40410 Pollution Control Agency PFAS in Products Reporting and Fee Rule Rebuttal Comment Period

Closed Jun 30, 2025 · Discussion · 8 Participants · 1 Topics · 8 Answers · 0 Replies · 0 Votes

8	1	8	0	0
PARTICIPANTS	TOPICS	ANSWERS	REPLIES	VOTES

SUMMARY OF TOPICS

SUBMIT A COMMENT

8 Answers · 0 Replies

Important: All comments will be made available to the public. Please only submit information that you wish to make available publicly. The Office of Administrative Hearings does not edit or delete submissions that include personal information. We reserve the right to remove any comments we deem offensive, intimidating, belligerent, harassing, or bullying, or that contain any other inappropriate or aggressive behavior without prior notification.

Julia McGowan · Citizen · (Postal Code: unknown) · Jun 30, 2025 9:56 am

0 Votes

Attached are comments on behalf of AGC Chemicals Americas, Inc.

Emily Schwartz · Citizen · (Postal Code: unknown) · Jun 30, 2025 11:28 am

0 Votes

Please see attached comments submitted on behalf of a client who is a worldwide leader in the manufacture of information and communications technology products.

Catherine Palin · Citizen · (Postal Code: unknown) · Jun 30, 2025 1:35 pm

0 Votes

Please find attached the rebuttal comments of the Alliance for Automotive Innovation.

Quinn Carr · Citizen · (Postal Code: unknown) · Jun 30, 2025 2:34 pm

0 Votes

The MPCA has provided responses to the comments received after the hearing in the attached document.

40410 Pollution Control Agency PFAS in Products Reporting and Fee Rule Rebuttal Comment Period

Closed Jun 30, 2025 · Discussion · 8 Participants · 1 Topics · 8 Answers · 0 Replies · 0 Votes

---

Warren Lehrenbaum · Citizen · (Postal Code: unknown) · Jun 30, 2025 3:09 pm
0 Votes

Attached are supplemental rebuttal comments of AGC Chemicals Americas, Inc.

Judah Prero · Citizen · (Postal Code: unknown) · Jun 30, 2025 3:15 pm
0 Votes

Attached are the rebuttal comments of the Chemical Users Coalition.

Ben Kallen · Citizen · (Postal Code: unknown) · Jun 30, 2025 3:55 pm
0 Votes

Please find attached the rebuttal comments from SEMI and SIA.

Marcus Branstad · Citizen · (Postal Code: unknown) · Jun 30, 2025 4:01 pm
0 Votes

Please find rebuttal comments attached from the American Chemistry Council and its Performance
Fluoropolymer Partnership.

AGC CHEMICALS AMERICAS, INC.
55 E. Uwchlan Ave., Suite 201
Exton, PA 19341
Phone: (610) 423-4300
Fax: (610) 423-4301
http://www.agcchem.com

June 30, 2025

Honorable Judge Jim Mortenson
Office of Administrative Hearings
600 North Robert Street, PO Box 64620
St. Paul, Minnesota 55164-0620

Re: Proposed Rules Relating to PFAS in Products Reporting and Fees

Dear Judge Mortenson:

AGC Chemicals Americas ("AGCCA") and its parent company, AGC America, Inc.**, appreciate this opportunity to provide rebuttal comments on the Minnesota Pollution Control Agency's (MPCA's) Proposed Permanent Rules Relating to PFAS in Products for Reporting and Fees ("Proposed Rules") Revisor's ID Number R-4828, OAH docket number 5-9003-40410, pursuant to Minnesota Statutes § 116.943 (the "Law").** AGCCA manufactures and supplies a range of specialized industrial chemicals and materials, including resins, coatings, films and membranes, that are incorporated into a wide range of products essential to the daily lives of Minnesota residents and businesses. AGCCA offered comments on various provisions in the Proposed Rule during the initial comment period and appreciates MPCA's responses that it will address some of those concerns, such as the inconsistency in the number or reports required for each product in Part 7026.0020, Subpart 1. Here we respond to issues that have been raised by other comments OAH and MPCA have received.

Deadline for Reporting

In their comments dated May 21, 2025, the Sierra Club North Star Chapter asserts that the Proposed Rule's January 1, 2026, reporting compliance date is reasonable because companies should have already been collecting data for EPA's TSCA Section 8(a)(7) Reporting and Recording Requirements. In fact, the history of the TSCA 8(a)(7) rule demonstrates that MPCA's January 1, 2026, deadline is unreasonable and unattainable. First, it is important to understand that the TSCA 8(a)(7) rule uses a narrower definition of "PFAS" than the Proposed Rule; so efforts

companies may have undertaken to comply with the TSCA 8(a)(7) rule will not be sufficient to comply with the Proposed Rule. In addition, the TSCA 8(a)(7) rule incorporates a much more reasonable and practicable due diligence standard ("known or reasonably ascertainable") than the Proposed Rule, which requires manufacturers to request information "until all information is known." Finally, even though the TSCA 8(a)(7) covers a narrower scope of PFAS compounds and adopts a much less onerous due diligence standard, EPA was recently forced to extend the reporting period for the rule for a second time because of the complexities of implementing such a massive reporting requirement.[1] In addition, EPA has announced that the Agency plans to consider further revisions to the TSCA 8(a)(7) rule to alleviate the burdens associated with the current reporting requirements. As such, the history of EPA's implementation of TSCA 8(a)(7), far from supporting the Proposed Rule's January 1, 2026, reporting deadline, is a cautionary tale that demonstrates the unreasonableness of the reporting deadline.

AGCCA agrees with the Minnesota Chamber of Commerce and various other groups who provided written comments and participated in the ALJ hearing held on May 22, 2025, that MPCA should extend the reporting period. We urge MPCA to exercise its authority under the Law to grant a blanket extension of the reporting deadline for all manufacturers, since it is unreasonable to expect that manufacturers will be able to provide compliant notifications by the current deadline of January 1, 2026. Until the final rule is issued, and the concerns and uncertainties are resolved, manufacturers will not understand precisely what information needs to be obtained, including from whom and by what mechanism, to comply with the reporting requirement. Similarly, without access to the reporting tool, manufacturers will be unable to assess whether the specific features and limitations of the tool will impose unforeseen barriers to submitting fully compliant reports.

Finally, MPCA stated in its Statement of Reasonableness and Need that: "Detailed guidance on how reporting entities can submit on behalf of multiple manufacturers will be included in the reporting system instructions or in a supplemental guidance document." This supplemental guidance is effectively rulemaking without following the proper procedure required under Minnesota Statute § 14 on Administrative Procedure. Specifically, Minnesota Statute § 14.101 requires MPCA to solicit comments from the public on the subject matter of a possible rulemaking proposal actively being considered by the agency. Failure to follow the rulemaking process unfairly precludes stakeholders from participating in the process. Without a full understanding of the reporting requirements, and the limitations and requirements of the reporting tool, manufacturers cannot fully prepare for reporting. Under these circumstances, it would be unreasonable to require manufacturers to comply with currently unknown and

[1] *See* 90 Fed. Reg. 20236 (May 13, 2025).

undefined reporting requirements by January 1, 2026. This is especially evident when one considers the unprecedented scope and scale of the reporting requirement, which covers roughly 15,000 different chemicals incorporated into hundreds of thousands of different product and product components that move through supply chains consisting of hundreds of thousands of manufacturers spread across the globe.

For these reasons, we strongly urge MPCA to extend the reporting deadline to at least 6 months after MPCA has finalized both these regulations and the reporting tool itself, with an opportunity to beta test the reporting tool before its rollout.[2]

Trade Secrets

While AGCCA appreciates MPCA's response that IUPAC is the preferred format for "chemical name" for international consistency and interoperability, we reiterate our comment that the use of commercial or trade names should be allowed as an alternative to specific IUPAC names. The reason for this is simple. Due to trade secret concerns, many upstream suppliers simply **will not** share specific IUPAC names with downstream product manufacturers (their customers) whose products are subject to reporting under the Law. The fact that the downstream product manufacturers can assert trade secret protection for that information will not be sufficient to persuade upstream suppliers to divulge their trade secrets – because the upstream suppliers can have no certainty that the downstream customers will successfully avail themselves of the trade secret protections available under the Proposed Rule. As a consequence, the Proposed Rule places product manufacturers in an untenable position where they cannot comply with the regulations because their suppliers will not provide the confidential chemical identity information required by the Proposed Rule. It is unreasonable for MPCA to require submission of information that, in many instances, will be impossible for product manufacturers to obtain. Moreover, the chemical identifying number that must be provided under the proposed rule is unique for each substance and provides an unequivocal, unambiguous, and interoperable method of precisely identifying PFAS substances that may be present in a product. Requiring an IUPAC name is therefore unnecessary to accomplish the objectives of the Proposed Rule.

AGCCA also disagrees with the Sierra Club's request that the public-facing reports should include the PFAS chemicals and amounts as well as products names, descriptions and categories. This information is beyond the scope of the reporting required by the Law and would result in the release of confidential information, seemingly in contravention to the trade secret protection

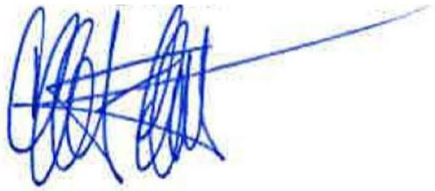
[2] We recognize and appreciate that in its June 23, 2025 "Part Two Pre-Hearing and Hearing Response to Comments" MPCA has signaled its intent to "issue an extension to the initial due date;" however we urge MPCA to ensure that the deadline is extended to at least six months following completion of beta testing and rollout of the reporting tool for the rule.

provided in the proposed Rules. Similarly, Clean Water Action's request to require entities to demonstrate the internal steps it takes to keep information secret in order to qualify for the confidentiality protection is overly burdensome and inconsistent with the Law.

