFAS pollution
3 whenever possible. Following that in the hierarchy,
4 we would try to manage PFAS pollution when
5 prevention is not preventable or it has already
6 occurred. And the last response in the hierarchy is
7 cleanup. PFAS pollution is occurring at
8 contaminated sites and they are very costly to clean
9 up.

10 So by -- you know, so far in our state
11 a lot of our prevention has really kind of
12 focused -- or I guess our work on it has really been
13 on kind of the cleanup of it, and the passing of
14 Amara's Law in 2023 is our state's largest
15 initiative to prevent the PFAS pollution from
16 occurring in the first place. Next slide, please.

17 Amara's Law contains three main
18 components for PFAS pollution prevention. On
19 January 1 of 2025, our state banned products
20 containing intentionally-added PFAS in eleven
21 different product categories from being sold within
22 our state. The next stage of this law is what we're
23 here to talk about today. We will be requiring
24 manufacturers to report information on
25 PFAS-containing products that are being sold into

1 our state. The third part of the law eventually
2 eliminates or prohibits the use of PFAS in all
3 products unless they have been determined to be a
4 currently unavoidable use within that product.

5 I would like to stress now today we are
6 presenting on the rules proposed for implementing
7 the reporting requirement of Amara's Law. The
8 currently unavoidable use rule will be taking place
9 in the future. Next slide.

10 Next we'll be doing just a quick
11 summary of the statute in which we are gaining
12 authority to create this rule to help implement. So
13 from our Minnesota Statute 116.943, subdivision 2,
14 by January 1 of 2026 manufacturers of products sold,
15 offered for sale or distributed in Minnesota that
16 contain intentionally-added PFAS, they must submit a
17 report to the commissioner including the following
18 information: A brief description of the product
19 including a numeric product code; the purpose of or
20 function of that PFAS in the product or its
21 components; the amount of each PFAS by CAS number,
22 if available, reported as an exact quantity or
23 approved range; and then information on the
24 manufacturer. The commissioner may adopt new rules
25 necessary for implementing this requirement. Next

1 slide.

2 With commissioner approval, a
3 manufacturer may report by product category instead
4 of individual products. Products -- or reports must
5 also be updated whenever a new product that contains
6 PFAS is introduced, information changes
7 significantly or when the commissioner requests.
8 The statute states that products may not be sold
9 into Minnesota if a manufacturer has failed to
10 provide this required information during reporting.
11 Next slide, please.

12 So now I will take you through some of
13 the details and background of the proposed reporting
14 and fees rule. Next slide, please.

15 All right. The first part of the rule
16 we have been adding to clarify, we are requiring a
17 brief product description. We have added kind of
18 clarification on what we want that to include, so
19 wherever applicable, we would like to see a brand
20 name, product model, plus any characteristic that
21 could distinguish it from a similar item or product
22 being made or sold by other manufacturers. So,
23 again, you're thinking of company names, product X.

24 We also are requiring that when you
25 report a product, that you provide a numerical

1 product code. This is kind of an open flexible one
2 determined by the reporter, but it could include a
3 universal product code, or UPC; a stock keeping
4 unit, or SKU; harmonized tariff schedule, or HTS,
5 code; or another numeric code assigned to the
6 product. It should be noted that this code will be
7 assigned at the product level when we are reporting
8 it. Next slide, please.

9 The rule allows for grouping of similar
10 products and/or components. When we are looking at
11 a very similar homogenous product, it may be grouped
12 under one product description if the following items
13 are met. If the PFAS chemical composition in the
14 products are the same; if those chemicals fall into
15 the same concentration ranges being reported; if the
16 chemicals provide the same function; and if the
17 product has the same basic form, functionality and
18 really only differs in size, color or some other
19 kind of superficial quality that really doesn't
20 impact the composition of that intentionally-added
21 PFAS chemical.

22 So the two, you know, examples we see
23 below, say we have a manufacturer who produces a,
24 you know, fluoropolymer coating for wiring
25 insulation. Now, they may require that wire

1 covering or coating in different thicknesses or
2 lengths or colors to distinguish different
3 components that someone may use them for. If they
4 are really the same chemical that's used throughout
5 and they are providing the same function, those
6 could be grouped together under a similar product
7 name.

8 You know, another example we have here
9 is something like an architectural covering like
10 paint. It was not our intent to know about every
11 single color of paint that could be out there that
12 contains PFAS, but we would want to know, you know,
13 kind of by an identifiable -- again, kind of brand
14 name, product, model reporting level of, say, your
15 exterior high gloss paint. It may come in a lot of
16 colors, but if really the composition of all those
17 different paints are the same, it can be grouped as
18 such. Next slide, please.

19 Another grouping for reporting we have
20 decided to propose is that when we have a more
21 complex product that may have multiple
22 PFAS-containing components, the components, as well,
23 can be grouped together following kind of that same
24 guidance as before, if that chemical composition in
25 those components are the same, if they all fall into

1 the same concentration ranges provided, if they have
2 the same function and really only differ in
3 something that may be superficial like color and
4 size.

5 So, you know, we tried to give examples
6 on this, as well. Say you are reporting a certain
7 car model. We understand, you know, there could be
8 lots of wire insulations, printed circuit boards,
9 O-rings, gaskets within that car. We don't need to
10 know that there are X amount of O-rings that are in
11 the car. If they are all pretty similar and made of
12 the same, you know, composition, they can be grouped
13 together just to make that a little easier. We
14 really -- like I said before, we really are trying
15 to streamline some of the redundant information if
16 some of the components in these complex products are
17 kind of the same throughout and serve the same
18 function. Next slide, please.

19 The chemical identities of these PFAS
20 chemicals used in the product must be identified by
21 the chemical name and a Chemical Abstracts Service
22 Registry number, or CASRN. If no CASRN exists,
23 another chemical identifier number shall be
24 presented. We understood for a handful of reasons
25 presented to us from industry stakeholders that PFAS

1 chemicals may not have a CASRN and we wanted to
2 clarify that there are other identifiers that could
3 be used instead, and so we have defined what those
4 are in definitions of the rule. Next slide.

5 The amount of PFAS chemical used in
6 these products also must be reported. We ultimately
7 decided to go just with concentration ranges over
8 exact concentrations for a few reasons. We did
9 receive a lot of feedback from manufacturers either
10 over, you know, trade secrecy concerns to report
11 exact amounts and, you know, potential for, say,
12 things like formulas to be exposed.

13 We also looked into and wanted to
14 account for, you know, the variation you may have
15 from product testing if a manufacturer was required
16 to test a product or component to determine the PFAS
17 chemical and amount. We also did present and offer
18 up an option for concentrations that the chemical is
19 present, but the amount or concentration range is
20 not known. We understand that sometimes, again,
21 when trying to get the information from a complex
22 supply chain, the information may not be forthcoming
23 all the way up front. Next slide, please.

24 The next requirement in the reporting
25 is the purpose of the PFAS. We are now, I guess,

1 referring to this more as, like, the function of the
2 PFAS chemical when it's being used in that product.
3 That also must be reported. And next slide.

4 Next we'll be moving on to the section
5 of the rule where we are going to propose reporting
6 updates. So the rule says that annual updates must
7 occur and be done when a significant change has been
8 made to a product and we have defined "significant
9 change" in our definitions, as well, in this rule; a
10 new product information was provided to a
11 manufacturer; or a new product was being sold,
12 offered for sale or distributed into the state for
13 sale.

14 Annual recertifications are required if
15 no updates are needed for the report. We also
16 allowed for voluntarily updates at any time if you
17 want to report the reduction or elimination of a
18 PFAS chemical from a product or component. We were
19 hoping to be somewhat, you know, accommodating to
20 complex products that may frequently change, release
21 new models or encompass a lot of customizable
22 components; and I would like to state right now that
23 we have, from our initial review of some of the
24 comments we've gotten up through tomorrow -- or
25 yesterday, that there is a bit of conflicting

1 language in the rule that we will provide written
2 feedback on, as well, about new products. Next
3 slide, please.

4 The rule does allow for certain waivers
5 to be applied for. We define in the rule what may
6 be considered substantially equivalent information
7 or publicly available information, which are
8 requirements that need to be met for a waiver to be
9 approved, and this is pretty much for allowing, you
10 know, this information that's substantially
11 equivalent be made somewhere else or publicly
12 available outside of the reporting system we are
13 developing.

14 These requests must be submitted at
15 least 30 days before the application is due.
16 Application -- or applicable reporting fees will
17 still apply for those that are granted waivers, and
18 the rule clarifies that the waiver requests must be
19 submitted annually, as well. Next slide, please.

20 Extensions. We -- there are kind of
21 two ways we'll talk about how extensions may occur
22 for reporting. Within the rule we have added a -- a
23 process for requesting a 90-day extension to be
24 granted upon request with, you know, justification
25 and documentation that must be presented for us to

1 approve -- let's see -- and the requests need to be
2 submitted at least 30 days before the applicable due
3 date of the report.

4 We understand that for a lot of reasons
5 an individual manufacturer may want to apply for an
6 extension on reporting. You know, we definitely
7 know that there's wait times if we are expecting
8 information back from our suppliers that aren't
9 being forthcoming or still trying to investigate.
10 We understand, too, if you are testing a product,
11 labs are quite busy and sometimes their turnaround
12 time is a bit lengthy. So we wanted to make sure we
13 gave room for reporters to submit independent -- you
14 know, individual extensions for their report.

