

Order Adopting Rules

Minnesota Pollution Control Agency

Resource Management and Assistance Division

Adoption of Rules Governing Reporting and Fees by Manufacturers Upon Submission of Required Information about Products Containing Per-and polyfluoroalkyl substances (PFAS), Minnesota Rules, part 7026; Revisor's ID Number R-4828, CAH Docket Number 5-9003-40410

BACKGROUND INFORMATION

1. The Minnesota Pollution Control Agency (MPCA) has complied with all notice and procedural requirements in Minnesota Statutes, chapter 14, Minnesota Rules, chapter 1400, and other applicable law.
2. The MPCA adopts the Administrative Law Judge's Report (ALJ Report) dated August 28, 2025, and incorporates the ALJ Report into this Order, except as described below.
3. The MPCA makes the following changes to the proposed rule in accordance with the ALJ Report as required to correct a defect, or as a recommended change.

7026.0010 DEFINITIONS.

3-A. The MPCA added language to the definition of "Brief description of the product" under part 7026.0010 subp. 4 to include the phrase "numeric code assigned to" in accordance with the ALJ's recommended changes.¹ It is reasonable to include this language in the proposed definition because Minn. Stat. § 116.943 subd. 2 (a)(1) requires a manufacturer of a product sold, offered for sale, or distributed in the state that contains intentionally added PFAS to submit a brief description of the product, including a numeric code assigned to the product. The ALJ noted that the inclusion of the "numeric code assigned to" the product in this definition would avoid confusion among those reporting. This change will not result in a rule that is substantially different because manufacturers were already required to submit the numeric product code assigned to the product in accordance with part 7026.0030 subp. 1, item A, subitem (2). Adding this language to the definition of "Brief description of the product" is intended to provide clarity and will not change what information manufacturers are required to submit in their report.

¹ ALJ Report, Finding 169, page 43. <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07l.pdf>

Subp. 4. **Brief description of the product.** “Brief description of the product” means a character-limited description ~~of~~ and numeric code assigned to a product or grouping of similar products with similar components that includes, whenever applicable, brand name, product model, and other characteristics that distinguish the product or grouping of products from similar products made or sold by other manufacturers.

3-B. The MPCA removed subp. 14 from part 7026.0010 of the proposed rule language in accordance with the ALJ’s disapproval² of this subpart. This change is reasonable and does not make the rule substantially different because Minn. Stat. § 116.943 subd. 1 (n) defines the term “manufacturer” and the ALJ noted that the word is already clearly defined by the legislature. As a result of this change, the subparts following subp. 14 have been updated accordingly; what was previously subp. 15 is now subp. 14 and so on.

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.~~

3-C. The MPCA amended the definition of “Substantially equivalent information” under part 7026.0010 subp. 19 in accordance with the ALJ’s recommended changes.³ The proposed change removes redundancy and provides the commissioner with guidance in determining what constitutes “substantially equivalent information” when reviewing waiver requests. It is reasonable to propose a change that removes commissioner discretion and results in an objective definition. This change will not result in a rule that is substantially different because Minn. Stat. § 116.943 subd. 3 (a) states that the commissioner may waive reporting requirements if the commissioner determines that substantially equivalent information is already publicly available. The change to this definition removes commissioner discretion while assisting the commissioner in making such a determination as directed by statute.

Subp. ~~19~~ **18. Substantially equivalent information.** “Substantially equivalent information” means information that ~~the commissioner can identify as conveying~~ conveys the same information required under part 7026.0030 and Minnesota Statutes, section 116.943, subdivision 2. Substantially equivalent information includes an existing

² ALJ Report, Finding 166, page 42. <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-071.pdf>

³ ALJ Report, Finding 173, pages 43 and 44. <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-071.pdf>

notification by a person who manufactures a product or component when the same product or component is offered for sale under multiple brands.

7026.0030 REPORT; REQUIRED INFORMATION.

3-D. The MPCA amended the language under part 7026.0030 subp. 1, item A, subitem (1) in accordance with the ALJ's recommended changes.⁴ The originally proposed rule language required a product description that includes a brief description of the product or "grouping of similar products," whereas Minn. Stat. § 116.943 subd. 2 (b) refers to "category or type of product." The ALJ recommended using the statutory language to reduce confusion over differing language. It is reasonable to change this language to match the statute and reduce confusion because it creates consistency between the rule and enabling statute and clarifies what is expected of manufacturers and groups of manufacturers subject to the proposed rule. This change will not result in a rule that is substantially different because the phrases "grouping of similar products" and "category or type of product" have similar meanings. Deferring to the statutory language will not change the meaning of this subitem; it will only clarify it.