***

Please let us know if you have any questions regarding the information presented in these comments. We would welcome the opportunity to discuss this with you, and we would be happy to provide you with additional relevant information.

Sincerely,



Christopher F. Correnti
President and CEO
AGC America, Inc.

Ahmed El Kassmi, Ph.D
Director, Product Stewardship & Regulatory Affairs
AGC Chemicals Americas, Inc.

Beveridge & Diamond

K. Russell LaMotte
1900 N Street, NW, Suite 100
Washington, DC 20036
+1.202.789.6080
RLaMotte@bdlaw.com

June 30, 2025

Submitted via the Minnesota Office of Administrative Hearings eComments Website

Katrina Kessler
Commissioner, Minnesota Pollution Control Agency
520 Lafayette Road N
St. Paul, MN 55155-4194

Re: Information and Communications Technology Client Rebuttal Comments on Reporting Rule Regarding Products Containing Per- and Polyfluoroalkyl Substances (PFAS)

Dear Commissioner Kessler:

On behalf of a client who is a worldwide leader in the manufacture of information and communications technology products, thank you for the Minnesota Pollution Control Agency's (MPCA's) thoughtful engagement in its June 2025 *Part One* and *Part Two Pre-Hearing and Hearing Responses to Comments*. Our client offers the following rebuttal concerning the agency's continued opposition to incorporating a de minimis threshold in the final PFAS reporting rule implementing Minn. Stat. § 116.943, subdivision 2. These comments supplement the comments we submitted on behalf of our client during the previous post-hearing commenting period in which our client requested that a de minimis threshold be added to this PFAS reporting rule.[1]

I. MPCA's Position: Minn. Stat. § 116.943 Bars a De Minimis Threshold

> "Minn. Stat. § 116.943 defines PFAS broadly and does not provide the agency discretion to exempt intentionally added PFAS based on concentration. The information required by the Legislature (Minn. Stat. § 116.943 subdivision 2, (a)(3)) includes PFAS concentrations at low levels, and a de minimis would contradict this legislative directive." (MPCA Part One Response to Comments, p. 67)

Response: There is no legislative directive in § 116.943 that prohibits the MPCA from setting a de minimis threshold in the agency's implementing rules. Subdivision 2, (a)(3) requires manufacturers to report PFAS amounts, but the law does not mandate reporting for all such amounts. The claim that including a de minimis threshold would "contradict" legislative intent lacks textual support. The statute directs the MPCA to implement reporting rules but leaves the mechanisms up to the agency, including how to handle trace levels that present significant feasibility and enforcement challenges due to their very low levels.

[1] Information and Communication Technology Client Comments on MPCA Proposed PFAS Reporting Rule (June 23, 2025), https://tinyurl.com/c4cf9edz.

Moreover, Minn. Stat. § 116.07, subd. 6 directs the MPCA to give due consideration to economic factors and feasibility, and in addition § 14.002 of Minnesota's Administrative Procedure Act requires that MPCA rules foster "maximum flexibility" for regulated parties. The MPCA has already used its rulemaking discretion in the proposed PFAS reporting rule to allow reporting through unknown concentrations, product grouping, and supplier declarations—none of which are mentioned in the statute. A de minimis threshold is a lawful and parallel tool that serves the same purpose: making the statute work in practice.

The adoption of a de minimis threshold would also avoid setting a problematic precedent. If the MPCA asserts it cannot interpret any statutory directive to exclude trace-level intentionally added substances—even those lacking any ability to test for with precision—future rulemakings under other statutes may face similar rigidity. For instance, pursuant to Minn. St. § 14.131 the MPCA must establish the reasonableness of its rules, and a departure from MPCA's precedent—particularly one that constrains the agency's own discretion—could be viewed as arbitrary or unreasoned. This scenario could undermine the agency's long-standing reliance on reasonable enforcement discretion and reduce its ability to implement effective, workable programs across sectors for years to come.

II. MPCA's Position: Unknown Concentrations Are a Practical Solution

> "The proposed rule addresses practical detection challenges in several ways. First, part 7026.0030, subp. 1, item C, subitem (1), allows manufacturers to report that a concentration is unknown when testing is not feasible, or information is unavailable." (Part One Response to Comments, p. 67)

Response: The MPCA rightly recognizes that manufacturers may face real-world difficulty in tracing or quantifying trace PFAS in complex products. To address this, the proposed PFAS reporting rule allows concentrations to be reported as "unknown."

Without a clear cutoff to screen out negligible concentrations, the "unknown" designation will undoubtedly become the default for trace-level PFAS that cannot be confidently quantified. In practice, companies will face strong incentives to report "unknown" to avoid reputational or regulatory risk. This situation could flood the reporting database with ambiguous, non-comparable entries and mask which products actually contain material PFAS content.

MPCA's position on this issue is inconsistent with its willingness to include other discretionary mechanisms not found in the statute, such as supplier attestations and product grouping referenced above. A de minimis threshold is one more such mechanism. It would filter out low-concentration uses that are inherently unverifiable and unlikely to be prioritized by manufacturer diligence or for future regulatory enforcement, allowing the MPCA and manufacturers, and ultimately consumers, to focus efforts on products where PFAS use is not only deliberate but also able to be subject to actionable oversight.

III. MPCA's Position: Minnesota's Proposed Rule Is Intentionally More Comprehensive Than Other Jurisdictions

> "The MPCA recognizes the benefits of harmonizing reporting requirements with other jurisdictions… [Minnesota's statutory requirements] are distinct in that they mandate

> reporting on all intentionally added PFAS in products sold, offered for sale, or distributed in the state, regardless of risk or use category" (Part One Response to Comments, pg. 22)

Response: A chemical reporting rule that is comprehensive is only effective if the submitted data can be used and acted upon. Even the EU's REACH regulation—widely considered the global gold standard—employs well-defined de minimis thresholds for PFAS that are restricted, and the proposed universal PFAS restriction proposal also includes de minimis values (e.g., 25 ppb per PFAS, 250 ppb total PFAS, or 50 ppm total fluorine) precisely to make enforcement and data analysis viable.

The MPCA positions itself as the new leader in PFAS regulation, stating:

> "The MPCA also notes that Minnesota is a leader in developing comprehensive reporting framework for intentionally added PFAS in products, and this proposed rule is setting the standard among states." (Part One Response to Comments, pg. 20)

Setting a standard means leading not just in scope, but in effectiveness. Aligning with international norms such as REACH and incorporating practical tools like a de minimis threshold would bolster Minnesota's credibility and success as a national model for PFAS regulation.

Moreover, no other jurisdiction has adopted such an expansive reporting obligation without incorporating either a de minimis threshold or a "reasonably ascertainable" diligence standard. Minnesota rejects the "reasonably ascertainable" diligence approach because the agency believes this approach is "not an enforceable standard" (Part Two Response to Comments, p. 106), yet simultaneously the MPCA plans to require reporting of trace PFAS levels below testing limits—levels that are not themselves enforceable. This inconsistency risks making compliance and enforcement unmanageable from the start.

IV. Risk of Misinterpretation, Reputational Harm, and Litigation

This rule will have real-world implications. Without a de minimis threshold in the rule or at least within clear agency guidance on the rule, Minnesota's public reporting regime will in practice portray trace-level PFAS the same as high-concentration, significant uses—erasing meaningful distinctions and increasing the risk of public misinterpretation. This will not only burden the MPCA and consumers with deciphering unusable data, but will also create significant reputational and legal risk for manufacturers with very limited PFAS use wishing to do business in Minnesota.

Advocacy groups or media outlets will seize on this data without context, portraying nominal PFAS use—such as residue from processing agents or low-level coatings—as inherently harmful or deceptive. This can lead to:

- Consumer confusion and backlash, even where no exposure risk exists;
- Frivolous litigation under state consumer protection laws, including greenwashing or deceptive marketing claims; and
- False comparisons between manufacturers, penalizing those who proactively mapped their supply chains to understand trace PFAS uses while others report "unknown" and face fewer consequences.

These are not hypothetical risks. PFAS-related litigation is expanding across the country. A de minimis threshold—or clear guidance indicating that nominal uses are not prioritized—would help prevent this data from being weaponized and redirect attention to truly consequential PFAS use.

V. Conclusion

Our client notes MPCA's acknowledgement of the need to further evaluate low-risk, low-concentration PFAS:

> "While a numerical de minimis threshold is not included in the rule due to statutory constraints, the MPCA will continue to evaluate harmonization opportunities with other jurisdictions and consider whether future rule revisions, statutory changes, or programmatic guidance can address concerns about low-risk, low-concentration PFAS uses more directly." (Part One Response to Comments, p. 67)

However, Amara's law was enacted over two years ago. This is the appropriate moment to get the policy right. Deferring essential clarifications until after initial reports are filed risks confusion, inefficiency, and preventable reputational harm. Whether incorporated in rule or supported through clear, contemporaneous guidance, the MPCA should act now to clarify that nominal PFAS uses are not to be prioritized for enforcement or public disclosure.

The proposed rule's success depends not only on its comprehensiveness but on its practicality. Without a de minimis threshold in the rule or in equivalent guidance, the MPCA risks generating a system that overwhelms the agency, reporting manufacturers, and consumers with unverifiable and inconsistent data. By declining to adopt a de minimis guardrail, the current approach inadvertently penalizes transparency, rewards delay, and introduces reputational and legal uncertainty for companies regardless of the scale or significance of their PFAS use. These flaws are not compelled by statute; they result from choices in rule design. A threshold would resolve these issues while advancing MPCA's goals of transparency, public trust, and meaningful accountability.