15 We also, within the statute, have the
16 authority to grant all manufacturers an extension or
17 change the due date if we or the commissioner
18 determines that more time is needed. Next slide,
19 please.

20 Trade secrets, the data elements that
21 may be eligible for not public data per Minnesota
22 Statute 13.37, General Nonpublic Data. The
23 reporting elements that we are requiring, chemical
24 name, chemical identifier number, and specific
25 supply chain information may fall under what we

1 would consider nonpublic data in Minnesota.
2 Requests for these data elements to be nonpublic
3 would be submitted through our reporting system.
4 These elements, if approved, would not be appearing
5 on publicly available data if approved by us. Next
6 slide, please.

7 Our agency does, however, require in
8 the rule that if someone is submitting a chemical
9 name to be trade secret, that you submit a chemical
10 subclass in lieu of the chemical name that will be
11 provided to the publicly available data. Next
12 slide, please.

13 Let's see. This slide is kind of a
14 conceptualization of how trade secret data may be
15 submitted versus what would be available to the
16 public, and we take into account any data that would
17 be approved as nonpublic. So say a manufacturer
18 requests the product name and the CAS number in
19 their product be marked as trade secret. Say, you
20 know, we approve that or it meets the requirements
21 to be a trade secret per our statute. You know, the
22 name would not appear on there. It would either be
23 marked as trade secret or NA, but the subclass would
24 show up under that product. Next slide, please.

25 Under our Exemptions section, an

1 additional exemption was added to the statute. It's
2 been included for any information on products or
3 components that may be subject to classified
4 information as defined by the United States Code,
5 Title 18, Section 798. We do want to point out,
6 though, manufacturers claiming an exemption such as
7 this should retain any documentation that would
8 demonstrate it and it must be able to be provided to
9 the MPCA upon request. All right, next slide.

10 We'll be talking about the fees next.
11 So here today we'll say we have definitely received
12 and noticed that there's a little bit of confusion
13 in some of the rule text about the initial fees and
14 subsequent fees, so we just wanted to emphasize
15 today that the fees we are proposing are not a per
16 product fee. In the fee section we are proposing
17 just a \$1,000 flat fee per manufacturer that is
18 reporting in for the first initial report that they
19 are submitting, and then subsequent annual reports
20 or updates just require a \$500 flat fee each year
21 when submitting those.

22 We have also added a \$300 fee for an
23 extension request and, as I mentioned earlier, any
24 applicable fees would still apply to those that have
25 received a reporting waiver. There are no fees

1 associated with voluntary updates. The rule also
2 notes that fees will be adjusted for inflation
3 starting July 1 of 2027.

4 These fees are used to cover the
5 administrative costs, system maintenance, related
6 operational expenses that are associated with the
7 reporting system and the, you know, enforcement and
8 compliance of this rule. There we go, and last
9 slide.

10 Thank you again for everyone
11 participating today. As we've mentioned, we are
12 combing through lots of comments we got yesterday
13 and we look forward to hearing some more today, as
14 well. Thank you.

15 MS. McMILLAN: Thank you. This is
16 Emily McMillan speaking again. This concludes the
17 MPCA's presentation. I have nothing further, Your
18 Honor.

19 THE JUDGE: Thank you very much.

20 I want to thank you for the
21 presentation, Ms. Kurbondski.

22 With that, I would like to start
23 collecting questions and comments from the public,
24 but before we do that, I believe we've been online
25 here for 45 minutes. We will take a short

1 intermission, no more than ten minutes, and then
2 we'll start with the public comments. I think we
3 have a slide, an intermission slide back in the deck
4 somewhere and near that -- I think it's slide 27. I
5 think slide 27 might be our intermission slide, and
6 then we'll put the -- slide 24, I think, is our
7 instructions on how to make comments.

8 So ten minutes and at 2:55 we'll start
9 taking those questions and comments. So write them
10 down, get them ready, and we'll start going through
11 the list. Thank you.

12 (Short break taken.)

13 THE JUDGE: Mr. Carr, so you've got
14 control of the list of folks who want to make
15 comments or ask questions, so I'll let you govern
16 that and I will sit here quietly and take notes and
17 assist in any way I can, if there's -- if necessary.

18 MR. CARR: That sounds good. We just
19 have a few in the chat to speak and then we'll make
20 you a panelist temporarily to speak and you can
21 unmute and turn your camera on when it's your turn.

22 So we have Bill Erny first in the
23 queue.

24 THE JUDGE: And if you'll put up -- I
25 think it was slide 24 with the instructions for the

1 public. That one, perfect.

2 MR. ERNY: Okay. Can everybody hear
3 me?

4 THE JUDGE: You're loud and clear.

5 MR. ERNY: Perfect. So my name is Bill
6 Erny, B-i-l-l E-r-n-y, and I'm speaking here today
7 on behalf of the RV Industry Association. So I'm
8 Bill Erny and I'm a senior manager of regulatory
9 affairs for the RV Industry Association. We
10 represent over 98 percent of all RVs that are
11 produced right here in America by American workers.
12 These products include motor homes, travel trailers,
13 park model RVs and more. RVing is about connecting
14 people to the great outdoors in a safe and healthy
15 environment as a core principle for our industry.

16 I would like to say that we share your
17 goal of removing harmful chemicals from products
18 sold in the state of Minnesota, and while our
19 industry is fully committed to this goal,
20 unfortunately, the reporting requirements under this
21 proposed rule, especially on such a short timeline,
22 present serious challenges for the RV industry.

23 RVs are highly complex products. They
24 are comprised of thousands of individual parts and
25 components that are sourced across a diverse and

1 complex global supply chain. Further, RVs are
2 highly customizable and each unit can differ
3 significantly based on the customer's selected floor
4 plan, finishes, furnishings and other optional
5 features. As a result, components used in each
6 vehicle can vary even within the same model line.

7 Given this complexity, we are deeply
8 concerned that the proposed reporting process will
9 not be feasible as currently drafted. We ask that
10 the MPCA work with our unique industry to achieve
11 our shared goal of a healthy environment while
12 ensuring the viability of the RV industry in
13 Minnesota. To do this, we offer the following four
14 recommendations.

15 One, delay the reporting deadline by at
16 least twelve months. This will allow MPCA to
17 appropriately finalize guidance, make sure that you
18 test the reporting tools, and provide the industry
19 with the time needed to work with complex supply
20 chains to obtain the required information.

21 Number two, permit aggregate reporting
22 at the total product or vehicle level. This will
23 allow RV manufacturers to provide MPCA with
24 meaningful data while minimizing the arduous and
25 unnecessary reporting burden at the component level.

1 And number three, exclude internal
2 components from reporting at this time. Internal
3 components are fully integrated into the vehicle
4 systems. They are not accessible during routine use
5 or handling. This includes the electronics,
6 internal wiring, sealed gaskets, among other things.
7 These components are engineered for durability or
8 function and are not designed for consumer
9 interaction.

10 And then, four, provide a reasonable
11 standard for due diligence reporting, a standard
12 that's consistent with the EPA federal definition of
13 known or reasonably ascertainable and one which will
14 allow for realistic compliance expectations.

15 Thank you for this opportunity to
16 provide input on this important rulemaking. Please
17 refer to our written comments for further
18 information and for more detailed recommendations.
19 We look forward to working with you in the future on
20 these critical issues. Thank you.

21 THE JUDGE: Thank you very much,
22 Mr. Erny.

23 Mr. Carr, next comment or question?

24 I'll add if anyone from the panel
25 has -- to the extent questions arise or if comments

1 are raised to which there's -- you know, they have
2 already been considered by the agency, feel free to
3 speak up on that.

4 MR. CARR: Next we have Stacy Tatman.

5 MS. TATMAN: Your Honor, the Complex
6 Products Manufacturers Coalition appreciates the
7 necessary work to implement Minnesota Statute,
8 Section 116.943 and we thank you, the Minnesota
9 Office of Administrative Hearings and the Minnesota
10 Pollution Control Agency, for providing us with the
11 opportunity to testify on the proposed permanent
12 rules relating to PFAS in products reporting and
13 fees.

14 I am Stacy Tatman. My name is spelled
15 S-t-a-c-y T-a-t-m-a-n, and I'm here on behalf of the
16 Complex Products Manufacturers Coalition, also known
17 as the CPMC. The CPMC is a multi-stakeholder group
18 dedicated to driving positive change in
19 policy-making for sensible PFAS management. CPMC
20 members assemble tens to hundreds or thousands of
21 parts, components and raw materials to manufacture
22 products that are frequently referred to as complex
23 products. Throughout this testimony when I refer to
24 "complex products," I'm referring to industrial,
25 commercial and consumer products such as appliances,

1 batteries, communication devices, electrical and
2 power transmission and distribution equipment,
3 electronics, HVAC RWH systems, lighting, outdoor
4 power equipment, vehicles, vessels and others, as
5 well as their essential chemical components such as
6 low risk refrigerants, fluoropolymers, insulating
7 gasses and their replacement parts. Complex
8 products are used to support nearly every major
9 sector in the nation, providing critical and often
10 lifesaving services upon which our modern society
11 depends.