Subpart 1. **Report required.**, item A, subitem (1):

(1) a brief description of the product or ~~grouping of similar products~~ a description of the category or type of product. Once established, the identical brief description of the product must be used during any reporting updates on the product.

7026.0040 REPORTING UPDATES.

3-E. The MPCA removed subparts 2 and 3 from part 7026.0040 in accordance with the ALJ's disapproval of part 7026.0040.⁵ It is reasonable to remove these subparts because the ALJ found the language for recertifications under subp. 2 to exceed the authority given to the MPCA under Minn. Stat. § 116.943, and voluntary updates under subp. 3 to not have the force and effect of law. Removing these subparts will not result in a rule that is substantially different because both recertifications and voluntary updates were minor proposed requirements within the rule. The difference of not including these subparts is still within the scope of the matter announced in the notice of hearing, aligns with some of the comments received during the pre-and post-hearing comments requesting that the MPCA

⁴ ALJ Report, Finding 180, pages 44 and 45. <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07l.pdf>

⁵ ALJ Report, Finding 190, page 46. <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07l.pdf>

remove such requirements,⁶ and the notice of hearing provided fair warning that the outcome of the rulemaking proceeding could be the rule in question.

~~Subp. 2. **Annual recertification.** If an update is not required under subpart 1, a manufacturer or group of manufacturers must recertify the report submitted under part 7026.0030 by February 1 each year.~~

~~Subp. 3. **Voluntary updates.** A manufacturer or group of manufacturers may voluntarily update the initial report of information required under part 7026.0030 whenever a PFAS is reduced or eliminated from a product or component or there is a change in the information required under part 7026.0030, subpart 1, items E to G. Voluntary updates submitted under this subpart are not subject to a fee according to part 7026.0100, subpart 6.~~

3-F. The MPCA removed subp. 4 under part 7026.0040 to no longer require a fee for annual updates to the initial report. The MPCA provided an explanation of why this change is reasonable and why it will not make the rule substantially different under 3-M of this Order.

~~Subp. 4. **Fee required.** For submission of the updates and recertifications under subparts 1 and 2 to be considered complete, a manufacturer or group of manufacturers must submit the fee required under part 7026.0100, subpart 3.~~

3-G. The MPCA amended subp. 5 under part 7026.0040 to remove the reference to “recertifications” in accordance with the ALJ’s disapproval of part 7026.0040 and the recommendation to modify the language of subparts that reference the violative subparts 2 and 3.⁷ This change is reasonable and does not make the rule substantially different because it supports the changes made under 3-E of this Order.

The MPCA also amended subp. 5 under part 7026.0040 to remove the reference to applicable fees for annual updates. The MPCA provided an explanation of why this change is reasonable and why it will not make the rule substantially different under 3-M of this Order.

~~Subp. 5. **Failure to submit.** A manufacturer or group of manufacturers that fails to submit an annual update or recertification under this part or to pay the applicable fee under part 7026.0100 is subject to penalties under Minnesota Statutes, section 116.072.~~

⁶ Part One Pre-Hearing and Hearing Response to Comments (June 16, 2025). Part 7026.0040 REPORTING UPDATES: Recertification (pages 78 to 81). <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07g.pdf>

⁷ ALJ Report, Finding 190, page 46. <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07l.pdf>

7026.0050 WAIVERS.

3-H. The MPCA amended part 7026.0050 subp. 1 to remove the language that the ALJ found to exceed the discretion granted the MPCA under Minn. Stat. § 116.943.⁸ It is reasonable to propose this change because it aligns with the enabling statute which limits the MPCA's authority for waivers to information that is "substantially equivalent" and already "publicly available." These terms are already defined in rule and used in this subpart to determine eligibility for a waiver request. The change will not make the rule substantially different because it is only removing the language that the ALJ found to exceed the discretion granted the MPCA.

