

March 27, 2026

Submitted via the Minnesota Pollution Control Agency Rulemaking Website

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

RE: Comments on MPCA's Draft Rule Concept for PFAS in Products: Currently Unavoidable Use Determinations

Dear Commissioner Kessler:

On behalf of a client, which is a U.S.-headquartered global company in the high-tech manufacturing sector, I am submitting the attached comment on the Minnesota Pollution Control Agency (MPCA) draft rule concept for currently unavoidable use (CUU) determinations under Minn. Stat. § 116.943.

Thank you for considering this input.

Sincerely,



K. Russell LaMotte

Comment on MPCA's Draft Rule Concept for PFAS in Products:

Currently Unavoidable Use Determinations

The proposed CUU decision process does not appear to consider that some uses of PFAS within a product that is itself essential for health, safety, or the functioning of society are not necessarily within the control and understanding of the company that makes the product.

Consider, for example, some large industrial products such as semiconductor manufacturing equipment (SME). Many parts of such equipment must be made with PFAS because of the unique aspects of various SME processes - from etching and chemical vapor deposition to cleaning with highly acidic chemicals. For some parts (e.g., those that were specifically designed by the SME manufacturer or its suppliers for the unique operations of the equipment), the SME manufacturer will have good knowledge of why PFAS materials were selected. For those components, the SME manufacturer will be best positioned to provide insights into the possibility of PFAS alternatives and timelines for those use cases.

However, there are also many uses of PFAS in such equipment that the SME manufacturer may be aware of, but for which they have no direct design involvement. For example, PFAS used in what could be described as commodity components – meaning components that are not particularly aligned solely with semiconductor manufacturing -- are certainly necessary for the proper functioning of the SME, but they are entirely under the design control of other manufacturers. Take, for example, two real-world examples – lithium batteries and tantalum capacitors.

- Lithium batteries are known to often contain PVDF binders for electrolytes and are likely to also have PFAS as part of the battery casing and perhaps in the inks used to print logos and other information on the batter exterior.
- Many tantalum capacitors have a very small PTFE 'washer' around one of the leads to prevent anode material from creeping up the lead during operation, and, like batteries, PFAS might be present in the inks used to mark the capacitors.

Both lithium batteries and tantalum capacitors are essential to the functioning of SME, but the SME manufacturer is unlikely to be able to obtain the information necessary from their various battery and capacitor suppliers to make the arguments necessary for a CUU finding under the proposed CUU rules.

It is not reasonable to expect an SME manufacturer (or indeed a great many other manufacturers of complex durable goods who use commodity parts) to also have to become expert in the science of batteries and capacitors to the extent that they could provide information about possible PFAS alternative timelines and the exact reason why PFAS is present in such components. Indeed, many aspects of this information are likely to

be considered confidential business information that the battery and capacitor manufacturers are unwilling to share with their customers.

The CUU decision-making process should take into account this indirect PFAS use scenario, such as by allowing a company seeking a CUU finding to differentiate between PFAS uses in their products that are within their design control and those that are not, and then calibrating the expectations and requirement to substantiate the alternatives analysis accordingly.

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