12 Due to the complexities of multitiered
13 international supply chains and related issues,
14 manufacturers of complex products face compliance
15 burdens beyond those of most of the regulated
16 community. Complex products manufacturers are
17 downstream users who don't typically have the type
18 of information chemical producers have and that
19 which is required for reporting. The CPMC makes the
20 following nine recommendations specific to the
21 proposed rule and this compliments our comments that
22 we submitted yesterday.

23 Number one, definitions. The CPMC
24 recommends adoption of a definition for "complex
25 products" where "complex products" means

1 manufactured goods composed of multiple manufactured
2 components with an intended useful life of three or
3 more years and where the product is typically not
4 consumed, destroyed or discarded after a single use.
5 Additionally, the CPMC strongly recommends narrowing
6 the PFAS definition and providing CAS numbers to
7 increase the workability of the final regulations
8 for both MPCA and the regulated community. While
9 the statute provides the minimum characterization of
10 PFAS, we assert that the law does not prevent the
11 MPCA from narrowing the definition or from providing
12 further clarification for this family of chemicals.

13 Number two, reporting exemptions.

14 There are significant differences between exemptions
15 provided for under the statute and those put forward
16 in the proposed rule. MPCA should include all
17 exemptions stated in the statute and should also use
18 its authority under the law to promulgate additional
19 exemptions for complex products in its final
20 regulations. MPCA should prioritize chemicals
21 management using a risk-based approach that
22 considers both hazard and exposure.

23 Number 3, waivers. The CPMC asserts
24 that under the statute, the MPCA has the authority
25 to grant additional waivers, including an

1 information requirement waiver, and should do so for
2 complex products in its final regulations.

3 Number four, reporting deadline. The
4 CPMC recommends that MPCA uses existing authority
5 under the law to extend its reporting deadline. The
6 CPMC suggests that to avoid issuing multiple
7 postponements, as seen in other jurisdictions, MPCA
8 should extend the deadline by at least two years,
9 especially for complex products.

10 Number five, reporting updates. The
11 CPMC recommends removing the overly burdensome
12 annual recertification section and require
13 recertification every five years instead.

14 Number six, extensions. The CPMC
15 requests that MPCA use its authority under the law
16 to increase extensions from 90 days to 180 days.

17 Number seven, parties responsible for
18 reporting. The CPMC recommends modifying and
19 clarifying the concept of group reporting. The MPCA
20 should also address antitrust and confidential
21 business information issues.

22 Number eight, due diligence. The CPMC
23 believes the requirement for manufacturers to survey
24 their supply chain "until all required information
25 is known" is unrealistic and not achievable. CPMC

1 recommends that, instead, MPCA adopts the US
2 Environmental Protection Agency's Toxic Substances
3 Control Act, Section 887, PFAS Reporting Rule
4 Standard, that which is "known or reasonably
5 ascertainable."

6 Last one, number nine, reporting fees.
7 The CPMC recommends that MPCA revise the fee
8 structure and schedule to correspond with our
9 recommendations to eliminate annual recertification
10 requirements and related requests.

11 Thank you for your time. This
12 concludes my testimony. I'm happy to answer any
13 questions. Thank you.

14 THE JUDGE: Thank you for your
15 comments.

16 MR. CARR: All right. Next we have
17 Catherine Palin.

18 MS. PALIN: Hi, good afternoon. My
19 name is Catherine Palin, C-a-t-h-e-r-i-n-e, last
20 name P-a-l-i-n, representing the Alliance for
21 Automotive Innovation or Auto Innovators. We
22 represent automakers that produce more than
23 90 percent of all light-duty vehicles sold in the
24 United States, their suppliers, and technology and
25 mobility companies.

1 My comments today reflect the concerns
2 and recommendations of the US automotive sector and
3 aim to assist Minnesota in developing regulations
4 that are needed and reasonable and provide useful
5 information for Minnesota consumers. Auto
6 Innovators has been working with the Pollution
7 Control Agency staff and appreciate their
8 willingness to listen to our concerns.

9 But there remain, however, several
10 critically important revisions needed to effectuate
11 a more functional reporting program. I'm going to
12 cover five major issues today. We more thoroughly
13 address other concerns that we have in our written
14 comments.

15 The first is component level reporting.
16 PCA is proposing that if a product consists of
17 multiple PFAS-containing parts, the manufacturer
18 must provide PFAS details individually for each
19 component in that product. This would place a
20 tremendous burden upon the auto industry, as our
21 products can have as many as 30,000 parts at the
22 lowest component level and we believe that hundreds,
23 if not thousands of components in vehicles may
24 contain PFAS.

25 If you multiply those hundreds of items

1 by the multiple product variance that each automaker
2 sells, multiply that by the several automakers that
3 are selling into the state of Minnesota, Auto
4 Innovators expects that just automakers could be
5 submitting 337,500 lines of data to the system. We
6 also question whether detailed information on the
7 presence of PFAS within a singular gasket truly
8 provides information of utility to Minnesota
9 consumers.

10 In some of our written comments we have
11 proposed a PFAS reporting methodology that would
12 have the auto industry reporting at a higher vehicle
13 system level, such as providing information on PFAS
14 present in the vehicle interior, the power train,
15 the body, et cetera, which would be less burdensome
16 for the automotive industry and we believe would
17 provide more useful information for consumers.

18 The second issue is product and
19 component grouping for reporting. PCA has argued
20 that reporting burden could be reduced to the
21 grouping of products and components for reporting.
22 However, the draft PFAS in products reporting and
23 fees rule sets very high thresholds for this
24 grouping. These groups seemingly must contain the
25 exact same PFAS serving the exact same purpose in

1 the product within this same narrow concentration
2 range. We think that that strict requirement likely
3 will not enable a lot of useful grouping of products
4 or components and so we recommend that PCA expand
5 their criteria for grouping.

6 The third area to raise is replacement
7 and service parts. Federal safety law requires that
8 auto manufacturers have available replacement parts
9 and service parts for 15 years after a vehicle is
10 manufactured and so there are literally millions of
11 replacement parts in commerce that are essential to
12 maintaining and repairing in-service vehicles.

13 Reporting PFAS content for legacy in-use replacement
14 parts produced years ago, but used in vehicles would
15 be a Herculean task. Also, separately reporting
16 replacement parts for current production vehicles
17 would exponentially increase the amount of reports
18 when the PFAS content of those parts would be
19 similar, if not identical, to the amounts reported
20 already for the vehicle itself.

21 So Auto Innovators asks that PCA exempt
22 the reporting of legacy service parts, considering
23 them to be components of used products, vehicles in
24 use, and that PCA permit current production service
25 parts to be considered reported as part of vehicle

1 product reporting.

2 The fourth issue is the due diligence
3 standard. The draft rule proposes that the due
4 diligence standard for reporting is to request
5 information from the supply chain until all required
6 information is known. This is an incredibly
7 burdensome standard, especially for the automotive
8 industry. We have as many as ten tiers of suppliers
9 feeding substances and products all the way up the
10 supply chain and all those suppliers are located
11 across the globe. Combining those facts with the
12 complexity of our product means that it could take
13 an incredible amount of time and effort to pursue
14 information until all information is known, let
15 alone considering that in light of the January 1
16 reporting deadline.

17 So Auto Innovators recommends that PCA
18 consider a less burdensome standard such as that
19 chosen by EPA for the PFAS reporting rule, as
20 mentioned, which is to report information that is
21 known to or reasonably ascertainable by the
22 obligated reporter.

23 The final issue I want to discuss today
24 is timelines. We are raising concerns about the
25 timelines involved here. Reporting per the statute

1 must be submitted by January 1st of 2026. At this
2 time, less than eight months before that reporting
3 is due, there is not yet any final rule to guide
4 reporting. There's not information available about
5 how the data will be required to be submitted or
6 what the electronic reporting system will look like,
7 and so without that information, it's more difficult
8 for obligated entities to prepare to report and to
9 fully understand the resources that they will need
10 for compliance in reporting.

11 So Auto Innovators recommends that PCA
12 strongly consider a broad extension of the reporting
13 deadline as they mentioned during the presentation
14 they have authority to grant. And Auto Innovators
15 additionally adds that the sooner the agency can
16 provide confirmation of such an extension, the
17 better to provide certainty for companies in their
18 planning because, otherwise, if companies think that
19 they will be unable to comply as expected by
20 January 1st of 2026, those companies may need to
21 begin preparing to stop sales within the state,
22 which is a process that takes time.

23 So those five areas highlight serious
24 issues that we think could undermine the effective
25 implementation of the statute. Thank you, Your

1 Honor, for your time.

2 THE JUDGE: Thank you very much.

3 Who do we have next?

4 MR. CARR: Next we have Andrew Bemus.

5 MR. BEMUS: Hi. Everyone able to hear
6 me okay?

7 THE JUDGE: Loud and clear.

8 MR. BEMUS: Excellent. Well,
9 Administrative Law Judge Mortenson, members of the
10 agency board, thank you very much for the
11 opportunity to testify today. My name is Andrew
12 Bemus, that's spelled B-e-m-u-s. I'm State Affairs
13 Manager with the Sustainable PFAS Action Network;
14 that's SPAN for short.