The ALJ also stated in the findings that this section of rule "would be passable if it simply required manufacturers to point the PCA to where the information concerned is publicly available." The MPCA believes this is already addressed under subpart 2 item F which requires a waiver request to contain "a link to or copy of all publicly available and substantially equivalent information described by the manufacturer."

Subpart 1. **Waiver eligibility.** Upon request of a manufacturer or group of manufacturers, the commissioner must waive all or part of the information required under part 7026.0030 if the commissioner determines that substantially equivalent information is publicly available. ~~Gaining access to the information must not impose an undue burden in terms of resources required for collection. When determining whether access imposes an undue burden, the commissioner must consider fees, the number of locations to be accessed, and other relevant factors.~~

3-I. The MPCA added a new subpart 3 to part 7026.0050 to account for the scenario in which a manufacturer or group of manufacturers reports to the Minnesota Department of Agriculture (MDA) under Minn. Stat. § 116.943 subd. 3 (b). This change is in accordance with the ALJ's disapproval of part 7026.0050⁹ because of the rule's failure to address how the statutory waivers for agricultural products will operate or be obtained. This new subp. 3 provides clarification that if a manufacturer or group of manufacturers has reported to MDA in accordance with the enabling statute, they have satisfied the reporting requirements of Minn. Stat. § 116.943 subd. 2 (b). The MPCA originally proposed to provide an exemption to the reporting requirements of this chapter of rule for agricultural products reported to MDA, because Minn. Stat. § 116.943 subd. 3 (b) does not expressly give the MPCA authority to access product information provided by reporters to MDA. This proposal was determined deficient;

⁸ ALJ Report, Findings 194 and 196, page 47. <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07l.pdf>

⁹ ALJ Report, Finding 193, pages 46 and 47. <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07l.pdf>

partially because product information reported to MDA is listed under subd. 3 “Information requirement waivers; extensions” in statute. As a result, the most clear and simple way to address this deficiency in the rule is to refer back to the enabling statute. It is reasonable to propose this change because it ensures that the MPCA’s rules are not contradicting statute. The change will not make the rule substantially different because the MPCA had already proposed to provide an exemption to the reporting requirements of this chapter of rule for agricultural product information reported to MDA. The substance of this part of rule is not changing; rather, the agency is classifying this scenario as a waiver to the reporting requirements rather than an exemption to make it clear that those manufacturers are still required to report, just not to the MPCA. This change will not result in any additional reporting requirements or fees for manufacturers or groups of manufacturers that report to MDA under Minn. Stat. § 116.943 subd. 3 (b). As a result of this change, the subparts following subp. 3 have been updated accordingly; what was previously subp. 3 is now subp. 4 and so on.

Subp. 3. **Reporting to Department of Agriculture.** A manufacturer or group of manufacturers that reports information to the Department of Agriculture under Minnesota Statutes, section 116.943, subdivision 3, paragraph (b), satisfies the requirements of Minnesota Statutes, section 116.943, subdivision 2.

7026.0060 EXTENSIONS.

3-J. The MPCA amended part 7026.0060 subp. 2 to remove the phrase “must submit the request in a format specified by the commissioner” in accordance with the ALJ’s recommendations.¹⁰ The MPCA amended the language so that while a manufacturer or group of manufacturers “may” request an extension, if they submit an extension request, the request “must” contain the following items in rule. The amended language also references part 7026.0030 for the initial report to clarify that an extension can only be issued for the deadline of the initial report. It is reasonable to propose this change because it addresses the ALJ’s recommendation to remove phrasing that is superfluous and adds clarity to the rule. This change does not make the rule substantially different because it does not change what is required to be submitted for an extension request.

Subp. 2. **Extension request.** A manufacturer or group of manufacturers ~~requesting an extension must submit the request in a format specified by the commissioner~~ may request an extension to the deadline for submitting information under part 7026.0030.
The request must contain:

¹⁰ ALJ Report, Finding 201, page 48. <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-071.pdf>

7026.0090 REPORTING EXEMPTIONS.

3-K. The MPCA removed item D under part 7026.0090 in accordance with the ALJ's disapproval of part 7026.0090.¹¹ It is reasonable to remove this item because the ALJ found this exemption to be misleading and conflicting with Minn. Stat. § 116.943. Removing this item will not result in a rule that is substantially different because manufacturers that report to MDA still have a waiver to the MPCA's reporting requirements under part 7026.0050 to avoid duplicative reporting. The difference of not including this item is still within the scope of the matter announced in the notice of hearing, the difference is a logical outgrowth of the contents of the notice of hearing, and the notice of hearing provided fair warning that the outcome of the rulemaking proceeding could be the rule in question. As a result of this change, the item following item D has been updated accordingly; what was previously item E is now item D.