Sincerely,

K. Russell LaMotte

Principal
Beveridge & Diamond, PC
1900 N Street NW, Suite 100
Washington, DC 20036
(202) 789-6080
RLaMotte@bdlaw.com

ALLIANCE FOR AUTOMOTIVE INNOVATION

Office of Administrative Hearings
Attn: William Moore, OAH
600 North Robert Street
P.O. Box 64620
St. Paul, MN 55164-0620

June 30, 2025

Re: Rebuttal Comments of the Alliance for Automotive Innovation on Notice of Intent to Adopt New Rules Governing Reporting and Fees by Manufacturers Upon Submission of Required Information about Products Containing Per-and polyfluoroalkyl substances (PFAS), Revisor's ID Number R-4828, OAH docket number 5-9003-40410

To the Office of Administrative Hearings:

The Alliance for Automotive Innovation (Auto Innovators)[1] appreciates the opportunity to provide rebuttal comments regarding the Minnesota Pollution Control Agency's (MPCA's) Notice of Intent to Adopt New Rules Governing Reporting and Fees by Manufacturers Upon Submission of Required Information about Products Containing Per-and polyfluoroalkyl substances (PFAS), or the PFAS in Products: Reporting and Fees Rule.[2] Auto Innovators has been actively engaged with MPCA staff since rule development began and replies here to the MPCA's two Pre-Hearing and Hearing Response to Comments documents.

I. Part One Pre-Hearing and Hearing Response to Comments

On page 15, MPCA responds to Auto Innovators' proposal regarding product reporting with information provided at the vehicle family level and specifying PFAS presence in higher-level vehicle systems. MPCA's response is that "the MPCA has allowed for the grouping of such product and components for the purposes of reporting in the proposed rule under part 7026.0030 subpart 1." Specifically, subpart A.(1)(a) allows for the grouping of similar products of homogenous materials if certain criteria are met, and (b) allows for the grouping of reporting of products that contain multiple PFAS-containing components with the same criteria as (a) but for components. Auto Innovators continues to contend that the major issue is that the grouping allowed for under part 7026.0030 subpart one requires a highly stringent level of PFAS similarity that *will not*, in fact, allow the sort of reporting that we are proposing. MPCA's response does not address the concerns with how complex goods may in actuality be grouped for reporting when not all of the criteria can be met under the proposed rule. With the current language, if a single part (of the thousands) has a different PFAS chemical composition, it could not be grouped in the report. MPCA needs to clarify reporting of homogenous materials and how it relates to product components and reporting at that level. MPCA

[1] Auto Innovators represents the full automotive industry, including the manufacturers producing most vehicles sold in the U.S., equipment suppliers, battery producers, semiconductor makers, technology companies, and autonomous vehicle developers. Our mission is to work with policymakers to realize a cleaner, safer, and smarter transportation future and to ensure a healthy and competitive automotive industry that supports U.S. economic and national security. Representing approximately 5 percent of the country's GDP, responsible for supporting nearly 10 million jobs, and driving $1 trillion in annual economic activity, the automotive industry is the nation's largest manufacturing sector. www.autosinnovate.org.
[2] https://www.pca.state.mn.us/get-engaged/pfas-in-products-reporting-and-fees.

would need to loosen the thresholds in part 7026.0030 subpart 1 to enable the type of reporting proposed by Auto Innovators.

On page 24, MPCA responds to Auto Innovators' concerns that the agency is underestimating compliance costs. MPCA notes some reasons why it expects that costs may decrease over time and suggests a few ways to minimize costs. However, we do not see how this response adequately addresses our industry's concerns. Auto manufacturers release a new model of their vehicles each year, so historical information on PFAS in products is less valuable for prospective reporting. The auto industry does not expect that upstream suppliers will report information to MPCA, since some of that information is instead delivered to automakers through the industry's own data collection systems. Automakers have thousands of suppliers and will not be able to enter into agreements with all of them on short notice to cover PFAS reporting on their upstream products. Additionally, Auto Innovators does not find a lot of overlap between TSCA Section 8(a)7 reporting and Minnesota PFAS reporting. The reporting ranges and who is required to report under each rule are completely different. If a producer of a complex durable goods product were to source all of their parts domestically, they would have no required reporting under TSCA Section 8(a)7 versus full reporting of all components of that product under MPCA's proposed regulation.

On page 61, MPCA responds to Auto Innovators' concerns regarding the complexities of reporting on behalf of other manufacturers and for complicated supply chain structures. MPCA essentially notes that its proposed rule attempts to be mindful of and address these issues. However, there is still a lack of clarity regarding how spare parts will be handled for complex durable goods with respect to potential reporting on behalf of other manufacturers. If a component is already reported by the complex durable goods manufacturer, it is not clear whether the component manufacturer still needs to report it separately. Conversely, if the component manufacturer is already reporting the part, it is not clear whether the complex durable goods manufacturer must report that part separately.

On page 71, MPCA responds to Auto Innovators' suggestion to combine the two lowest concentration ranges to meet the commonly utilized concept of 0.1% as a *de minimis* value. MPCA effectively declines the suggestion. Auto Innovators emphasizes here that the 0.1% *de minimis* threshold aligns with TSCA, and that the automotive industry's International Material Data System (IMDS) utilizes a 0.1% *de minimis* threshold for many chemicals, so information <0.1% likely is not readily available. The lower, more exact concentration ranges MPCA is proposing are not reasonable and readily available information to report. Additionally, they are only likely to require additional due diligence and reporting for producers at little value to MPCA and to consumers. This has further implications in that it will result in a requirement to update reports more frequently, since per the proposed section 7026.0040 A.(1), updates to reports are required when a significant change is made to a product. Significant change is defined in 7026.0010 subpart 18 as "a measurable change in the amount of a specific PFAS from the initial amount reported that would move the product into a different concentration range listed under part 7026.0030, subpart 1, item C."

II. Part Two Pre-Hearing and Hearing Response to Comments

On page 5, MPCA responds to Auto Innovators' comment that the draft rule has the potential to stifle innovation. MPCA's response is that identifying the presence of PFAS in products and seeking substitutes for it also can foster innovation. Auto Innovators' major point is that for many critical environmental and safety technologies, such as vehicle electrification or flammability prevention,

PFAS are currently the only class of substances that will work in their particular applications. Identifying and proving out substitutes will take many years at a minimum if they are even possible. Safety and emissions technology innovations are happening at a rapid pace, and most of them require the use of PFAS in some capacity. Overly strict restrictions on PFAS, such as the stringent product reporting requirements proposed here, could stifle innovation regarding safety and emissions systems.

On page 29, MPCA responds to Auto Innovators' concerns over reporting timelines by stating that "The agency has decided outside of the rulemaking process to issue an extension to the initial due date to ensure program success. The MPCA will be providing more information on the extension of the January 1, 2026 reporting deadline in the near future." Auto Innovators briefly states its support for an extension to the initial due date of January 1, 2026; in our May 21 comments, we proposed that MPCA delay the reporting deadline until at least 6 months after the completion of beta testing of the data collection system.

On page 36, MPCA responds to Auto Innovators' concerns about needing to report replacement parts for legacy vehicles that have already been introduced into commerce and are no longer manufactured. MPCA's response is that "[i]f a manufacturer believes the legacy parts or discontinued parts within their inventory contain PFAS, they would be required to report or discontinue the sale of those products as directed by statute." This is not a workable solution for the auto industry or for Minnesotan consumers. It will be difficult if not impossible for OEMs to provide PFAS data for legacy parts. Minnesotans would have to drive (or tow) their vehicles across state lines to have them fixed with legacy parts. Federal law also requires automakers to fix warranty-related problems using legacy replacement parts. This interpretation would force automakers to violate Federal law in order to be in compliance with a new Minnesota law. MPCA should reconsider its position.

On page 48, MPCA responds to Auto Innovators' concerns about component-level reporting, particularly for the auto industry which has around 30,000 parts per vehicle and many different vehicle lines and variations. MPCA again responds that the allowance for grouping of products and components under part 7026.0030 subpart 1 resolves this concern. Auto Innovators continues to contend that the major issue is that the grouping allowed for under part 7026.0030 subpart one requires a highly stringent level of PFAS similarity that *will not*, in fact, allow much if any aggregation of products or components for reporting; in order to do so in a helpful manner for industry, MPCA would need to loosen the thresholds in part 7026.0030 subpart 1.

On page 114, MPCA responds to Auto Innovators' request that MPCA consider a "known or reasonably ascertainable" information standard. MPCA's response is that it "does not find EPA's 'known or reasonably ascertainable' standard enforceable." Auto Innovators strongly recommends MPCA consider a non-absolute threshold for information reporting. If MPCA cannot set reasonable expectations for information reporting, it is going to force companies to not sell products, such as complex durable goods, in the state.

Conclusion

Thank you for your consideration of our comments. Auto Innovators argues strongly that the Office of Administrative Hearings and MPCA carefully listen to the concerns of industry. Some of the MPCA responses seem to expect that the agency and industry will "work things out" as implementation

proceeds; however, if our path to compliance is not clear and is not reasonable, industry may instead choose to cease sales operations in the state rather than risk noncompliance.

Please feel free to reach out to me if you need any further information or would like additional discussion.