15 SPAN is a coalition of PFAS users and
16 producers committed to sustainable risk-based PFAS
17 management. Our members advocate for responsible
18 policies grounded in science and provide assurance
19 of long-term human health and environmental
20 protection, while recognizing the critical need for
21 certain PFAS materials for US economic growth and
22 global competitiveness.

23 SPAN has worked closely with
24 policymakers in Minnesota since 2023 on
25 implementation of the PFAS in products law. We are

1 proud of the cordial and productive dialogue we have
2 formed with several legislators, staffers and
3 regulators to address this important issue. MPCA
4 has done important work on addressing PFAS
5 contamination in Minnesota and we look forward to
6 working with the agency in the future to find a
7 productive path forward. In order to ensure that
8 MPCA's vital work continues, SPAN has a number of
9 issues that we would like to emphasize that need to
10 be addressed in the near future.

11 To begin, SPAN would strongly encourage
12 MPCA to delay the January 1st, 2026 reporting
13 deadline so as to provide sufficient time for all
14 affected entities to fully understand and be able to
15 fulfill their reporting obligations. If their
16 reporting program goes forward in its current state,
17 entities having reporting obligations in Minnesota
18 will face massive economic and regulatory burdens,
19 and MPCA will experience administrative obstacles
20 and resource limitations that will be difficult to
21 fix after the fact. Many of the entities that will
22 be required to report on January 1st of next year
23 use thousands of products that proceed along varied
24 international supply chains. Manufacturers will
25 need substantially more time to gather information

1 and make a good faith effort to comply with the law.

2 For these reasons, SPAN believes MPCA
3 should delay the reporting deadline to at least one
4 year after promulgation of the final rules.

5 Proceeding, we have seven specific issue areas which
6 we would like to address briefly today.

7 The first is on definitions. There are
8 several definitions in the rule that SPAN encourages
9 MPCA to reconsider or redefine. The definitions of
10 "component," "identifiable element," and "PFAS" are
11 extraordinarily broad and place a significant burden
12 on a product manufacturer in determining if PFAS is
13 present in every single components. A component
14 could be interpreted as literally any part of a
15 product no matter how small or insignificant. SPAN
16 encourages the refinement of these definitions.

17 Issue number two is reporting and the
18 required information. SPAN appreciates that in an
19 effort to ease compliance for manufacturers, MPCA
20 has proposed allowing groups of manufacturers to
21 join in a report and for reports to cover groups of
22 similar products. However, the criteria that must
23 be met for a manufacturer to avail themselves of
24 these tools are very specific, thus limiting their
25 usefulness. What may appear to be identical

1 products from different manufacturers can often vary
2 in material composition.

3 SPAN suggests that MPCA provide greater
4 flexibility in the joint reporting process. SPAN
5 also suggests that, due to complexities that exist
6 along international supply chains, MPCA add
7 flexibility in the data that needs to be reported.

8 Issue number three is on waivers. In
9 the proposed rule, MPCA again evidences a
10 willingness to ease compliance by allowing the
11 commissioner to waive all or part of the information
12 required if substantially equivalent information is
13 publicly available.

14 SPAN suggests that MPCA issue a general
15 waiver for manufacturers that are also submitting
16 data under EPA's TSCA Section 8(a)(7), PFAS
17 Reporting Rule. This would help avoid duplicative
18 work and reduce compliance costs.

19 Issue number four is protection of
20 confidential business information. The confidential
21 business information of SPAN members and all
22 manufacturers can include vital intellectual
23 property assets and even sensitive national security
24 information.

25 SPAN requests that MPCA provide further

1 details concerning how they will indeed ensure that
2 trade secret data will be protected and not made
3 public, especially if MPCA intends on using the
4 Interstate Chemicals Clearinghouse High Priority
5 Chemicals Data System.

6 Issue number five is the standard for
7 due diligence. The proposed rule currently states
8 that manufacturers must keep asking suppliers for
9 data until all required information is known. This
10 standard is unrealistic, especially for makers of
11 complex products with thousands of components and
12 independent suppliers located all over the world.

13 SPAN suggests that MPCA use the US EPA
14 standards, as has been mentioned previously.
15 Companies must report what is known to or reasonably
16 ascertainable by reporter. This standard balances
17 the need for data with the realities of global
18 manufacturing.

19 Issue number six is on fees. SPAN
20 requests that MPCA clarify the fee structure. SPAN
21 believes that any fee levied should be a onetime fee
22 per manufacturer, not per report. If a fee was
23 required for each report, the cost for manufacturers
24 could be prohibitive.

25 SPAN requests that MPCA state in clear

1 and unambiguous terms that the fee to report is a
2 onetime obligation of \$1,000 for each manufacturer
3 regardless of how many reports that manufacturer
4 submits.

5 The seventh and final issue is on
6 exemptions. SPAN requests that MPCA consider
7 additional exemptions to the reporting provisions
8 that will greatly aid MPCA's ability to successfully
9 implement the PFAS in products program such as for
10 semiconductors and semiconductor-related equipment.
11 Such an exemption has precedent, most recently in
12 New Mexico's PFAS products law.

13 Additionally, we recommend MPCA add
14 fluoropolymers to the list of reporting exemptions.
15 Fluoropolymers are unique in that they are not water
16 soluble and have a high molecular weight.
17 Fluoropolymers are critical for many applications
18 and without viable alternatives, health, safety, and
19 economical stability in Minnesota could be severely
20 impacted.

21 Additionally, an exemption should apply
22 to products that are required to meet standards for
23 the requirements of the Food and Drug
24 Administration, EPA's Significant New Alternatives
25 Policy, otherwise known as SNAP, the United States

1 Department of Transportation, the Federal Aviation
2 Administration, National Aeronautics and Space
3 Administration, the US Department of Defense and the
4 US Department of Homeland Security.

5 Thank you very much for the opportunity
6 to testify. I look forward to any questions from
7 the panel.

8 THE JUDGE: Thank you very much for
9 your comment.

10 MR. BEMUS: Thank you.

11 MR. CARR: Next we should have
12 Hayley Davis.

13 THE JUDGE: Ms. Davis?

14 MS. DAVIS: Good afternoon. Can
15 everyone hear me?

16 THE JUDGE: You're coming through loud
17 and clear.

18 MS. DAVIS: Thank you so much. Dear
19 Judge Mortensen and Minnesota Pollution Control
20 Agency staff members, My name is Hayley Davis and I
21 am the manager of state government affairs for the
22 Air Conditioning, Heating and Refrigeration
23 Institute, or AHRI. My name is spelled H-a-y-l-e-y
24 and last name is D-a-v-i-s. Thank you so much for
25 the opportunity to provide comments on the PFAS in

1 Products Reporting and Fees Rule.

2 AHRI represents over 330 manufacturers
3 of heating, ventilation, air conditioning,
4 commercial refrigerants and water heating equipment,
5 advocating for industry and certifying product
6 performance. The HVACR sector generates over
7 \$200 billion annually in North America. AHRI is a
8 proud environmental policy partner. It was an
9 essential stakeholder in the ratification of the
10 Kigali Amendment to the Montreal Protocol, which
11 started the transition to low global warming
12 potential of refrigerants.

13 Our performance standards and
14 certification programs save energy and minimize
15 emissions from HVACR and water heating equipment.
16 AHRI supports efforts to prevent harm to people and
17 the environment from harmful PFAS chemicals and
18 acknowledges that the reporting deadline and the
19 breadth of the program are set in statute.

20 Today we urge the Minnesota Pollution
21 Control Agency to recognize that six months is not
22 sufficient time to create and implement a reporting
23 program with requirements that are more stringent
24 than parallel federal standards. Merely identifying
25 the use of chemicals in complex multinational supply

1 chains is an exceptionally challenging and often
2 unsuccessful task for manufacturers of complex
3 systems due to the general lack of transparency
4 around component composition and the number of
5 chemicals included in Minnesota's definition of
6 PFAS. So AHRI has seven concerns with this rule.

7 AHRI has concerns about the agency's
8 proposal to implement a flat fee structure for all
9 filings by manufacturers. It is unclear that --
10 from the Minnesota statute whether the agency has
11 the authority to assess fees for submissions that do
12 not include all of the listed information in
13 subdivision 2 of the statute. One of the reasons is
14 that a manufacturer may be seeking an exemption or
15 request because they do not have all of the
16 information listed in subdivision 2; for example,
17 the amount of each PFAS in the product.

18 For waivers, information is otherwise
19 publicly available and should include an exemption
20 for reporting for this information. AHRI requests
21 the agency reconsider the fees associated with
22 waivers and extension requests.

23 The Minnesota Administrative Procedures
24 Act requires that each rule is supported by an
25 adequate Statement of Need and Reasonableness that

1 demonstrates the rule is both needed and reasonable.
2 The SONAR does not contain sufficient cost data to
3 demonstrate how the MPCA made the determination
4 regarding costs as it relates to the waiver requests
5 and extension requests proposed by the rule. A mere
6 assertion that the proposed fees are reasonable is
7 not enough to meet the rule under Minnesota statute.

8 Manufacturers may face undue burdens in
9 terms of allocation of resources needed to comply
10 with the Minnesota PFAS reporting requirements, as
11 they will need to expend resources to gather
12 information from their supplies chains that they do
13 not otherwise have access to or be required to test
14 products. AHRI recommends for the agency to
15 reconsider the reasonableness of the proposed fees
16 and provide a supplement to the SONAR with
17 additional cost justifications.