~~D. a product reported to the Department of Agriculture as meeting the reporting waiver requirements under Minnesota Statutes, section 116.943, subdivision 3, paragraph (b); and~~

7026.0100 FEES.

3-L. The MPCA amended language under subp. 2 of part 7026.0100 based on the ALJ's disapproval of part 7026.0100.¹² The fees originally proposed by the MPCA were found to exceed the reasonable costs to implement Minn. Stat. § 116.943. To address this issue, the MPCA made several changes to the fees section of rule, one of which was to lower the fee for the initial report. The MPCA estimated that anywhere from 5,000 to 10,000 manufacturers may be required to report under Minn. Stat. § 116.943 and the proposed rule, but the exact number of manufacturers that will report is unknown. In reviewing the MPCA's cost of implementing Amara's Law and the proposed fees under this rule, the MPCA is amending the fee required for the initial report to \$800. Assuming that the median number of manufacturers report (using the 5,000 to 10,000 range); $\$800 \times 7,500$ reporters = \$6,000,000. If less than 7,500 manufactures submit a report, the fees collected will be less than \$6,000,000. If more than 7,500 manufacturers submit a report, the fees collected will be more than \$6,000,000; however, the MPCA's time and costs required to review the information reported will also increase. This change is reasonable because it ensures that

¹¹ ALJ Report, Finding 211, pages 49 and 50. <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07l.pdf>

¹² ALJ Report, Findings 219 and 220, pages 50 and 51. <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07l.pdf>

the fees collected as a result of this rule match the costs estimated in the fiscal note¹³ from 2023 Session law. This change will not make the rule substantially different because it is still within the scope of the matter announced in the notice of hearing, it aligns with some of the comments received during the pre-and post-hearing comment periods requesting that the fees be lowered,¹⁴ and the notice of hearing provided fair warning that the outcome of the rulemaking proceeding could be the rule in question.

The MPCA also received comments¹⁵ during the pre-and post-hearing comment periods that the language under subp. 2 was confusing because it doesn't clarify whether a single flat fee is required or if multiple per-product fees may be required. While amending this subpart to address the ALJ's findings, the MPCA is also adding the term "flat" before fee to make clear that the MPCA's intent is only to charge a flat fee of \$800 per manufacturer on the first report submitted. This change is reasonable because it provides clarity to those required to comply with the rule. This change will not make the rule substantially different because it is not changing the intent of this subpart and will not increase the fee amount that manufacturers are required to pay to submit the initial report.

Subp. 2. Initial report. A manufacturer must pay a ~~\$1,000~~ \$800 flat fee to submit the initial report under part 7026.0030, subpart 1. If a group of manufacturers is reporting or a manufacturer is reporting on behalf of multiple manufacturers as allowed under part 7026.0020, subpart 2, each individual manufacturer must pay a ~~\$1,000~~ the \$800 fee.

3-M. The MPCA amended language under subparts 1, 3, 4, and 7 of part 7026.0100 based on the ALJ's disapproval of part 7026.0040¹⁶ and 7026.0100.¹⁷ The fees originally proposed by the MPCA were found to exceed the reasonable costs to implement Minn. Stat. § 116.943. To address this issue, the MPCA made several changes to the fees section of rule, one of which was to remove fees for updates. In reviewing the MPCA's cost of implementing Amara's Law, the estimated manufacturers that may be required to report under Minn. Stat. § 116.943, and the fees proposed under this rule, the MPCA found it was difficult to determine what percentage of manufacturers or groups of manufacturers would

¹³ Brand, Jeff. (2023, March). HF1000-1E-PFAS in Certain Products Prohibited Consolidated Fiscal Note. <https://mn.gov/mmbapps/fnsearchlbo/?number=HF1000&year=2023>