Sincerely,

Catherine Palin
Alliance for Automotive Innovation

Warren Lehrenbaum Attachment

AGC CHEMICALS AMERICAS, INC.
55 E. Uwchlan Ave., Suite 201
Exton, PA 19341
Phone: (610) 423-4300
Fax: (610) 423-4301
http://www.agcchem.com

June 30, 2025

Honorable Judge Jim Mortenson
Office of Administrative Hearings
600 North Robert Street, PO Box 64620
St. Paul, Minnesota 55164-0620

Re: SUPPLEMENTAL COMMENTS -- Proposed Rules Relating to PFAS in Products Reporting and Fees

Dear Judge Mortenson:

AGC Chemicals Americas ("AGCCA") and its parent company, AGC America, Inc., offer these additional comments to **supplement** our earlier-filed rebuttal comments on the Minnesota Pollution Control Agency's (MPCA's) Proposed Permanent Rules Relating to PFAS in Products for Reporting and Fees ("Proposed Rules") Revisor's ID Number R-4828, OAH docket number 5-9003-40410, pursuant to Minnesota Statutes § 116.943 (the "Law"). These supplemental comments address one specific aspect of MPCA's "Part Two Pre-Hearing and Hearing Response to Comments" document, dated June 23, 2025 ("Part Two Response"), pertaining to the meaning of "distribute for sale" in 7026.0010, subpart 9, and "distribute in the state" in 7026.0020.

In its Part Two Response MPCA asserts that, for purposes of the reporting requirements, a product is "distributed in the state" and therefore subject to reporting if the product simply transits through Minnesota but is never sold or otherwise delivered to any "consumer" in the state. Thus, for example, according to MPCA a product will be subject to reporting if it is merely shipped through Minnesota on its way to Wisconsin.[1] This interpretation is unreasonable, unnecessary to achieve the intent of the legislature, and is arguably unconstitutional.

Literally millions of products likely transit through Minnesota each year on the way to their ultimate destinations, which may be another state or territory of the United States or a location in Canada or a destination overseas. It is unreasonable to require reporting on those millions of products merely because they transit through the state, and there is no indication that the legislature intended such a sweeping requirement. Similarly, a product manufacturer has no

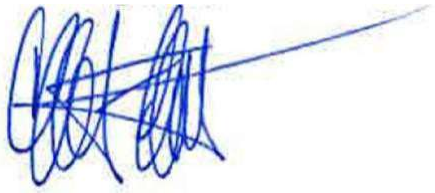
[1] *See* Part Two Response at 7-8, 15.

way of knowing whether a truck driver for a common carrier, or a particular rail car loaded with goods, uses a route (or is forced to take a detour) through Minnesota on its way to its intended destination. Under these circumstances it is unreasonable to require reporting by such a manufacturer. Finally, MPCA's interpretation, which would impose onerous reporting requirements on millions of products transiting through the state, represents an unreasonable burden on interstate commerce and, therefore, is likely unconstitutional.

For these reasons, MPCA should clarify that a product is "distributed in the state" and therefore subject to reporting under the Proposed Rules only if it is sold or otherwise delivered a consumer in Minnesota and is not merely transiting through the state on the way to its ultimate destination.

Please let us know if you have any questions regarding the concerns addressed in these comments.

Sincerely,



Christopher F. Correnti
President and CEO
AGC America, Inc.

Ahmed El Kassmi, Ph.D
Director, Product Stewardship & Regulatory Affairs
AGC Chemicals Americas, Inc.

Judah Prero Attachment 1

Arnold & Porter

Judah Prero
+1 202.942.5411 Direct
Judah.Prero@arnoldporter.com

June 30, 2025

Administrative Law Judge Jim Mortenson
Minnesota Office of Administrative Hearings
600 North Robert Street
PO Box 64620
St. Paul, MN 55164-0620

Re: In the Matter of Proposed New Rules Governing the Reporting and Fees by Manufacturers Upon Submission of Required Information about Products Containing Per- and Polyfluoroalkyl substances (PFAS); Revisor's ID Number R-4828
OAH Docket 5-9003-40410
Rebuttal Comment

Dear ALJ Mortenson:

The Chemical Users Coalition (CUC) has provided comments in response to the Minnesota Pollution Control Agency's (MPCA) Proposed Permanent Rules Relating to PFAS in Products; Reporting and Fees (the "Proposed Rule"). Upon review of the MPCA's Response to Comments, CUC is compelled to address certain issues and to file these comments in response.

CUC is an association of companies from diverse industries interested in chemical management policy from the perspective of those who use, rather than manufacture, chemical substances.[1] CUC encourages the development of chemical-regulatory policies that protect human health and the environment while simultaneously fostering the pursuit of technological innovation in the context of international markets and the global economy.

As mentioned in our previously submitted comments (enclosed), and as acknowledged by MPCA in the Response to Comments, the scope and complexity of the Rule may pose significant compliance challenges, particularly for manufacturers and importers of complex products that may contain components with PFAS content. For complex manufactured products, the number of component parts can be in the thousands. The number of companies involved in the manufacture of any constituent part can be numerous, difficult if not impossible to track, and even if they could be identified, many suppliers globally may simply refuse to cooperate. Consequently, the required reporting of PFAS that may be present in such products creates a significant challenge.

[1] The members of CUC are Airbus S.A.S., The Boeing Company, Carrier Corporation, HP Incorporated, IBM Company, Intel Corporation, Lockheed Martin Corporation, the National Electrical Manufacturers Association, RTX Corporation, Sony Electronics, Inc., and TDK U.S.A. Corporation.

The due diligence standard proposed by MPCA (the reporting entity "must request . . . until all required information is known") is simply unworkable and not realistic. CUC, along with many other commenters, noted this, and pointed to the standard used by the Environmental Protection Agency for its reporting requirements ("EPA") of "known to or reasonably ascertainable." MPCA's rejection of this standard demonstrates a profound lack of understanding of EPA's standard, how it has been utilized for years for mandated reporting, and the true complex nature of manufacturing and supply chains.

The EPA's due diligence standard of "known to or not reasonable ascertainable" is used for purpose of the PFAS Reporting Rule under (8)(a)(7) of the Toxic Substances Control Act (TSCA) and numerous other reporting requires imposed under TSCA. Unlike what MPCA appears to presume, the TSCA standard is not used solely for the type of retrospective reporting required in the Section 8(a)(7) rule. EPA has used this standard for its Chemical Data Rule (CDR) reporting[2] (which is required every 4 years) as well as for the submission of New Chemical Premanufacture Notices (PMNs)[3] (which, by definition are "forward-looking" submittals). EPA has developed extensive guidance on the application of this standard. It is unclear MPCA's basis for asserting that "'(r)easonably ascertainable' is not an enforceable standard" when a federal regulatory agency – EPA – has been using that due diligence standard for decades. It also is difficult to understand why MPCA concludes that its legal mandate to collect information is so vastly different than other regulatory programs (including federal programs that in some cases require a federal agency to make regulatory determinations based on the submitted information) that MPCA must require a unique – and impossible to satisfy – due diligence standard.

CUC disagrees with MPCA that "(i)t is reasonable to ask manufacturers to *continue to pursue* all information regarding PFAS use in their products." As currently interpreted by MPCA, the imposition of such a standard could require an entity subject to the State's reporting rule to continue making inquiries of its suppliers *ad infinitum*. Asking another entity for the same information numerous times does not guarantee an eventual response. As noted above and in CUC's previously-submitted comments, in the case of complex manufactured products with many component parts (some which may include assembly steps involving intricate parts from multiple suppliers), requiring such endless inquiries simply is not logical, is impractical, and simply sets up product manufactures and importers for failure and potential exposure to enforcement actions. In addition, it may lead to manufacturers simply opting not to do business in Minnesota.

MPCA's reference to Oregon as another jurisdiction with a high standard for due diligence further demonstrates that MPCA is either not aware of the infeasibility of the Proposed Rule's due diligence standards or may not care. Oregon's Toxic-Free Kids Act requires reporting on a very

[2] 40 CFR Part 711
[3] 40 CFR 720.65 (c)(vi)

discreet set of substances, which are listed, in a specific product category. MPCA's Proposed Rule requires reporting not on a single substance, or even a finite list of identified substances, but rather a class of substances that can encompass thousands of varying substances, some of which are proprietary. Furthermore, the Proposed Rule requires reporting on the presence of PFAS in literally everything that enters commerce in Minnesota. The amount of effort required for compliance with the Proposed Rule is simply not comparable to the referenced Oregon requirements. To suggest that the due diligence standard should be the same for both belies a lack of understanding of the nature of the substances, the product categories, and complex (international) supply chains.

The CUC believes that the Proposed Rule's due diligence standard is impractical, unworkable, and borders on being arbitrary and capricious. CUC respectfully requests that MPCA replace the standard currently in the Rule with the standard EPA has used successfully for decades.

The CUC appreciates your consideration of these comments. If you have any questions relating to this submission, please feel free to contact me.

Sincerely,

Judah Prero
Counsel to the Chemical Users Coalition

Enclosure

RECEIVED
By: OAH on 6/30/2025

Before the Minnesota Office of Administrative Hearings
In the Matter of Proposed New Rules Governing Reporting and Fees by Manufacturers Upon Submission of Required Information about Products Containing Per-and polyfluoroalkyl substances (PFAS),
Revisor's ID Number R-4828, OAH Docket No. 5-9003-40410

Comments of the Chemical Users Coalition

The Chemical Users Coalition ("CUC")[1] appreciates the opportunity to provide our comments on the Proposed Permanent Rules Relating to PFAS in Products: Reporting and Fees (the "Proposal"). CUC is an association of companies from diverse industries that are interested in chemical management policy from the perspective of those who use, rather than manufacture, chemical substances. CUC encourages the development of chemical regulatory policies that protect human health and the environment while simultaneously fostering the pursuit of technological innovation. Aligning these goals is particularly important in the context of chemical management policy in a global economy. CUC Members have been actively engaged with federal and state regulators on PFAS-related legislation and regulation, including other activities relating to the Minnesota Pollution Control Agency's ("MPCA") efforts to implement Amara's Law.