18 AHRI urges the MPCA to use a risk-based
19 approach to identify and manage substances that harm
20 people and the environment by identifying the
21 persistent, bioaccumulative and toxic chemicals in
22 high-exposure products. For example, the -- not all
23 PFAS that are contained in this rule may present
24 harm to people. For example, global warming
25 refrigerants known as A2Ls used in the HVACR and

1 water and heating systems that are approved by the
2 US Environmental Protection Agency Significant New
3 Alternatives Policy have met safety criteria for
4 evaluating alternatives for acceptable use
5 conditions that include assessments for the
6 potential exposure risks, toxicity and environmental
7 impacts.

8 Another issue that AHRI has with this
9 rule is the timeframe. AHRI reiterates that
10 January 1, 2026, is not a feasible deadline for the
11 intensity of the reporting rule program proposed by
12 MPCA. MPCA proposes that manufacturers do due
13 diligence consistent with manufacturers requesting
14 detailed disclosure information from their supply
15 chain until all information is known.

16 AHRI requests that MPCA change the
17 proposed rule to allow manufacturers to submit
18 information that is known or reasonably
19 ascertainable. We also request that MPCA release a
20 list of compounds that meet the interpretation of
21 the PFAS definition to facilitate supply chain
22 surveys that are going to be undertaken by
23 manufacturers.

24 THE JUDGE: I'll give you an extra
25 minute here, Ms. Davis, because I know the court

1 reporter gave you some instruction and if you have
2 much more, if we have time today, you can -- because
3 I have so many people who may want to comment, I
4 want to make sure we get everyone on the record if I
5 can.

6 MS. DAVIS: Yes, alright.

7 THE JUDGE: Go ahead for another
8 minute.

9 MS. DAVIS: My apologies. AHRI
10 requests that MPCA exempt articles that contain
11 de minimis quantities of PFAS or 0.1 percent by
12 weight or less, which will allow a practicable
13 implementation of the regulation.

14 We request an exemption for products
15 which federal law governs the presence of PFAS and
16 for the clarification regarding the scope of the
17 reporting exemptions.

18 We have -- raise a few questions on
19 definitions. We would like further clarification on
20 what constitutes "intentionally-added." We request
21 clarity on the term "packaging" within the
22 definition of "component"; and within the proposed
23 rule "manufacturer" includes the entity that
24 manufactures the product or whose brand name is
25 affixed to the product. Under some circumstances it

1 is not clear who the manufacturer is and we would
2 like further clarification.

3 I apologize for running over. Thank
4 you so much, and we are available for any other
5 questions.

6 THE JUDGE: Thank you very much, and
7 you're doing fine. It looks like we've got a list
8 of people in the queue, so if you have more, if we
9 have time in the -- right now it's looking like we
10 may have time, you can speak some more. In
11 addition, our written comment period will stay open
12 if there's anything you haven't already submitted in
13 writing, because everything is important and I'll be
14 considering everything for my report to the
15 agencies. Thank you.

16 MS. DAVIS: Thank you.

17 MR. CARR: Next we have Ben Kallen.

18 MR. KALLEN: All right, just a second
19 here. Can folks see me and hear me?

20 THE JUDGE: I can see you and hear you.

21 MR. KALLEN: All right, wonderful.

22 Judge Mortensen and officials with the MPCA, thank
23 you for the opportunity to testify today. My name
24 is Ben Kallen, that's B-e-n K-a-l-l-e-n, and I'm a
25 senior manager for public policy and advocacy with

1 SEMI.

2 SEMI is a global trade association
3 representing the depth and breadth of the
4 semiconductor manufacturing supply chain. We have
5 over 3,000 member companies around the world,
6 including 650 companies that are headquartered in
7 the United States, as well as over 1,300 that are
8 headquartered overseas, but still maintain a very
9 large manufacturing footprint in the United States,
10 including some in the state of Minnesota.

11 Our membership reflects the full range
12 of the semiconductor manufacturing supply chain,
13 including design, automation and semiconductor
14 intellectual property suppliers, device
15 manufacturers, equipment makers, materials producers
16 and subcomponent suppliers. SEMI has been an active
17 participant in the MPCA's rulemaking process since
18 2023 on this particular topic.

19 We have submitted several sets of
20 comments outlining our recommendations, we have met
21 directly with MPCA officials and officials within
22 the Governor's office, and we are also a member of
23 the MPCA's manufacturing and industry check-in
24 group. We are deeply grateful for the productive
25 dialogue that we have established with the MPCA and

1 other policymakers within the Minnesota state
2 government and we sincerely appreciate the openness
3 with which our positions have been received
4 throughout the course of this important work.

5 So together with the Semiconductor
6 Industry Association, or SIA as I will refer to them
7 from here on out, which is another trade
8 association, we jointly submitted comments yesterday
9 on the MPCA's proposed rule for PFAS reporting and
10 associated fees. Now, before I get into our
11 recommendations, I would like to just briefly touch
12 on the relevance of this rule to our organizations
13 and why we are concerned about how, as written, it
14 could impact Minnesota's semiconductor sector.

15 So just first and foremost, PFAS are
16 essential to the semiconductor industry because of
17 the unique chemical properties that enable them to
18 fulfill the purity criteria required for
19 semiconductor manufacturing. They are used by the
20 industry to meet many needs within the manufacturing
21 process and can be found in various equipment,
22 materials and other critical components. Additional
23 detail can be found in our written submission, but
24 suffice it to say that the semiconductor
25 manufacturing process is enormously dependent on

1 PFAS, the majority of which currently have no viable
2 alternatives.

3 Now, Minnesota itself is home to one of
4 the strongest semiconductor value chains in the
5 United States. In 2023 Minnesota-based companies
6 exported over a billion -- actually, \$1.1 billion in
7 semiconductor-related components and imported nearly
8 \$800 million in semiconductor-related components
9 that are then incorporated into other products. The
10 state's manufacturing -- semiconductor manufacturing
11 sector includes dozens of firms supporting over
12 2,400 jobs with an average wage of \$130,000 --
13 (inaudible) 17 million in total.

14 Now, without the changes that SEMI and
15 SIA recommended in our written comments and which I
16 will be speaking about today, compliance with the
17 rule as it is currently written will be difficult
18 and our concern is that this, in turn, could
19 threaten the viability of the state's robust
20 semiconductor sector and potentially jeopardize its
21 ability to capitalize on the billions of dollars
22 that the federal government is investing in the
23 industry through the CHIPS program.

24 So with all that said, just on to some
25 of our recommendations. SEMI sincerely appreciates

1 the hard work invested in the proposed rule and,
2 again, I just want to reiterate that we are
3 sincerely grateful for the dialogue that we have
4 established with the MPCA. Our written comments
5 offer numerous recommendations to help improve the
6 rule, but since my time is brief, I will summarize a
7 few of our key points here and let the written
8 comments speak for themselves.

9 So first and foremost, we would like
10 the MPCA to use its statutory authority to extend
11 the reporting deadline. This is necessary and
12 appropriate to help ensure that both the MPCA and
13 the industry are prepared for the deadline. The
14 proposed rule to implement the reporting requirement
15 was not published until just last month and the
16 agency has stated that it expects to finalize the
17 rule and open the reporting portal in late 2025 even
18 though the deadline for reporting is only going to
19 start January 1st.

20 We believe this timeline is
21 inconsistent with timely reporting since the
22 magnitude and difficulty of the task of obtaining
23 information from extremely complex supply chains
24 requires significant time between the rules being
25 finalized and the reporting deadline.

1 Next, as others have said, as well, we
2 believe that MPCA should adopt the EPA's known to or
3 reasonably ascertainable by standard. I'll just
4 refer to that as the KRA standard from here on out.
5 The proposed rule states that companies must request
6 information from supply chain partners "until all
7 required information is known." Requiring companies
8 to continuously survey said suppliers until all data
9 elements are known without regard for the level of
10 effort we believe is unrealistic and infeasible,
11 frankly.

12 The MPCA should instead harmonize its
13 due diligence standard with other jurisdictions that
14 have promulgated PFAS reporting requirements, namely
15 the KRA standard used by the EPA. The State of
16 Maine, I'll also point out, adopted the KRA standard
17 as well. Canada, in its recent PFAS reporting
18 obligation, also contains a functionally equivalent
19 standard even though it goes by a different name.
20 So just that harmonization in the interest of
21 streamlining the compliance needs across various
22 borders would be helpful.

23 Reporting should be done at the product
24 level, not at the component level. Some
25 semiconductor manufacturing products, as well as the

1 end products where semiconductor devices are used
2 contain thousands or potentially hundreds of
3 thousands of components, which are often contained
4 under multiple levels of assemblies within the
5 overall top level product. So reporting at the
6 component level, as the proposed rule would require,
7 is infeasible for manufacturers of products as
8 complex as semiconductor manufacturing equipment or
9 many of the end use devices and we would, therefore,
10 recommend that the MPCA draft the rule so that
11 companies are reporting at the product level.

