Andrew Bemus

Who is commenting? *(choose the best fit)*
Representative of a product manufacturer(s)

If you are commenting as a representative, what is the name of the entity you are commenting on behalf of?
The Sustainable PFAS Action Network (SPAN) is a non-profit organization representing industry stakeholders that responsibly produce and utilize PFAS compounds in a wide range of commercial products.

If you represent a product manufacturer or industry group, what industry(ies) do you represent?
SPAN's members represent a diverse range of industries including heating, air-conditioning, and refrigeration, chemical manufacturing, electronics and semiconductors, and aerospace.

If you represent a product manufacturer, what types of components, products, or product categories do you manufacture that you will be requesting a CUU determination for?
SPAN continues to recommend that Minnesota revise Amara's Law and its implementing regulations to exempt certain uses of PFAS from the reporting requirements and prohibitions without the need for a CUU determination. If such exemptions are not effectuated, the types of components, products, or product categories for which SPAN members may request CUU determinations include, but are not limited to:

-Semiconductors, electronic equipment and devices that contain semiconductors, and the related equipment, chemicals, and materials used in the manufacture of semiconductors;
-Cooling, heating (including space heating), ventilation, air conditioning, refrigeration (including transport), and water heating materials, equipment, and parts, including refrigerants subject to EPA's SNAP program and refrigerants necessary to manage thermal control for battery modules in electric vehicles; and
-Materials, equipment, and parts necessary for aerospace applications, including applications necessary for national security, defense, and space exploration uses.

Do you have any recommended changes or other considerations that you think the MPCA should take into account when defining the term "essential for health, safety, or the functioning of society"? *(Please review the proposed definitions in the rule concept document prior to answering)*

SPAN appreciates MPCA's efforts to define "essential for health, safety, or the functioning of society," but believes the following refinements are necessary to ensure that the definition is comprehensive enough to encompass all currently unavoidable uses.

First, this definition should make clear that uses necessary for alignment with state or Federal requirements are "essential to the health, safety, or the functioning of society." Specifically, this definition should be inclusive of all uses necessary to align with state or Federal statutes, regulations, energy, building, or environmental codes, and applicable Federal standards and specifications, such as those issued by the Department of Defense, Federal Aviation Administration, National Aeronautics and Space Administration, Department of Transportation, and the U.S. Food and Drug Administration. The necessity of uses to align with such standards should be sufficient to establish their essentiality. These uses have been determined by other jurisdictions, such as New Mexico, Maine, and the European Union, to be necessary, and should likewise be presumed to be essential.

Similarly, SPAN recommends that MPCA revise this definition to specify that uses "essential for health, safety, or the functioning of society" include uses that are necessary for the purposes of national security, defense, or space exploration, as well as those necessary for critical infrastructure. Additionally, this definition should make explicit that essential uses include uses necessary for the mitigation of climate change and ozone depletion, and the delivery of food, medications, blood, and other temperature-sensitive materials.

Finally, SPAN encourages MPCA to revise this definition to clarify that the use of PFAS in equipment or materials directly used for the manufacture or development of products that are essential to the health, safety, or the functioning of society are also considered to be essential, as the absence of this equipment or materials would result in the unavailability of essential products and the services they provide.

Do you have any recommended changes or other considerations that you think the MPCA should take into account when defining the term "alternative"? *(Please review the proposed definitions in the rule concept document prior to answering)*
SPAN is concerned that the focus solely on functional equivalency in the Draft Rule Concept Summary definition of "alternative" overlooks several important factors that must be considered when assessing the existence of alternatives.

First, SPAN suggests that the definition of "alternative" be revised to specify that functional equivalency requires consideration of both whether a substitute chemical, product, or process performs as well as or better than the chemical, product, or process which would be replaced, and whether the performance of the substitute is as reliable and durable as what it would replace. Where relevant, this assessment of performance should be made against mandatory standards and codes. Further, where PFAS in a product serves multiple functions within a product, "functional equivalency" should include an assessment of whether a substitute chemical, product, or process can serve all of the same functions as the PFAS it is under consideration to replace, or whether multiple alternative chemicals, products, or processes may be necessary to serve those functions. Where multiple changes would be necessary, the replacement of the PFAS with an alternative may not be feasible or practicable.