CUC appreciates MPCA's efforts to implement a balanced reporting requirement that would gather information and data on products that contain PFAS while not overburdening those who need to report. We are providing comments on a section-by-section basis in the more detailed comments below. We offer these initial general comments as well.

General Comments

In the Statement of Need and Reasonableness for the Proposal (the "SONAR"), MPCA states that the reports to be received containing PFAS-in-products information will have utility both for MPCA and consumers. Specifically, it notes that "Informed consumers are key to reducing PFAS exposure and pollution. By providing clear, accessible information on which products contain intentionally added PFAS, the proposed rule empowers consumers to make educated purchasing decisions."

CUC believes that the goal of educating and informing consumers to make educated purchasing decisions is not met with this reporting requirement. As discussed further below, the information to be gathered by the proposed reporting requirements will not provide the state, nor consumers, with information which is informative of the potential risks of the specific PFAS which might be present in products, nor the likelihood of PFAS being released in a meaningful way from a

[1] The members of CUC are Airbus S.A.S., The Boeing Company, Carrier Corporation, HP Incorporated, IBM Company, Intel Corporation, Lockheed Martin Corporation, the National Electrical Manufacturers Association, RTX Corporation, Sony Electronics, Inc., and TDK U.S.A. Corporation.

product about which information is being gathered. Unfortunately, the regulations proposed will impose reporting burdens on submitters and administrative burdens on state government officials who will need to collect and process information being submitted.

The adoption of the class-wide approach to regulating PFAS reflected in this Proposal fails to recognize that (as defined) the term "PFAS" comprises a group of thousands of synthetic chemicals that are used widely throughout the world, in a broad range of applications. Chemically, toxicologically, and physically, PFAS differ widely. Included in the category as PFAS are substances in the solid (e.g., fluoropolymers), liquid (e.g., fluorotelomer alcohols), and gaseous (e.g., hydrofluorocarbon refrigerants) forms. The fundamental physical, chemical, and biological properties of solids, liquids, and gases are clearly different from one another. Furthermore, PFAS vary substantially in their physicochemical properties and may include polymers and non-polymers; solids, liquids, and gases; volatile and non-volatile compounds; and compounds that are water soluble and water insoluble.

The simple reporting of data on thousands of unique substances and the products in which they appear, even in some minute quantities, fails to inform the consumer that there are significant differences among the unique substances included within the broad definition of PFAS the legislation provides and that many PFAS may not pose any risk of harm to human health or the environment. Furthermore, there may be extremely limited to no exposure to consumers from the PFAS within reported products, as the PFAS may not be present on a product's surface nor migrate into the environment. The reporting requirement provides no scientific context for any of the information provided and will not truly inform or educate consumers in a meaningful way. The information being gathered will be subject to misinterpretation and will be likely to exaggerate risks.

CUC notes that the scope of the regulation is impractically large. CUC recommends that reporting should be implemented as a phased approach. Instead of requiring reporting on all products, whether for industrial or consumer use, and for all PFAS, at one time, the focus of an initial round of reporting could be limited. It could provide for reporting on both a specific subset of PFAS and product categories, namely those of highest concern, and the scope of subsequent reporting could be revisited thereafter. By limiting the initial scope and breadth of PFAS and products for which reporting requirements are initially imposed, MPCA can provide a more reasonable and practical opportunity for suppliers of products and components that are incorporated within complex articles to determine the presence of PFAS in their supply chain and to begin evaluating opportunities to phase out certain uses of PFAS where possible. This also will permit the development and submission of more accurate reporting.

Furthermore, CUC recommends that MPCA adopt a reporting threshold, similar to those Environment and Climate Change Canada adopted for their 71(b) PFAS reporting requirement.[2] This would ensure that the entities that are selling products with significant quantities of PFAS are those that report and would ease the burden on manufacturers whose PFAS use is negligible.

Our comments on specific provisions in the Proposed Rule follow.

[2] Canada Gazette, Part I, Volume 158, Number 30: SUPPLEMENT, July 27, 2024, *Notice with respect to certain per- and polyfluoroalkyl substances (PFAS)*

7026.0010 Definitions

Subp. 2. ***Authorized representative.*** *"Authorized representative" means a person designated by a manufacturer to report on behalf of the manufacturer.*

CUC requests clarification from MPCA as to the intent of this definition. For example, MPCA could simply intend for an individual who is a representative of the manufacturer to report, or MPCA could intend for someone who has more direct or intimate knowledge of the actual product composition to be the authorized representative for reporting. If MPCA has no preference, it would be helpful if MPCA could explicitly indicate such.

Subp. 7. ***Component.*** *"Component" means a distinct and identifiable element or constituent of a product. Component includes packaging only when the packaging is inseparable or integral to the final product's containment, dispensing, or preservation.*

Complex finished products may contain a multitude of individual and potentially integrated components. For example, a passenger automobile/vehicle could have an air conditioning system that is charged with a PFAS refrigerant or refrigerant blend. The system may also have PFAS-containing seals, gaskets, nuts, bolts, wires, and hoses that are all individual components, but would be difficult to identify as distinct unless the system was completely disassembled. CUC requests that MPCA clarify the meaning of a "distinct and identifiable element or constituent of a product." Ascertaining whether every small component of a complex manufactured good may be impossible, and at a minimum would impose a significant burden on manufacturers.

The definition of "Identifiable element" makes understanding the meaning of a component even more confusing. "Identifiable element" is defined as "*an element that can be recognized, distinguished, or discerned, even when not visually evident, as in the case of a mixture or formulation.*" This appears to indicate that literally everything and anything is considered a "component." It may be impossible to discern the various substances in a mixture or formulation once it is complete. To categorize an element as "identifiable" simply because at one point in time it was separate and distinct from others renders the definition meaningless. If MPCA truly means that a manufacturer must account for literally every molecule of a product, breaking down the constituent components of every single drop of adhesive, coating, lubricant, colorant, solder, regardless of how much of the substance is present in the product, MPCA is placing a mammoth compliance burden - assuming it can actually be achieved - on manufacturers. CUC requests that MPCA reconsider this definition in light of the significant burden it would impose contrasted with the limited utility of information that would likely be gleaned from requiring such an evaluation.

Subp. 14. ***Manufacturer*** *"Manufacturer" means the person that creates or produces a product, that has a product created or produced, or whose brand name is legally affixed to the product. In the case of a product that is imported into the United States when the person that created or produced the product or whose brand name is affixed to the product does not have a presence in the United States, manufacturer means either the importer or the first domestic distributor of the product, whichever is first to sell, offer for sale, or distribute for sale the product in the state.*

There are circumstances when two different entities meet that definition: one may manufacture the product and the other may legally affix their name to the product. In such a circumstance, it is not clear who the "manufacturer" is and therefore which entity has the compliance obligation. MPCA should clarify which entity has the primary obligation to report.

7026.0020 PARTIES RESPONSIBLE FOR REPORTING

Subpart 1. ***Scope.*** *A manufacturer or group of manufacturers of a product sold, offered for sale, or distributed in the state must submit a report for each product or component that contains intentionally added PFAS.*

- CUC appreciates MPCA's effort to lessen the reporting requirements by allowing for groups of manufacturers to report together. This is evidenced by the allowance made in 7026.0030 for reporting groupings of similar products. However, as currently drafted, with the specific criteria needed to allow for "grouped" reporting, these allowances will have limited applicability and utility.

  Different manufacturers will often have different numeric codes assigned to their products, even if they are similar. This alone creates complexity as the same code cannot be provided in a joint submission. Furthermore, even for what may seem to be identical products from different manufacturers, suppliers of component parts and the material composition can differ. This is often the case even for single products from the same manufacturer: the supplier of components may differ during the course of any given year due to supply chain and economic issues, in which case "identical" product from one manufacturer may not be exactly "identical" as there may be slight variations in material composition – whether it be in the PFAS used or the quantity of a PFAS used - even within the same product.

  In order to provide a substantive easing of the compliance burden on manufacturers, MPCA should consider allowing for greater latitude in whom and what could qualify for joint reporting. For example, for "similar" products, MPCA could allow a report to contain multiple entries for PFAS used or multiple concentration ranges to cover all permutations. The report would indicate that PFAS is present in the products, providing MPCA with this basic information, and the need for multiple reports would be eliminated, easing the compliance burden on manufacturers.

  Additionally, CUC believes that any "grouping" of reporting, whether of manufacturers or products, would reduce the burden on MPCA of reviewing and processing reports, as there will be fewer reports. It therefore would be product for MPCA to incentivize the use of the group reporting provisions. However, as mentioned above, it seems unlikely that manufacturers will be able to utilize group reporting. In fact, with the proposed provisions that penalize all manufacturers that report together for the failure of one of the parties, there is a significant disincentive for manufacturers to form a group to report. CUC believes that, as suggested above, greater flexibility should be added so that the efficiencies of group reporting can be realized by MPCA.

7026.0030 REPORT; REQUIRED INFORMATION

Subpart 1. Report Required

- The Proposal requires that a report be submitted on or before January 1, 2026. This date for reporting is not practical given that the reporting rules and information technology processes are not yet finalized. The initial reporting timeline should be delayed sufficiently to provide for *at least* 12 months after the Minnesota reporting rule and reporting process and platform have all been finalized.