¹⁴ Part One Pre-Hearing and Hearing Response to Comments (June 16, 2025). Part 7026.0100 FEES: Requested clarity on fees (pages 112 to 117). <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07g.pdf>

¹⁵ *Id.*

¹⁶ ALJ Report, Finding 190, page 46. <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07l.pdf>

¹⁷ ALJ Report, Findings 219 and 220, pages 50 and 51. <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07l.pdf>

be required to submit an update under part 7026.0040. This in turn makes it difficult to determine the overall fees that would be collected from updates. As a result, the MPCA is proposing to remove the fee requirement for updates under subp. 3. This change will not make the rule substantially different because it is still within the scope of the matter announced in the notice of hearing, it aligns with some of the comments received during the pre-and post-hearing comment periods requesting that the MPCA remove such requirements,¹⁸ and the notice of hearing provided fair warning that the outcome of the rulemaking proceeding could be the rule in question. Any references to this subpart or part 7026.0040 are also removed in accordance with the deletion of subp. 3. As a result of this change, the subparts following subp. 3 have been updated accordingly; what was previously subp. 4 is now subp. 3 and so on.

Subpart 1. **Fees required.** A manufacturer of products or components that is required to submit a report under part 7026.0030 ~~or 7026.0040~~ or that submits a request under part 7026.0050 or 7026.0060 must pay a fee for the submittal to be considered complete.

~~Subp. 3. **Annual update or recertification.** 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. If a group of manufacturers is reporting or a manufacturer is reporting on behalf of multiple manufacturers as allowed under part 7026.0020, subpart 2, each individual manufacturer must pay the \$500 fee.~~

Subp. 4 3. **Waiver request.**

- A. A manufacturer or group of manufacturers that submits a reporting waiver request under part 7026.0050 must still pay the fee required under subpart 2 ~~or 3~~, as applicable.
- B. If the commissioner denies a waiver request, the manufacturer or group of manufacturers must submit a report according to part 7026.0030 ~~or 7026.0040~~ but is not subject to duplicative fees under subpart 2 ~~or 3~~.

Subp. 7 5. **Inflation.** Beginning July 1, 2027, and each odd-numbered year thereafter, the unadjusted fee in subparts 2 to 5 4 must be adjusted for inflation using the aggregated

¹⁸ Part One Pre-Hearing and Hearing Response to Comments (June 16, 2025). Part 7026.0100 FEES: Annual update and recertification fee (pages 109 to 111). <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07g.pdf>

annual consumer price index and becomes the new unadjusted fee rounded to the nearest dollar.

3-N. The MPCA amended part 7026.0100 subp. 3 (previously subp. 4) to add an item C that specifies that the fee required for waiver requests does not apply to a manufacturer or group of manufacturers that reported to MDA. This change is in accordance with the ALJ's disapproval of part 7026.0050¹⁹ because of the rule's failure to address how the statutory waivers for agricultural products will operate or be obtained. The originally proposed version of the rule exempted manufacturers that reported to MDA from having to also report under the MPCA's rules and therefore exempted them from the proposed fees. The MPCA added item C to specify that the fee for a waiver request only applies to manufacturers requesting a waiver if the commissioner determines that substantially equivalent information is already publicly available. Without this change, manufacturers that reported to MDA may think they are subject to the waiver request fee found in part 7026.0100 subp. 3. It is reasonable to propose this change because it supports what was proposed in the rules as noticed. The change will not make the rule substantially different because it does not remove the fee requirement for other waiver requests and does not impose a fee if a manufacturer or group of manufacturers reported to MDA under Minn. Stat. § 116.943 subd. 3 (b).

Subp. 4 3. Waiver request.

- C. If a manufacturer or group of manufacturers reports information to the Department of Agriculture under Minnesota Statutes, section 116.943, subdivision 3, paragraph (b), they are not required to pay a fee under this subpart.

3-O. The MPCA removed subp. 6 from part 7026.0100 in accordance with the ALJ's disapproval of part 7026.0040.²⁰ This change removes the reference to "voluntary updates" in accordance with the ALJ's disapproval of part 7026.0040 and the recommendation to modify the language of subparts that reference the violative subp. 3. This change is reasonable and does not make the rule substantially different because it supports the changes made under 3-E of this Order. As a result of this change, the subpart following subp. 6 has been updated accordingly; what was previously subp. 7 is now subp. 5.