Additionally, SPAN recommends that this definition also be revised to require that an "alternative" be equivalent to or better than the specific PFAS to be replaced with respect to

safety to human health and the environment, considering factors including the characteristics of a substitute chemical (persistence, bioaccumulation, toxicity, flammability, etc.), as well as the potential for significant exposure to human health and the environment resulting from the need to use high quantities of a substitute chemical or the need to change manufacture, processing, or use processes to accommodate the use of a substitute chemical. This increased exposure could result in greater risk to human health and the environment, even for substitute chemicals with more favorable hazard profiles. Finally, this definition should make clear that the assessment of equivalency must consider not only the direct human health and environmental effects of a potential substitute chemical, process, or product, but also the lifecycle impacts—e.g., increased energy and water usage, greenhouse gas emissions, generation of hazardous waste, and shorter lifespan.

Do you have any recommended changes or other considerations that you think the MPCA should take into account when defining the term "reasonably available"? (*Please review the proposed definitions in the rule concept document prior to answering*)
SPAN supports MPCA's definition of "reasonably available" insofar as it acknowledges the need to consider whether alternatives are available in sufficient quantities. However, revisions are necessary to ensure that this definition adequately addresses additional factors that may affect whether alternatives are available in sufficient quantities—such as an entire industry or multiple industries simultaneously moving towards use of the alternative—and whether, even if available in sufficient quantities, alternatives are technologically and economically feasible such that their availability is "reasonable."

First, SPAN strongly encourages MPCA to take a holistic approach to determining the availability of sufficient quantities of an alternative. This determination should consider not only the submitter's uses, but all reasonably foreseeable uses of the alternative as a replacement for PFAS. Any other approach is likely to overestimate the available quantities of an alternative. Additionally, an assessment of the technological feasibility of an alternative must go beyond whether it provides equivalent or better functionality, safety, and durability, as discussed in SPAN's response to Question 6. This assessment must also consider the feasibility of the transport of the alternative to the locations at which it is required to be used, based on existing infrastructure. Even if available in sufficient quantities, an alternative that cannot safely and economically be transported to the relevant use sites is not reasonably available. Similarly, the reasonable availability of an alternative should take into consideration whether specialized expertise is necessary to deploy the alternative and the availability of such specialized expertise.

Further, while MPCA has indicated that it does not intend to allow persons seeking CUU determinations to rely solely on cost considerations to establish that there is no reasonably available alternative for a PFAS, the definition of "reasonably available" should be revised to acknowledge that cost is a factor in making this determination. When assessing reasonable availability, cost should include not only the cost of the replacement chemical or process as compared to the relevant PFAS or existing process, but also costs associated with the development, implementation, and application of the substitute substance or process (including research and development and training costs), the replacement of goods with long useful lives for which spare parts will no longer be available, and costs associated with increased use of energy, water, labor, and

other resources.

Such a revision would recognize that the comparative price of a PFAS alternative cannot be limited to per volume material cost—manufacturing processes, equipment changes, and reformulation requirements introduce additional costs that ultimately affect the affordability of the finished product for consumers. It would also help to align Minnesota's assessment of the reasonably available alternatives with established federal practice under both the federal Toxic Substances Control Act (TSCA) (which provides for the consideration of the availability of "technically and economically feasible alternatives") and the federal American Innovation and Manufacturing (AIM) Act of 2020 (which requires the review of substitutes for hydrofluorocarbons to include an assessment of "technological achievability, commercial demands, affordability for residential and small business consumers, safety, consumer costs, building codes, appliance efficiency standards, contractor training costs, and other relevant factors"). See 15 U.S.C. § 2605(c)(2)(C) (TSCA requirements for consideration of alternatives); 42 U.S.C. § 7675(f)(3)(C)(ii), (i)(4)(B) (AIM Act considerations for determining the availability of substitutes).

Revisions to the definitions of "alternative" and "reasonably available" as described in SPAN's responses to questions 6 and 7 will help to ensure that substitutes are technically viable, compliant with other relevant state and Federal laws, regulations, and standards, implementable, and not cost prohibitive.

When considering the proposed definition of "product category", how broadly should the agency group product categories? *(Examples: "vehicles" versus "sedans, SUV's, vans, trucks, RV's" or "printers" versus "receipt printers, thermal printers, label printers, residential printers, commercial printers, etc.")*

MPCA should group product categories broadly (e.g., by industry or end use) and consider existing categories under established federal programs when developing product categories. For example, EPA's SNAP Program considers substitutes available for end uses in sectors such as "refrigeration and air conditioning." Additionally, EPA is working to finalize a revised rule that would require any person who has manufactured (including imported) PFAS in any year since January 1, 2011, to report to EPA information including categories of industrial, commercial, and consumer uses of PFAS. Under this rule, it is expected that manufacturers will have to report information about uses in categories such as "Computer and electronic product manufacturing," and "Electrical equipment, compliance, and component manufacturing." This approach would lighten the regulatory burden, avoid duplicative filings for products that share the same service and exposure pathways, and allow MPCA to focus on the essential function of the product rather than narrowly defined models or sub-types. It would also allow MPCA to more easily make use of existing reviews of potential alternatives under Federal programs and encourage consistency across programs.