- The Proposal provides that the report must be submitted before the product can be sold, offered for sale or distributed in commerce. It is likely that there will be products containing PFAS that were distributed to retailers or other entities operating in the state for months if not years prior to the effective date of the reporting requirement. The manufacture and placing of these products in the Minnesota market may have ceased. Such manufacturers may not even know that these products are still in stores. CUC requests clarification that in this scenario, manufacturers do not have any obligation to report despite the fact that the product may be sold, offered for sale or distributed to an end user after January 1, 2026.

- The Proposal is unclear on when the reporting obligation is triggered when a new product will be sold into Minnesota beginning after January 1, 2026. If a product will be sold into Minnesota starting June 2027, would a report be required at that time, or would the manufacturer wait to file until the beginning of 2028? Assuming they must notify in June 2027, would they still need to submit a certification in 2028, which is only a few months later? CUC requests that MPCA clarify the application of the reporting obligation.

- The Proposal provides that the report must be submitted before the product can be sold, offered for sale, or distributed in the state. CUC requests that MPCA clarify whether approval of the report is required prior to sale, offering for sale or distribution in the state, or simply that the report and accompanying fee be submitted and then sale can commence.

- For many products, there may be a lengthy manufacturing period once an order is placed by the customer. A customer may place the order, may tender a deposit, and manufacturing commences. During the time of manufacture, the composition of components varies due to available parts and suppliers. CUC requests that MPCA provide guidance on when the "sale" of such an item occurs and at what time the obligation to report is triggered. If the obligation to report is triggered when the order is placed, as that commences the "sale," it is possible that PFAS presence in a component may not be contemplated. CUC therefore recommends that MPCA only require reporting in such a scenario at the time of final delivery to the customer in Minnesota.

- The Proposal lists a number of specific pieces of information that must be reported, such as the specific PFAS used, its function and its concentration range. In many situations, it

will be challenging for a manufacturer to provide the exact PFAS (by name and CAS), its function, and the concentration range. Complex supply chains make this type of information challenging to obtain. For example, while PFAS are not typically on an SDS for formulations, identifying PFAS becomes even more challenging for manufacturers of complex goods. Furthermore, in complex supply chains, thousands of global suppliers provide hundreds of thousands of parts, and it may take many years to track down this information, if possible. CUC recommends that the MPCA allow for reporting of general information, such as simply that PFAS is present, as that will provide MPCA with the information that there is indeed PFAS in a specific product.

- The proposal provides that the concentration of PFAS chemicals in a product or components of a product made up of homogenous material must be provided within a range, or one can indicate PFAS is present but amount or concentration range is unknown, or the total organic fluorine (TOF) if the amount of PFAS is not known. It is unclear if MPCA is requiring that TOF testing be performed if the exact amounts cannot be ascertained, or that is an alternative to simply report~~ing~~ if it cannot be ascertained. CUC requests that this be clarified.

  Furthermore, the requirement for TOF testing is impossible in most scenarios. As discussed, if MPCA is requiring that every single "component" be accounted for, TOF testing cannot be performed on a finished product, particularly complex manufactured goods, to ascertain if any PFAS is present in any component. CUC requests that MPCA allow the reporting of TOF values as an alternative to PFAS concentration ranges, when feasible, and that if the concentration range/amount is unknown, that fact can be reported in satisfaction of the requirements.

- CUC recommends that reporting not be required for spare/replacement parts for existing products, and materials needed to maintain and repair existing products. These parts often are not newly manufactured. Rather, when a new product is manufactured, spare and replacement parts are manufactured and maintained in accordance with either contractual or regulatory requirements so that the product can be continuously used and need not be replaced solely because a replacement part is not available. If these parts are not newly manufactured, it may be difficult for the entity selling the parts to ascertain PFAS content due to the lapse of time since manufacture. A parts supplier, if required to report, may simply decide not to provide these parts to customers in Minnesota, due to the compliance burden. The availability of spare/replacement parts allows for the continued use and maintenance of existing products, thereby preventing the accumulation of unnecessary waste including e-waste.

7026.0040 REPORTING UPDATES.

The Proposal requires that by February 1 of each year, manufacturers must either update reports to reflect changes to information previously submitted or recertify the previously submitted report.

While CUC understands a need to update information when what MPCA has on record changes, the requirement to recertify is unnecessary and only serves to add a compliance burden, creating another opportunity to find a violation - and an opportunity to collect a fee – on those attempting to do business in Minnesota. Once there is an affirmative obligation to ensure that the information MPCA has been provided is (and remains) accurate, annual recertifications are not necessary. CUC requests that this requirement be eliminated and that updates be required only when a material change in a product's PFAS composition has occurred.

7026.0050 WAIVERS.

The Proposal allows for the commissioner to waive all, or part of the information required if substantially equivalent information is publicly available. As MPCA is aware, EPA will be moving forward with its own PFAS reporting under Section 8(a)(7) of the Toxic Substances Control Act. To ease the reporting burden and reduce duplication of effort, CUC recommends that MPCA issue a blanket waiver for all manufacturers that will be reporting information to EPA to comply with that reporting requirement.

7026.0070 TRADE SECRET DATA REQUEST.

The Proposal provides for procedures to maintain confidential business information, or "trade secret data," as "not public." However, the SONAR states that MPCA anticipates utilizing the Interstate Chemicals Clearinghouse (IC2) High Priority Chemicals Data System, an application that allows manufacturers to submit data on chemicals in products, and for participating states and the public to access that reported data from the required reporting. As this database is shared by multiple states, CUC requests that MPCA explain how information trade secret data submitted will indeed be protected when other jurisdictions will have access to this very information.

The procedures by which MPCA will process trade secret claims must be clearly stated and known to all manufacturers who will need to report. Substantiation standards and submission requirements must be articulated, and the review process must be transparent and predictable. Trade secret data is of vital importance to manufacturers, and CUC believes that MPCA must recognize this and make the efforts needed to ensure that the data protection system is robust.

7026.0080 DUE DILIGENCE.

The Proposal states that "(a) manufacturer or group of manufacturers must request detailed disclosure of information required in part 7026.0030 from their supply chain until all required information is known." The SONAR explains that "(i)t is reasonable to require manufacturers or a group of manufacturers to continue to request information from their supply chain until the reporting requirements can be fulfilled because PFAS can be present at various stages of product manufacturing and may be introduced at different points within the supply chain. By ensuring that manufacturers trace PFAS usage through multiple tiers of manufacturers in the supply chain, the MPCA can gather comprehensive and accurate data on PFAS in products, thereby preventing gaps in reporting that could undermine the rule's effectiveness."

CUC believes that such an approach fails to acknowledge the complexity of global supply chains, particularly for complex manufactured goods. As previously discussed, for complex manufactured goods, the number of components, and specifically using the definition for "components" in the Proposal, can be in the thousands. The number of companies involved in the manufacture of any constituent part can be numerous, difficult if not impossible to track, and even if they could be identified, many suppliers globally may simply refuse to cooperate. It is simply naïve to believe that repeated requests for information – assuming the parties can be identified - will actually result in the provision of information so that all required information is known.

In US EPA's Initial Regulatory Flexibility Analysis (IRFA) and Updated Economic Analysis for the TSCA 8(~~a~~)(7) PFAS Reporting Rule, EPA noted that there are "various challenges companies expect from contacting suppliers (e.g., foreign suppliers not responding or refusing to give information, suppliers going out of business, etc.)." Furthermore, it was EPA's understanding that "many PFAS are used in such a way that their use is a trade secret or there is no requirement that their use be stated in a specific application." EPA also recognized that article supply chains are complex, and for certain instances testing would be needed to determine the presence of PFAS. Because of these and other factors, EPA significantly revised the cost of compliance with the TSCA 8(a)(7) rule from $10.8 million to $876 million. This estimate was for compliance with a rule that required reporting data that was "known or reasonably ascertainable," not utilizing the unrealistic due diligence standard in the Proposal. It is evident that attempting to secure PFAS related information from suppliers is a costly and time intensive endeavor with no guarantee of success.

It behooves MPCA to use a familiar and accepted due diligence standard that has been used for decades by EPA for reporting – that information be "known to or reasonably ascertainable." "Known to or reasonably ascertainable by" is generally defined to mean "all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know." This is a realistic standard with which industry is familiar and has been successfully used by EPA. Keeping the current due diligence standard will result in codification of an unachievable mandate and set manufacturers up for failure and non-compliance, even after valuable time and resources have been expended in efforts to comply.

To address the situation where PFAS content information cannot be obtained from a supplier due to trade secret or non-responsiveness concerns, CUC suggests that MPCA authorize and implement a joint submission system. Such a system would allow manufacturers to submit their suppliers' contact information when such suppliers were reluctant to provide chemical substance information to the customers due to confidentiality concerns. The system would directly contact the upstream suppliers so that those suppliers could submit the needed information directly to the state. The duty to report would then lie with the suppliers, and the reporting manufacturers would have fulfilled their reporting obligation by providing the supplier contact information.

7026.0100 FEES

The Proposal states that "*A manufacturer must pay a $1,000 fee to submit the initial report under part 7026.0030, subpart 1.*" As discussed above, 7026.0020 states that a manufacturer must submit a report for each product or component that contains intentionally added PFAS. The Proposal states further that "A manufacturer must pay a $500 flat fee for the annual update according to part 7026.0040, subpart 1, or annual certification update according to part 7026.0040, subpart 3."