~~Subp. 6. **Fees waived.** No fee is required for voluntary updates made in accordance with part 7026.0040, subpart 4.~~

¹⁹ ALJ Report, Finding 193, pages 46 and 47. <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07l.pdf>

²⁰ ALJ Report, Finding 190, page 46. <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07l.pdf>

4. The MPCA makes the following new changes to the proposed rule that do not make the rule substantially different under Minn. Stat. § 14.05, subd. 2.

7026.0020 PARTIES RESPONSIBLE FOR REPORTING.

4-A. The MPCA amended language to part 7026.0020 subp. 1 to clarify that manufacturers or groups of manufacturers only need to submit one report that includes information for each product or component that contains intentionally added PFAS that is sold, offered for sale, or distributed in the state. During the pre-hearing comment period and subsequent hearing and post-hearing comment period, the MPCA received many questions from manufacturers who understood this part of rule to mean they needed to submit an individual report for each product or component. In the document titled, “Part One Pre-Hearing and Hearing Response to Comments,” the MPCA agreed that this language did not clearly articulate the MPCA’s intent to allow manufacturers to submit a single initial report.²¹ It is reasonable to propose a change that clarifies what is meant by a proposed part of rule. This change will not make the rule substantially different because it is not changing the intent of this subpart. This language is intended to provide clarity and will not change what information manufacturers are required to submit in their report.

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 that includes information about each product or component that contains intentionally added PFAS.

7026.0030 REPORT; REQUIRED INFORMATION.

4-B. The MPCA amended language to part 7026.0030 subp. 1 to clarify when a report is required for a manufacturer or group of manufacturers of a new product with intentionally added PFAS on or before January 1, 2026. The originally proposed language required a report be submitted to the MPCA before the product could be sold, offered for sale, or distributed in the state; however, the MPCA received comments from manufacturers stating that this requirement contradicted with part 7026.0040 subp. 1, item A, subitem (3) which requires an update to the initial report under part 7026.0030 by February 1 each year if a new product was sold, offered for sale, or distributed in or into the state. In the document titled, “Part One Pre-Hearing and Hearing Response to Comments,” the MPCA agreed that this language did not align with its intent to have new products that contain intentionally added PFAS reported in the annual updates under part 7026.0040 subp. 1; by

²¹ Part One Pre-Hearing and Hearing Response to Comments (June 16, 2025). Changes to the Proposed Rules: 7026.0020 Parties Responsible for Reporting (page 5). <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07g.pdf>

February 1 of each year.²² It is reasonable to propose a change that clarifies what is expected of manufacturers and groups of manufacturers subject to the proposed rule. This change will not make the rule substantially different because the requirement to submit a report on new products sold, offered for sale, or distributed in the state by February 1 was already required under part 7026.0040 subp. 1, item A, subitem (3).

Subp. 1. Report required. A manufacturer or group of manufacturers of a product that is sold, offered for sale, or distributed in the state and that contains intentionally added PFAS must submit a report to the commissioner on or before January 1, 2026. A manufacturer or group of manufacturers of a new product with intentionally added PFAS after January 1, 2026, must submit a report ~~before the product can be sold, offered for sale, or distributed in the state~~ by February 1 the following year. The report must include the following information in a format specified by the commissioner:

4-C. The MPCA amended language under part 7026.0030 subp. 1, item A, subitem (2), unit (a) to allow manufacturers or groups of manufacturers to report harmonized tariff schedule (HTS) codes for all products, not just those that are imported. During the comment periods for this rule, the MPCA received comments requesting that manufacturers should be able to report HTS codes for products regardless of whether they are imported. In the document titled, “Part One Pre-Hearing and Hearing Response to Comments,” the MPCA agreed and proposed to strike the phrase “for imported products” from the rule.²³ It is reasonable to propose a change to the rule that allows manufacturers and groups of manufacturers subject to the proposed rule options for compliance. This particular section of rule under subitem (2) outlines a hierarchy of numeric product codes listed from most preferred to least preferred for reporting. HTS codes are included under unit (a) as one of the most preferred numeric product codes, so it is reasonable not to limit these codes only to imported products. This change will not make the rule substantially different because HTS codes were already included in the rule, and the proposed change allows manufacturers to report HTS codes for non-imported products while not requiring them to do so if no HTS code applies to the product.