12 Now, our written comments contain far
13 more detail on the points I have just outlined here,
14 as well as other recommendations on certain
15 definitions, testing requirements, fees,
16 recertifications, substance exemptions, waivers,
17 de minimis reporting thresholds and concentration
18 ranges, among other topics. We also provide several
19 clarifying edits. As stated in the comments we
20 jointly submitted with SIA, SEMI is committed to
21 meeting the complex challenge of balancing the need
22 for environmental protection and the sustainability
23 of semiconductor manufacturing operations and the
24 end products where semiconductor devices are used.

25 Once again, we are sincerely grateful

1 for the opportunity to engage in the MPCA's
2 rulemaking process and we are available as you
3 request for additional discussion on these matters.
4 Thank you very much for your time and for your
5 consideration.

6 THE JUDGE: Thank you for your
7 comments, Mr. Kallen.

8 It looks like we've got a few more
9 people in the queue. I do want to respect the
10 eventuality that there may be more people who want
11 to speak who are not yet in the queue so, again, as
12 we go forward, if I need to cut people off, I'll
13 give you an opportunity to come back after we make
14 sure we've exhausted everyone who wants to speak.
15 So I've got a little bit better list in front of me
16 right now, but again, I don't know if there's people
17 out there who haven't dialed in or turned on their
18 chat function.

19 So with that, we'll move to the next
20 person in the queue, Mr. Carr.

21 MR. CARR: Next person is Jason
22 Malcore.

23 MR. MALCORE: Good afternoon. Can
24 everybody hear me?

25 THE JUDGE: I can hear you.

1 MR. MALCORE: I don't know if I'm able
2 to be seen, but that's probably not a problem, then.

3 So my name is Jason Malcore. I
4 represent the Association of Equipment
5 Manufacturers, AEM. This is the North
6 American-based international trade association that
7 represents nonroad equipment manufacturers and
8 suppliers. We have over a thousand member companies
9 with over 200 different product lines represented
10 across the United States and the world in the
11 construction, agriculture, mining, forestry and
12 utility industries.

13 I'll try to keep my comments as brief
14 as I can. Many of the major points have already
15 been stated by some of the people that spoke before
16 me. Before I sort of go into some of our bigger
17 concerns, I would like to say that I did notice
18 during the presentation from MPCA that they
19 addressed the manufacturer flat fee rule and, in
20 clarifying that, that it is a per manufacturer and
21 not a per product fee. We do appreciate this
22 statement. The only thing that we would request
23 from AEM is that this is clarified in the final rule
24 when that is promulgated. That would be very much
25 appreciated, to get that certainty for our

1 manufacturers.

2 Generally speaking, I agree with many
3 of the comments from many of the other different
4 complex article manufacturers who were speaking
5 before me. Generally, we at AEM support EPA
6 definitions and EPA rulemaking, specifically around
7 their 8(a)(7) PFAS recordkeeping and reporting
8 rulemaking, especially regarding definitions used on
9 PFAS, timelines for reporting, and then the
10 reporting standard, which many people have stated is
11 a known or reasonably ascertainable reporting
12 standard.

13 Generally, one of the things that we
14 want to highlight here at AEM is the reporting
15 deadline and the infeasibility of our members to
16 comply with the current January 1st reporting
17 deadline. Our industry, like many others, is
18 extremely complex articles made of hundreds of
19 thousands of different components from tens of
20 thousands of different suppliers around the world.
21 Collecting this data from this supply chain is very
22 difficult and time-intensive and it cannot be done
23 in short periods of time. Specifically within the
24 rule, in order to accelerate this and help this,
25 aligning with other global standards such as the

1 EPA's reporting standard that's promulgated would
2 help along this process.

3 One the things that we've noticed
4 within the rule is the grouping of products. So I
5 noticed that that was discussed before on similar
6 products being grouped together. AEM would
7 appreciate a little bit more clarity on that to make
8 sure that we can group together similar end products
9 and limit the number of internal componentry which
10 is part of the larger product. When you have
11 hundreds of thousands of products and they all need
12 to be grouped together, that would end up resulting
13 in hundreds of thousands of different reports, which
14 wouldn't serve either our members or MPCA in terms
15 of gathering quality data.

16 Additionally, having some clarity on
17 the reporting requirements in there. I know that it
18 was stated that you could group different
19 manufacturers together for reporting purposes.
20 Having a little bit more clarity on that within the
21 rule as to what that can actually entail -- that
22 language is a little ambiguous and I was uncertain
23 on how to interpret that.

24 Specifically, though, we do want to
25 highlight, like many others, the reporting standard.

1 So it is a very extreme reporting standard which
2 will be very challenging to comply with, especially
3 within the timelines we are looking at.

4 Specifically, there is a very high concern related
5 with needing to collect this data and, if we cannot
6 collect this data, having to turn to laboratory
7 testing.

8 Currently in the United States there is
9 not the infrastructure available to accommodate all
10 the manufacturers, not to mention just our
11 manufacturers in my industry. All of them together
12 looking to test all these products on a case-by-case
13 basis would take a tremendous amount of time and
14 certainly not allow people to comply with some of
15 these reporting deadlines.

16 So taking that into consideration, this
17 is -- this, we hope, would lead to an extension of
18 the reporting timeline, at least to line up with the
19 EPA's, but in the real world, in terms of meeting
20 these reporting challenges to provide you quality
21 data and assure that our members are meeting their
22 compliance needs, more time would be appreciated.

23 And then the final question that we had
24 on here was specifically with waiver requests. I
25 know that in there it said that they would provide a

1 90-day extension to manufacturers or groups of
2 manufacturers that might need extensions. We would
3 just like to highlight the fact that within the
4 realm that we are all operating in here in terms of
5 collecting this information, that is not an adequate
6 amount of time if you're trying to actually solve
7 some of these problems, so extending that timeline
8 by a bit more than that would be much appreciated.

9 Also, some clarity, because I know it
10 said that you could ask for extensions, plural, and
11 we were curious if we would be able to chain these
12 extensions together. It's unclear whether or not,
13 once you ask for one request for 90 days, that that
14 is it for that reporting period. I say this because
15 every manufacturer of my members, and many others
16 probably on this call, are going to experience
17 severe delays in terms of collecting this data.

18 So I will stop there. We will provide
19 written comments on all of the other questions and
20 clarifications and requests that we have in writing
21 so you will have access to those, but these are some
22 of the larger issues that I wanted to highlight with
23 you all today. Thank you.

24 THE JUDGE: Thank you very much for
25 those comments.

1 I'll point out, because this has been
2 raised repeatedly about the deadline, the deadline
3 is a statutory provision the legislature set,
4 although the legislature also gave the agency
5 authority to grant extensions. So comments
6 specifically about the waiver and how that works,
7 those are particularly helpful in this, from my
8 perspective as a neutral and to be able to build a
9 report for the agency on. So I appreciate that and
10 appreciate folks considering that when you make your
11 comments. In other words, the agency can't change
12 what the legislature has dictated, but to the extent
13 that there's room for them to promulgate rules under
14 the statute, that's what's particularly helpful, I
15 think.

16 With that, I think we still have a few
17 more people in the queue. I lost track of my chart
18 here, but, Mr. Carr, who do we have next?

19 MR. CARR: Next we have Matthew
20 Bennett.

21 MR. BENNETT: Hi, my name is Matthew
22 Bennett, M-a-t-t-h-e-w B-e-n-n-e-t-t. I'm a product
23 compliance specialist with Perlick Corporation based
24 in Milwaukee, Wisconsin. With over a century of
25 experience producing refrigeration equipment and bar

1 and restaurant equipment, we are a company that
2 values environmental responsibility and we've
3 already taken many proactive steps to reduce our
4 impact. For example, we use environmentally
5 friendly insulation that contains no PFAS, has zero
6 ozone depletion potential and no global warming
7 potential. We utilize natural refrigerant in many
8 of our products, which is a sustainable alternative
9 with a global warming potential of just three and
10 zero ozone depletion potential.

11 We make these choices based on our
12 environmental values. None of these are legally
13 required, we're just trying to be an environmentally
14 conscious company and, as such, Perlick fully
15 supports the goal of protecting human health and the
16 environment from PFAS. We are actively identifying
17 the presence of PFAS across our supply chain of
18 products.

19 However, this process is
20 time-consuming. It involves surveying hundreds of
21 suppliers and we're learning that many of these
22 suppliers must investigate their own supply chains
23 to provide accurate data. Then once we receive that
24 data, we have to match individual components to
25 specific finished products. This is a task that we

1 have never had to encounter before, so it demands
2 additional resources and development of new data
3 processing.

4 Additionally, the law requires us to
5 report the purpose and function of any PFAS, which
6 is information many suppliers are not accustomed to
7 providing. While we are making every effort to meet
8 these obligations, a compliance date of January 1,
9 2026, is extremely aggressive and presents a
10 significant challenge for a manufacturer of our
11 size.

12 Aside from that, which I know has been
13 brought up quite a bit so far, we also wanted to
14 raise a concern about accountability. In many
15 cases, many manufacturers sell products to
16 distributors or third parties. These products would
17 then be resold, possibly multiple times, before they
18 ultimately reach Minnesota. For example, we might
19 sell a product to a distributor in Illinois. That
20 distributor might sell to a dealer in Ohio, who then
21 resells to a contractor or customer in Minnesota.