Based on the plain read of the text, it is not clear if MPCA is requiring $1,000 per report or $1,000 per manufacturer, regardless of how many reports that manufacturer submits. The term "flat fee" is only used in connection with the annual update/recertification. That would imply that there is no flat fee for the initial report. Furthermore, the "initial report" is simply the first report submitted as opposed to the annual reporting. A manufacturer may need to submit numerous initial reports, as a report is needed for each product or component, and it appears that a $1,000 fee is required for each initial report.

The language in the SONAR addressing the requirement does not provide clarity. It states that "Subpart 2 establishes a $1000 flat fee per manufacturer for the initial report." The term "flat fee" is not used in the regulatory text. Furthermore, this language implies that MPCA is expecting a single initial report from a manufacturer, which is highly unlikely for many product manufacturers. If MPCA indeed is only requiring a single $1,000 fee for each manufacturer that reports, regardless of how many reports are submitted, MPCA must state that clearly and unequivocally.

CUC also requests clarification as to whether a manufacturer who has previously reported for a specific product needs to pay a fee if at some later point in time, a new product is introduced into commerce in Minnesota by that manufacturer. If indeed fees are imposed per manufacturer, fees would not need to accompany reports for new products introduced at later times.

7026.0090 REPORTING EXEMPTIONS.

The Proposal exempts a product for which federal law governs the presence of PFAS in the product in a manner that preempts state authority from the reporting requirements. CUC recommends that MPCA elaborate on this exemption and expand it by providing that the exemption would apply to products that are required to meet federal standards or requirements of the United States Department of Transportation, Federal Aviation Administration, the National Aeronautics and Space Administration, the United States Department of Defense or the United States Department of Homeland Security or are products that have been authorized or are subject to approvals issued by federal agencies such as the FDA (e.g., drugs and devices) and EPA.

Conclusion

CUC appreciates the opportunity to submit the foregoing comments. We would welcome the opportunity to meet with MPCA staff to address our comments and to assist in refining the proposal.

June 30, 2025

Submitted via the Minnesota Office of Administrative Hearings eComments Website

Katrina Kessler
Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road N
St. Paul, MN 55155-4194

Re: SEMI and SIA Reply to the MPCA's Response to Comments on Proposed Reporting and Associated Fees Rule for PFAS-Containing Products

Dear Commissioner Kessler:

On behalf of SEMI[1] and the Semiconductor Industry Association (SIA)[2], we write to offer comments in reply to the Minnesota Pollution Control Agency (MPCA or Agency) Response to Comments[3] posted in the docket during the post-hearing comment period for the Agency's Proposed Permanent Rules Relating to PFAS in Products: Reporting and Fees (the Proposed Rule) to implement Minn. St. § 116.943.

Given the scope and short timeframe for the current rebuttal comment period, these comments are limited to replying to specified key areas of concern for SEMI and SIA as discussed in the MPCA's Response to Comments, including the reporting deadline, due diligence standard, proposed component-level reporting structure, lack of a de minimis threshold, product testing, and our request for a semiconductor reporting waiver. SEMI and SIA remain committed to the recommendations made in our

[1] SEMI® represents more than 3,000 member companies to advance the technology and business of electronics manufacturing. SEMI members are responsible for the innovations in materials, design, equipment, software, devices, and services that enable smarter, faster, more powerful, and more affordable electronic products. Electronic System Design Alliance (ESD Alliance), FlexTech, the Fab Owners Alliance (FOA) and the MEMS & Sensors Industry Group (MSIG) are SEMI Strategic Association Partners, defined communities within SEMI focused on specific technologies. Since 1970, SEMI has built connections that have helped its members prosper, create new markets, and address common industry challenges together. SEMI maintains offices in Bangalore, Berlin, Brussels, Hsinchu, Seoul, Shanghai, Silicon Valley (Milpitas, Calif.), Singapore, Tokyo, and Washington, D.C. For more information, visit www.semi.org.

[2] SIA has been the voice of the semiconductor industry for over 45 years, representing 99 percent of the U.S. semiconductor industry by revenue and nearly two-thirds of non-U.S. chip firms. Semiconductors are one of America's top export industries and a key driver of America's economic strength, national security, and global competitiveness. The semiconductor industry directly employs over 345,000 workers in the United States, and U.S. semiconductor company sales totaled $318 billion in 2024. Through this coalition, SIA seeks to strengthen leadership of semiconductor manufacturing, design, and research by working with Congress, the Administration, and key industry stakeholders around the world to encourage policies that fuel innovation, propel business, and drive international competition. Additional information is available at www.semiconductors.org.

[3] The MPCA posted the Response to Comments in two parts: Part 1 (https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07g.pdf) and Part 2 (https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07h.pdf).

organizations' full comments submitted during the pre-hearing comment period[4] and through SEMI's testimony given during the May 22, 2025 hearing on the Proposed Rule. While we appreciate MPCA's consideration and response to our comments, we find many, if not most, of the no-action responses to concerns raised depend on citations to precedent material without considering feasible interpretations that could mitigate the matter of the concern. We strongly recommend the MPCA consider the matters of practicality that have been raised by all parties, and rather than asserting the precedent for taking no action, consider and take actions that could make compliance more achievable.

I. We Support the MPCA's Decision to Extend the Reporting Deadline, and We Urge This Extension to Be Long Enough to Be of Practical Use.

On page 29 of the MPCA's Part 2 Response to Comments, the MPCA stated that it "has decided outside of the rulemaking process to issue an extension to the initial due date to ensure program success. The MPCA will be providing more information on the extension of the January 1, 2026 reporting deadline in the near future."

SEMI and SIA support the Agency's decision to extend the reporting due date, and there is clear statutory authority for the MPCA to issue such extension given § 116.943, subd. 2 which states that the Agency may extend the deadline if manufacturers need more time to comply. The statute does not require that such an extension be issued on a manufacturer-by-manufacturer basis, and for good reason since there are likely to be thousands of companies that would have otherwise requested an extension to the upcoming January 1, 2026 reporting deadline. It is efficient and consistent with the statutory text for the MPCA to extend the initial deadline for everyone, in addition to establishing a process in the rule for manufacturers to request a subsequent extension if needed.

SEMI and SIA urge the MPCA's extension to be of sufficient length to be of practical use. Specifically, given that the rule and reporting platform are not finalized, and the reporting date is just over six months away, this extension should at the very least be for ideally at least one year. As an example, the U.S. Environmental Agency (EPA) has twice delayed the submission period (for a total of 17 months) for the PFAS reporting rule under the Toxic Substances Control Act (TSCA)[5]. The MPCA should harmonize with EPA and extend the reporting deadline far enough into the future to help ensure manufacturers can perform sufficient due diligence and report with meaningful data after the reporting rule is finalized.

II. The MPCA's Reasoning for Declining to Adopt EPA's "Known to or Reasonably Ascertainable By" (KRA) Reporting Standard is Flawed.

On pages 106-107 of the Part 2 Response to Comments, the MPCA declined to incorporate EPA's KRA standard into the Proposed Rule, reasoning that "The standard set by the statute is not to report only what a manufacturer might know" and "Reasonably ascertainable is not an enforceable standard, as what is reasonable to one individual may not be to others." SEMI and SIA respectfully disagree with this reasoning and we urge the MPCA to reconsider incorporating the KRA standard into the reporting rule.

For one, the statute does not speak to a reporting standard, presumably because this sort of decision is left to the MPCA to incorporate by rule under § 116.943, subd. 9 which directs the Agency to adopt rules

[4] *See* Comments from SEMI and SIA on the Proposed Reporting and Associated Fees Rules for PFAS-Containing Products (May 21, 2025), https://tinyurl.com/3redthez.
[5] 90 Fed. Reg. 20236 (May 13, 2025).

"necessary" to implement the statute. In fact, there are several areas of the Proposed Rule that give flexibility to reporting and which are not specifically prescribed in the statute – including by permitting manufacturers to report PFAS concentration as unknown, allowing product group reporting, accepting supplier declarations, and adding an exemption for classified information. Relatedly, Minn. St. § 14.002 directs the MPCA when promulgating rules to foster maximum flexibility for regulated parties, and Minn. St. § 116.07 requires the Agency to give due consideration to commerce, economic factors, and other material matters affecting the feasibility and practicality of any proposed rule. Incorporation of the KRA standard in the reporting rule will help ensure the MPCA is adhering to these statutory mandates.

Second, MPCA is mistaken when it states that the KRA standard "is not an enforceable standard." EPA has used this standard for many years under the TSCA Chemical Data Reporting program and recently extended its application to the TSCA PFAS reporting rule. Maine's PFAS in products law[6] incorporates the KRA standard, and the PFAS reporting notice from Environment and Climate Change Canada likewise contains a similar standard. The KRA standard is not only enforceable but also provides a clear, objective benchmark for compliance by focusing enforcement on what a reasonable manufacturer would know or be able to obtain – a reasonableness standard that is common in the law and is judicially recognized. In contrast, the MPCA's due diligence expectation in the Proposed Rule is unbounded (imposing an indefinite obligation with no clear end point), unrealistic (failing to account for practical limitations of global, multi-tiered supply chains), and inequitable (disproportionately burdening manufacturers whose suppliers may be unresponsive or unsupportive). It is unreasonable for the MPCA in this Proposed Rule to require manufacturers to expend indeterminate effort to seek to ascertain "all reportable information" from their supply chains, or potentially risk exposing such manufacturers to allegations of non-compliance and enforcement, even though the requested reportable information is outside of their knowledge or control.

III. The MPCA Should Reconsider SEMI and SIA's Request to Have Reporting Be at the Product Level, Not the Component Level.

The MPCA concluded on page 39 of the Part 2 Response to Comments that "It is reasonable to require component-level reporting of products because similar products may have different types and amount of intentionally added PFAS due to specific variations in their components." Further, the Agency relied on the fact that Section 116.943 defines "product" by using the term "component" to reason that the "statutory language gives the agency clear authority to require reporting at the product component level."