Subpart 1. **Report required.**, item A, subitem (2), unit (a):

²² Part One Pre-Hearing and Hearing Response to Comments (June 16, 2025). Changes to the Proposed Rules: 7026.0030 Report; Required Information (page 6). <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07g.pdf>

²³ Part One Pre-Hearing and Hearing Response to Comments (June 16, 2025). Changes to the Proposed Rules: 7026.0030 Report; Required Information (page 6). <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07g.pdf>

- (a) a code with root digits harmonized under the Global Product Classification system for consumer products, including brick or universal product codes or the harmonized tariff schedule code ~~for imported products~~;

7026.0040 REPORTING UPDATES.

4-D. The MPCA amended language under part 7026.0040 subp. 1 item A to reference the previous “calendar year” rather than the previous “12 months.” The MPCA received a comment during the pre-hearing comment period and in hearing testimony that the timing of this update to the initial report was unclear as written.²⁴ As the rule language was originally proposed, the updates to the initial report due February 1 of each year were for changes, new information, or new products during the previous “12 months.” This language could be taken to mean that a manufacturer or group of manufacturers must report from February 1 of the previous year to February 1 of the year the update is submitted for, whereas the MPCA’s intent was that the update submitted by February 1 be for the previous calendar year; giving manufacturers a month to provide an update to their initial report if required. The MPCA has amended the language to clarify that updates must be submitted to account for changes, new information, or new products in the previous calendar year. It is reasonable to propose this change because it clarifies the period of time that must be accounted for when submitting an update to the initial report. The change will not make the rule substantially different because it is still within the scope of the matter announced in the notice of hearing, it aligns with a comment received during the pre-and post-hearing comments requesting this clarification, and the notice of hearing provided fair warning that the outcome of the rulemaking proceeding could be the rule in question.

Subpart 1. Updates required.

- A. By February 1 each year, a manufacturer or group of manufacturers must submit an update to the report submitted under part 7026.0030 if during the previous ~~12 months~~ calendar year:

7026.0060 EXTENSIONS.

4-E. The MPCA amended language under part 7026.0060 subp. 3 item B to clarify that only one 90-day extension to the established reporting due date may be granted. The MPCA received many comments regarding extensions during the pre-and post-hearing comment

²⁴ Part One Pre-Hearing and Hearing Response to Comments (June 16, 2025). Part 7026.0040 REPORTING UPDATES: Timing of annual updates and recertification (page 82).
<https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07g.pdf>

periods;²⁵ some of which seemed to misunderstand how many extensions may be issued, and one that requested the MPCA clarify that extensions are only issued once to the initial report deadline. The MPCA changed the phrase “a 90-day extension” to “one 90-day extension” to make this distinction clearer. It is reasonable to propose this change because it clarifies the rule language. The change will not make the rule substantially different because it is not changing the intent of this and still allows manufacturers to apply for an extension to the deadline for the initial report. This change is still within the scope of the matter announced in the notice of hearing, it aligns with a comment received during the pre-and post-hearing comments requesting this clarification, and the notice of hearing provided fair warning that the outcome of the rulemaking proceeding could be the rule in question.

Subp. 3. Extension request deadline; approval or denial.

- B. If the commissioner determines that the requestor has demonstrated that an extension is justified, based on the materials submitted under subpart 2, the commissioner must grant ~~a~~ one 90-day extension of the established reporting due date.

5. The rules are needed and reasonable.

ORDER

The above-named rules, in the form published in the State Register on April 21, 2025, with the modifications as indicated in the Revisor’s draft, dated September 22, 2025, with the correction to Minn. R. 7026.0030, subp. 1(A)(1) as indicated in the Order on Review of Resubmitted Rules, dated October 31, 2025, are adopted under my authority in Statutes, section 116.943.

November 4, 2025

Date



Katrina Kessler, P.E.
Commissioner

²⁵ Part Two Pre-Hearing and Hearing Response to Comments (June 23, 2025). Changes to the Proposed Rules: 7026.0060 Extensions (page 4). <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-07h.pdf>