22 With this kind of indirect tiered sales
23 structure, the manufacturer has no role in placing
24 the product on the Minnesota market and no
25 visibility as to where it ultimately ends up.

1 Holding the manufacturer responsible for tracking
2 and reporting products that reach Minnesota through
3 such complex and indirect paths is going to be very
4 problematic.

5 It raises some questions about
6 extraterritorial regulation where a state imposes
7 obligations on actions occurring entirely outside
8 its borders. If extraterritorial regulation is
9 recognized as a valid legal concern, assigning
10 accountability to the first entity that knowingly
11 places the product on a Minnesota market would
12 directly address that issue. This approach would
13 also have the added benefit of generating more
14 accurate and representative data about
15 PFAS-containing products that are actually present
16 in the state.

17 And that's our main concern here at
18 Perlick, is when our products travel across the
19 country for these multiple channels, it's very
20 difficult to have visibility into what's actually
21 being placed on a Minnesota market. That's our main
22 concern, and thank you for letting me speak, I
23 appreciate it.

24 THE JUDGE: Thank you for your
25 comments, it's very helpful.

1 MR. CARR: Okay. We have just one
2 person left in the queue, Evan Rydkin.

3 MR. RYDKIN: Thank you for giving me
4 the opportunity to speak. My name is Ivan Rydkin,
5 I-v-a-n R-y-d-k-i-n. I'm speaking on behalf of
6 Daikin Applied.

7 I think we had a lot of great testimony
8 here, and Daikin Applied is a member of AHRI, so we
9 are happy to support those comments, as well, but we
10 wanted to speak from the perspective of a
11 manufacturer in Minnesota. We are headquartered in
12 Plymouth and we have three factories, two in
13 Faribault, one in Owatonna, that we currently
14 have -- we employ about 2,600 people in the state.
15 Daikin Applied manufactures HVAC equipment, rooftop
16 air conditioners, chillers, terminal systems that
17 support multifamily housing, data centers,
18 universities, schools, et cetera. Our equipment,
19 HVAC equipment, is used in every home and every
20 business in North America.

21 I think a lot of great comments were
22 already raised about the due diligence, as well as
23 the reporting timeline, so I wanted to provide some
24 testimony to support why we think we need -- we want
25 the administrator to use the statutory authority to

1 extend the deadline and extend the deadline beyond a
2 90-day period and why we believe the scope of the
3 required information is too severe.

4 So Daikin already has considerable
5 experience in generating this type of data. We've
6 been gathering data for RoHS reporting in Europe
7 starting in 2020. We've been gathering data on PFAS
8 starting in August of 2024 in order to comply with
9 Canadian reporting requirements under ACCC and to
10 get ready for the federal reporting requirements
11 under TSCA.

12 To date we've been in monthly
13 communication with our main 255 suppliers, that's
14 out of a total of a thousand suppliers, focusing on
15 our top 55,000 parts, most purchased parts. A
16 typical air conditioner, rooftop air conditioner or
17 a chiller might have up to 80,000 components. We
18 wanted to take a look at at least the top parts that
19 we have.

20 Since August of 2024 through May 1st of
21 2025, we've only seen a response rate of about
22 40 percent from our suppliers. That is, we send
23 them a request for information, communicate with
24 them on a monthly basis, encourage them to reply,
25 and we have seen less than half of our suppliers so

1 far give us the information; and this is just our
2 very top suppliers, not the smaller businesses and
3 the smaller vendors that we use.

4 As such, we are extremely concerned
5 that should the reporting be required by
6 January 1st, 2026, that our suppliers, including the
7 very small suppliers, will not be able to report.
8 As such, if they're not able to report, they may not
9 be able to sell into the state; and if we're not
10 able to acquire the materials for our factories, we
11 might have to shut down production. It's really
12 concerning for us, so we would really appreciate an
13 extension or some opportunity within the rule for us
14 to report for our suppliers should they be small.

15 To that end, we've been collecting
16 information on the presence of PFAS, sometimes the
17 CAS number of PFAS, but we have not been gathering
18 information on function and quantity, so it would
19 take us a full revision of all of our supply chain
20 inventory to be able to achieve that information
21 again, and we believe it would take significantly
22 more than three to six months.

23 I think sharing this -- hopefully,
24 sharing this is helpful. We want to work very
25 closely with MPCA. We are a Minnesota company, so

1 we are open to sharing more information, as well as
2 we want -- are hoping that you guys review all of
3 our written comments. Thank you so much.

4 THE JUDGE: Thank you. Thank you for
5 your comments.

6 Has the comment list changed at this
7 point, Mr. Carr?

8 MR. CARR: No, we're not seeing any
9 more people requesting to comment, Your Honor.

10 THE JUDGE: Okay. I think there was
11 one speaker, Ms. Davis, who I may have cut off.

12 Ms. Davis, if you're still on the line,
13 if you have anything more you want to say to me and
14 to the panel, I invite you back to finish any
15 comments.

16 MR. CARR: Your Honor, it doesn't look
17 like she's on the call anymore.

18 THE JUDGE: Okay. Well, I know I still
19 have 130-plus attendees. If there's anyone else who
20 has questions or comments, I invite you to use the
21 chat function or, if you're on the phone, to press
22 *3 to enter into the queue. The agency has agreed
23 to stay, keep this hearing process open for the next
24 hour to ensure we get as many comments and any
25 questions folks have answered as possible, knowing

1 that -- how far-reaching this proposed regulatory
2 matter will affect people. So we've got lots of
3 different time zones to cover, so they want to make
4 sure we keep this open as long as possible.

5 If you're on the line now, please sign
6 the -- hit the -- put your name in the chat box or
7 hit *3 and we'll hear your comments or answer your
8 questions the best the panel can.

9 MR. CARR: Your Honor, Hayley Davis is
10 back on the call.

11 THE JUDGE: Oh, okay. Ms. Davis, I
12 know I cut you off earlier. Do you have -- did you
13 want to finish anything that you weren't able to
14 share with me earlier or something to add?

15 MS. DAVIS: Your Honor, we also
16 submitted written comments which further detail
17 AHRI's feedback on this rule, but thank you so much
18 for your time today.

19 THE JUDGE: We'll be looking at that
20 carefully, so thank you.

21 Anyone else who hasn't spoken yet or if
22 you had spoken and you might have cut yourself short
23 because I was monitoring the time, I welcome you
24 back to finish up with anything you weren't able to
25 share.

1 MR. CARR: It looks like Judah Prero
2 might have a comment to make.

3 THE JUDGE: Okay, bring them forward.

4 MR. CARR: Judah, you should be a
5 panelist, so you should be able to speak when you're
6 ready.

7 Oh, he left.

8 THE JUDGE: He might have pressed the
9 wrong button, but in any event, we'll stay on the
10 line here for the duration of the scheduled hearing,
11 so anyone who has a question or a comment can make
12 it for the record.

13 MR. CARR: Your Honor, we've got
14 another person wanting to make a comment, Riaz
15 Zaman, R-i-a-z and then Z-a-m-a-n.

16 THE JUDGE: Okay.

17 MR. ZAMAN: Afternoon. Thank you for
18 the opportunity to provide comment today. My name
19 is Riaz Zaman, R-i-a-z Z-a-m-a-n. I'm with the
20 American Coatings Association. We represent
21 90 percent of the US paint and coatings industry.
22 Our members manufacture paint, coatings, sealants
23 and adhesives and the raw materials that go into
24 formulation. We've provided written comment into
25 the docket today, providing several suggestions to

1 the agency that were echoed in other comments today.

2 One issue that has been commented on
3 today that I would like to emphasize is the
4 reporting deadline. We'd like to note that the
5 reporting deadline of January 1st, 2026, is not
6 viable. At this point we would just have a few
7 months, at best, to gather reportable information,
8 and we do request a one-year extension of that
9 reporting deadline to January 1st, 2027.

10 This is critical for us to gather new
11 data points that were introduced in the rule,
12 including compliance with the hierarchy proposed for
13 product identification, amounts and packaging sold
14 with the product, details related to the function of
15 PFAS, et cetera, and other data points, as well.
16 Manufacturers also require additional time to
17 organize into groups for the purpose of reporting.

18 For similar reasons, we also request
19 extending the reporting time under an extension upon
20 request to the agency. We are suggesting a standard
21 extension period of 180 days from the proposed 90
22 days in order to capture all required information or
23 conduct additional testing as needed.

24 We also raise issues related to fees.
25 The proposed language is somewhat ambiguous as to

1 whether the fee is a onetime per manufacturer fee
2 per reporting period or whether the fee is intended
3 to be per report. So I do appreciate the
4 clarification provided by MPCA at the beginning of
5 this comment period and we request that the language
6 is modified to make that more clear in the proposed
7 language, as well.

8 We also provide comments related to
9 PFAS measurements in products. We ultimately
10 suggest that MPCA allow for reasonable estimates
11 based on information provided by suppliers. The
12 reason for this relates to limitations of
13 measurement methods in the proposed rule. Also, as
14 downstream users of chemicals, we often face
15 significant challenges obtaining information from
16 our suppliers, but we can make reasonable estimates
17 based either on publicly available information or
18 information from our raw materials suppliers, and we
19 do request some flexibility in providing estimates.