SEMI and SIA disagree with this reasoning, as explained in our organizations' full comments submitted during the pre-hearing comment period. Specifically, requiring reporting at the component level will invite an unwarranted amount of variability in how manufacturers will report, since the decision of what is a component (or a sub-component, or even a sub-component of a sub-component) will vary from manufacturer to manufacturer. This possibility is especially likely for semiconductor manufacturing products that can contain hundreds of thousands of elements that sit in a complex web of nested structures within these products.

Moreover, component-level reporting goes beyond what the statute requires and what is "necessary" as described in § 116.943, subd. 9. The statute makes only passing references to product components, including just one such passing reference in subdivision 2 where the statute's reporting provisions sit.

[6] 38 M.R.S. § 1614.

The law does not require or envision component level reporting, and we urge the MPCA to revise the Proposed Rule to only require reporting at the full product level.

Further the data structure that would be required for the State to make any practical use of this additional detail will be many orders of magnitude greater than reporting only at the product level and will likely be beyond the comprehension of many reporters who have not invested years in product structure description, likely resulting in error-prone, un-beneficial reports.

IV. The MPCA Should Reconsider SEMI and SIA's Request to Allow Grouping of Products if the PFAS Chemicals in the Products Are the Same.

On page 61 of the Part 2 Response to Comments, the MPCA implies they will only accept PFAS equivalence if the ratio, type, and arrangements of atoms in the PFAS are the same. Setting the standard in this fashion raises the question of whether any two samples of PFAS could ever be considered equivalent.

In the practical manufacture of fluoropolymers, for example, there are an infinite number of varieties in which the arrangement of atoms can occur in the actual polymer chain. Consider PVDF: the polymer has three main types (phases) of structure – alpha (α), beta (β), and gamma (γ) – and as those structures form, they can also link in 'head to head' or 'head to tail' fashion. No batch of PVDF (or sample in the batch), will have the same ratio of these elements, similar situations exist for other polymers.

It does not seem that the MPCA could derive sufficient benefit from knowing all these variations via reporting to offset the cost and confusion this will impose on the reporters.

The MPCA should allow for equivalence (e.g., in 5.15) if the general type of the PFAS is the same without consideration to isomers, phases, and other aspects that do not have a different formulation of elements, this is to say, do not have a different chemical formula (for example PVDF as $-(C_2H_2F_2)_n-$).

Even requiring the same CAS number can put too fine a point on the inquiry. There are cases where different isomers of the same chemical formula are issued different CAS numbers even though, in practice, it is very difficult, if not impossible, to produce a chemical batch that consists of only one of several possible isomers.

V. The Statute Leaves Room for the Agency to Incorporate a De Minimis Threshold Into the Rule, and Such a Threshold is Necessary to Help Ensure Program Success.

On page 67 of the Part 1 Response to Comments, the MPCA declined to add a de minimis threshold to the reporting rule on the purported basis that the statute does not provide the Agency discretion to adopt such a threshold. SEMI and SIA disagree with this reasoning. Even though § 116.943 does not expressly use a de minimis threshold, there is no indication in the law's text that the MPCA is forbidden to adopt such a threshold by rule.

As explained above in our discussion of the KRA standard, the overarching statutory scheme pursuant to Minn. St. § 14.002 and 116.07 requires that the MPCA ensure its rules are workable for regulated parties. The fact of the matter is that identifying PFAS concentrations at low concentrations across multi-tiered supply chains is often infeasible, and the option to report PFAS concentration as "unknown" as provided in the Proposed Rule is insufficient to address this issue. A de minimis threshold, as

recommended in SEMI and SIA's past comments, would address this issue head on and help ensure the reporting rule is workable and consistent with legislative intent.

VI. SEMI and SIA are Concerned About MPCA's Suggestion That Manufacturers May Need to Test Products During Due Diligence.

On page 58 of the Part 2 Response to Comments, the MPCA stated that "Testing is not required for reporting unless a manufacturer cannot determine the concentration of PFAS in their product or component by inquiring with and soliciting information from their supply chain." A suggestion that manufacturers may need to test their products during due diligence is problematic for several reasons. For one, as evidenced by the text of § 116.943, the legislature did not intend that manufacturers would need to engage in product testing in preparation for reporting. The statute emphasizes manufacturer knowledge and intent (by limiting the law's reach to *intentionally added* PFAS), not the physical detection of PFAS that is the focus of product testing. Relatedly, the only reference to testing in § 116.943 is in subd. 4 which gives the MPCA the authority to require product testing if the Agency has reason to believe a product in the state contains intentionally added PFAS. The legislature therefore explicitly limited the scope of product testing under the statute to a *reactive* enforcement scenario, as opposed to a blanket expectation in *preparation* for reporting. Any MPCA regulations requiring product testing to prepare for reporting would exceed MPCA's statutory authority.

Furthermore, requiring testing when supply chain information is incomplete effectively penalizes manufacturers for supplier non-cooperation – something that is often outside of these manufacturers' control. We therefore renew our request that the MPCA clarify that no product testing is required in preparation for reporting.

VII. The MPCA Should Grant SEMI and SIA's Request for a Semiconductor Reporting Waiver.

On page 88 of the Part 1 Response to Comments, the MPCA excerpted a portion of SEMI and SIA's previous comments in which our organizations requested a reporting waiver covering semiconductor products, semiconductor product components, materials used in semiconductor manufacturing, semiconductor manufacturing and related equipment, supporting fab infrastructure, and other microfabricated products that utilize semiconductor-like manufacturing processes (e.g., micro-electromechanical systems (MEMS).

The MPCA's response to this request on page 88 gives a general description of the MPCA's ability to grant reporting waivers, though this reply does not directly respond to our organizations' request for the waiver described above. We believe such a reporting waiver is warranted now, to be granted as part of this rulemaking. As explained in full in our previous comments, information substantially equivalent to the reportable information under § 116.943, subd. 2 as it relates to PFAS in semiconductors and semiconductor manufacturing can be found in technical papers authored by the Semiconductor PFAS Consortium that are freely and publicly available at semiconductors.org/PFAS.

VIII. Conclusion.

SEMI and SIA are committed to meeting the complex challenge of balancing the need for environmental protection and the sustainability of semiconductor manufacturing operations and the end products where semiconductor devices are used. SEMI and SIA welcome the opportunity to engage with the MPCA to further explain the critical, currently unavoidable, and well-documented role that certain PFAS

have in the semiconductor manufacturing process and the end products where semiconductor devices are used.

SEMI and SIA are grateful for the opportunity to engage in the MPCA's rulemaking process and are available to meet at your convenience to further elaborate on the issues discussed in these comments and our previous comments. If you have any questions or would like to discuss our positions, please do not hesitate to contact Ben Kallen (bkallen@semi.org) or Alex Gordon (agordon@semiconductors.org).

Sincerely,

Ben Kallen
Senior Manager, Public Policy & Advocacy
SEMI

Alex Gordon
Manager, Government Affairs
Semiconductor Industry Association (SIA)

June 30, 2025

Honorable Judge Jim Mortenson

Office of Administrative Hearings

600 North Robert Street, PO Box 64620

St. Paul, Minnesota 55164-0620

Re: Proposed Rules Relating to PFAS in Products Reporting and Fees

Dear Judge Mortenson:

The following comments are submitted on behalf of the American Chemistry Council and its Performance Fluoropolymer Partnership (Partnership). We appreciate the opportunity to provide rebuttal comments on the Minnesota Pollution Control Agency's Proposed Permanent Rules Relating to PFAS in Products for Reporting and Fees ("Proposed Rules") Revisor's ID Number R-4828, OAH docket number 5-9003-40410. The Partnership's members are some of the world's leading manufacturers, processors, and users of fluoropolymers, including fluoroelastomers and perfluoropolyethers.[1] The Partnership's mission is to promote responsible production, use, and management of fluoropolymers, while also advocating for a sound science- and risk-based approach to their regulation. ACC and the Partnership have engaged throughout the comment process on various provisions in the Proposed Rule. Here we respond to issues raised in the Response to Comments information from MPCA.

First, we appreciate MPCA's recent conclusion stating "the agency has decided outside of the rulemaking process to issue an extension to the initial due date to ensure program success[2]." We strongly recommend the Commissioner grant an extension until the reporting system is tested and ready to receive reports from manufacturers. For certainty with compliance, the agency should announce the length of extension as soon as possible.

Second, MPCA stated in its Statement of Reasonableness and Need that: "Detailed guidance on how reporting entities can submit on behalf of multiple manufacturers will be included in the reporting system instructions or in a supplemental guidance document." This supplemental guidance does not follow the proper procedures for rulemaking laid out in Minnesota Statute § 14 on Administrative Procedure. It is imperative for stakeholders to be involved in the process and be able to provide feedback on the reporting system as part of the rulemaking process to best ensure compliance and follow the regulatory processes outlined in Minnesota Statute.

Finally, we stand by the points made in our previous comments filed on May 21, 2025 and urge MPCA to reevaluate and provide clarity to the issues mentioned in that document, particularly whether products are

[1] https://fluoropolymerpartnership.com/

[2] https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07h.pdf, pg. 29

"distributed in the state" and subject to the breadth of reporting requirements despite never being sold to a consumer or used in the state. An interpretation this broad extends beyond the intent of the law.

***

We appreciate the opportunity to provide further input. Please let us know if you have any questions regarding our comments and concerns.

Sincerely,

Marcus Branstad
Senior Director, State Affairs
American Chemistry Council