20 Estimates are often a better way of
21 identifying PFAS content than testing. Often test
22 methods don't exist for products or they have a high
23 degree of variance. It's also better than total
24 fluorene measurements, which is not a measurement of
25 intentionally-added PFAS, but a measurement of any

1 fluorene in the product.

2 A related issue is the standard of due
3 diligence. MPCA simply states that downstream
4 industry must request information from suppliers
5 until all the information is known. That's not a
6 viable standard, as has been commented on by other
7 commenters today. There are situations for us as
8 downstream users of chemicals when, despite our best
9 efforts, we will not be able to obtain information
10 from suppliers and we need to know the steps to take
11 in order to meet our compliance obligations.

12 So we do suggest adopting EPA's due
13 diligence standard, which is the known to or
14 reasonably ascertainable by standard. This requires
15 a thorough review of internal documentation and
16 provides doing some external inquiries as needed, as
17 well. It provides a more clear and consistent
18 compliance framework than what's currently being
19 proposed.

20 The last major issue I would like to
21 raise today is the definition of "consumer." MPCA
22 proposes a definition that basically defines a
23 consumer as an industrial or commercial user also.
24 This is confusing and it's a contradictory
25 definition. It's not aligned with definitions used

1 by other agencies and we suggest not finalizing this
2 definition.

3 We provide several other suggestions,
4 as well. Briefly stated, the reporting deadline
5 should apply to all products manufactured on or
6 after that date since manufacturers do not control
7 distribution after the point of manufacture. There
8 are two reporting requirements for new products
9 introduced after the first reporting date. These
10 should be consolidated or clarified. We suggest
11 adding a definition of chemical subclass as it
12 relates to trade secrets, and we also suggest an
13 exemption for fluoropolymers.

14 Thank you for the opportunity to
15 comment today, and if there are any questions or
16 additional information I can provide, feel free to
17 reach out. Thank you.

18 THE JUDGE: Thank you for your comment.

19 It looks like we have another person
20 coming back.

21 MR. CARR: Yeah, Jason Malcore. I'm
22 just setting it up so he can speak quickly. I'm not
23 sure if he's in the meeting anymore, actually.
24 Sorry. Sorry, Your Honor, I'm not seeing him in the
25 attendees anymore.

1 THE JUDGE: Okay. Do we have any other
2 members of the public who would like to speak,
3 whether you've spoken already or not? We've got
4 plenty of time at this point to gather more comments
5 or for you to ask questions.

6 Knowing PCA staff want to keep this
7 record open until 5:00 p.m. in the event we've got
8 folks from other time zones who want to speak, we're
9 not going to discriminate against anybody based on
10 the time zone they're in, but as a logistical
11 matter, we will be monitoring this and folks
12 should -- we'll keep the public question and
13 comments slide up and I'll be watching for -- or
14 listening for anyone who the rule coordinator alerts
15 me wants to make a comment or ask a question and
16 you'll see me again. Otherwise, I'll be in the
17 background here waiting for that to happen. So
18 we'll keep the record open and I will stay close at
19 hand, waiting to hear from any other members of the
20 public who wish to comment or ask questions.

21 MR. CARR: Judge Mortenson, we have a
22 speaker, Jeff Sepesi.

23 MR. SEPESI: My name is Jeff Sepesi,
24 S-e-p-e-s-i. I am a principal at Environmental Law
25 and Science, P.L.L.C. I just want to highlight one

1 comment that we have submitted on behalf of a client
2 regarding the rules.

3 I also do want to say that I am glad
4 that other commenters have touched on the need for
5 additional time, the need to address the complexity
6 of the supply chain, and my highlighted comment
7 really is to deal with that situation where
8 sometimes you'll have a complex problem with simply
9 parts and components that have the same functional
10 purpose that are provided by multiple suppliers and,
11 as a manufacturer who's using those parts, you may
12 not have visibility into the PFAS composition of
13 those parts. Those parts are, in essence,
14 interchangeable, but the PFAS composition may vary
15 from part to part in any given shipment and you may
16 not know -- from any given supplier, you may not
17 have visibility to that.

18 So there needs to be some sort of
19 flexibility from the proposed grouping of components
20 to allow a reporter to report this functionally
21 identical component that may have one or more or
22 none of the following PFAS chemicals and they may
23 fall within this broad range, so more of a generic
24 reporting. That flexibility is not allowed right
25 now, but I do think that's very critical for many

1 potential reporters because of the supply chain
2 complexities.

3 And that's the comment.

4 THE JUDGE: Thank you very much for
5 sharing that.

6 MR. SEPESEI: I actually do want to add
7 one other comment, and it's not really in the SONAR
8 and I think it will help the agency when they think
9 about the comments and, Your Honor, when you do. I
10 don't think there's a clear vision for what MPCA
11 will do once they get all this data in. It's
12 collecting a lot of information, which seems great
13 to have more information, but how that will result
14 in better public policy and then outweigh the burden
15 and costs on industry, that's not clear.

16 THE JUDGE: Okay, thank you.

17 MR. SEPESEI: With that, I'll end my
18 comments. Thank you.

19 MR. CARR: I'm not seeing anyone else
20 in the queue right now, Your Honor.

21 THE JUDGE: Okay. I know we still have
22 attendees in the hearing room, the virtual hearing
23 room here. So, again, we're at 4:20; we'll keep the
24 record open here until 5:00 p.m. to make sure we
25 hear from as many folks as we can.

1 MR. CARR: Judge, it looks like we have
2 Matt Bennett again who would like to speak.

3 THE JUDGE: Very good.

4 MR. BENNETT: Thank you for taking me
5 back. I took a quick break. As I was thinking
6 about it some more, I have a question for the
7 rule-makers. I brought up previously the
8 considerations for extraterritorial regulations, and
9 it also occurred to me that there are interstate
10 commerce laws that prevent undue burdens placed on
11 out-of-state manufacturers, and I was wondering if
12 these laws were considered.

13 My guess is that when Minnesota was
14 developing these laws, they were targeting
15 manufacturers within state lines perhaps, but the
16 difficulties of tracking our products entering
17 Minnesota are definitely not equal to what an
18 instate manufacturer would -- how they would have to
19 report. So I was just wondering if these issues
20 were considered during the law-making process.

21 Thank you.

22 THE JUDGE: Thank you for the question.

23 That's a big question, but,
24 Ms. McMillan, can you provide a succinct answer to
25 the part of his question that was pretty

1 straightforward?

2 MS. McMILLAN: Thank you, Your Honor.
3 The MPCA will need more time to consider this
4 question and will respond to it during the rebuttal
5 period.

6 THE JUDGE: Thank you very much.

7 Mr. Bennett, it's a good, legitimate
8 question. Thank you for asking it, but it is a --
9 it is a significant question, so that's hard to
10 answer on the spot.

11 MR. BENNETT: I understand. Again, I
12 appreciate the opportunity to speak.

13 THE JUDGE: Thank you.

14 Did that prompt or do we have anyone
15 else immediately ready to question or comment?

16 MR. CARR: I don't have anyone else in
17 the queue right now, Your Honor.

18 THE JUDGE: Okay. I'll stand by and
19 study your SONAR as we wait to see who else has
20 comments or questions.

21 We have less than 15 minutes in the
22 allotted hearing time. If there is anyone who
23 hasn't spoken yet or has questions, please sign in
24 to the queue. I'm glad to take your comments. If
25 you have a question, the panel may be able to answer

1 your question now, if not subsequently.

2 MR. CARR: And, Judge, there's no one
3 else in the queue.

4 THE JUDGE: All right. We've got just
5 a couple minutes left for our hearing allotted time.
6 This is the last call for anyone still in our
7 virtual room. It looks like we've got about 30
8 attendees. If anyone hasn't made a comment and has
9 thought of something, if you've been listening and
10 have -- that's prompted you to make a comment, now
11 is the time. Otherwise, of course, our comment
12 period will be open until June 23rd to give you the
13 maximum amount of time to share any written comments
14 with me and the agency.

15 All right. Well, I've got less than a
16 minute left in our allotted time, so I want to thank
17 everyone who has participated in this rulemaking
18 hearing for your time and attention. All those who
19 made comments, both written up to this point and
20 verbal comments, it's greatly appreciated in terms
21 of the overall work of the agency.

22 I'm not part of the agency. I will be
23 preparing a report for the agency based on, in part,
24 these comments with regard to the reasonableness of
25 the rule and the legality of the rule, so I greatly

1 appreciate all the questions and insights folks have
2 provided and, with that, this public hearing will
3 adjourn and I look forward to receiving more written
4 comments during our rule -- post rulemaking hearing
5 comment period until June 23rd, 2025. Thank you for
6 your time.

7 Thank you, Colleen, for your attention
8 to making a clear record; and we'll be in touch.

9 (Proceedings concluded at 5:00 p.m.)

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1 STATE OF MINNESOTA)
2) ss.
3 COUNTY OF DAKOTA)
4

5 REPORTER'S CERTIFICATE
6

7 I, Colleen M. Sichko, do hereby certify
8 that the above and foregoing transcript, consisting of the
9 preceding 94 pages is a correct transcript of my
10 stenograph notes, and is a full, true and complete
11 transcript of the proceedings to the best of my ability.

12 Dated May 26, 2025.
13

14 /s/Colleen M. Sichko
15 COLLEEN M. SICHKO
16 Registered Professional Reporter
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