Should each request for a CUU determination be limited to a single product category, or should applicants be allowed to submit a request for a CUU determination for multiple product categories?

Applicants should be allowed to submit a request for CUU determinations for multiple product categories. For product categories with similar use cases for PFAS, MPCA should encourage requesters to submit a single CUU determination request for multiple product categories. This approach would not only reduce the administrative burden for both the requester and MPCA, it will also ensure that MPCA has a more holistic view of the availability of alternatives and whether sufficient quantities of an alternative are available for all of the product categories that intend to shift to such alternative. As noted above, looking at the availability of an alternative on an industry-by-industry (or product category-by-product category) basis would not account for the fact that the same alternative may be needed to serve the same function across multiple product categories. Therefore, allowing applicants to submit a CUU determination request for multiple product categories would allow for a more efficient and more accurate review.

What safety or other standards require the use of PFAS in a product? *(Please include the specific citation)*
SPAN members are subject to a broad range of safety and other standards that require the use of PFAS in a product. Some of these standards specifically require the use of PFAS, while others impose standards that are currently achievable only through the use of PFAS. For example, in the context of refrigeration equipment, refrigerant and component performance requirements under relevant standards drive the need for PFAS-based chemistries in order to maintain safe operating pressures, material compatibility, and long-term reliability. While any single safety standard may not specify the use of a certain chemical, products that must be compliant under multiple codes and standards often must use certain materials or chemicals to be compliant under all relevant standards. Additionally, SPAN members are subject to standards and specifications set by the U.S. Department of Defense, U.S. Department of Transportation, Federal Aviation Administration, National Aeronautics and Space Administration, and the U.S. Food & Drug Administration (for pharmaceuticals, medical devices, catheters, etc.), among others, that necessitate the use of PFAS to achieve the required safety and performance metrics.

One such example relevant to SPAN members is critical safety standards required for safe semiconductor production:
- In semiconductor manufacturing, chemical and fire safety performance requirements for semiconductor equipment are specified in sector-specific standards such as SEMI S2 (Environmental, Health, and Safety Guideline for Semiconductor Manufacturing Equipment) and SEMI S14 (Safety Guideline for Fire Risk Assessment and Mitigation for Semiconductor Manufacturing Equipment) that specify thresholds and measurement techniques to ensure safety of employees and the protection of the manufacturing environment. Additionally, FM 4910 and UL 2360 are safety standards for plastics used in semiconductor cleanroom equipment, particularly wet benches, to minimize fire propagation and smoke damage.
- Note that while none of these standards explicitly require use of PFAS-containing materials, PFAS-containing materials are often used to meet the performance standards due to their unique combination of capabilities, which include high chemical and temperature resistance, as well as low/no fire propagation potential.

The agency is seeking feedback on the potential that the initial positive CUU determination duration for existing products will expire eight years from the date of issuance regardless of product category. This is intended to stagger renewal deadlines and ease the administrative burden of processing renewals.

- Do you have any concerns about unintended consequences with this proposal?
- Do you have any alternative recommendations to stagger renewal deadlines?

SPAN supports an approach that would stagger CUU renewal deadlines. However, an 8-year renewal deadline is not appropriate for many categories of products.

First, as noted above, SPAN continues to recommend that Minnesota revise Amara's Law and its implementing regulations to exempt from the reporting requirements and prohibitions certain uses of PFAS without the need for a CUU determination. However, if such an exemption is not provided, MPCA should implement an approach to stagger CUU renewal deadlines that accounts for differences between categories of PFAS-containing products. First, MPCA should provide an indefinite CUU determination for uses of PFAS that are authorized under or necessary for alignment with other state or Federal programs, standards, or specifications—for example, EPA's SNAP program or Department of Defense or Federal Aviation Administration standards. MPCA should seek to ensure fairness and market stability for businesses that have made investments in their PFAS-containing products pursuant to these programs, standards, and specifications. Therefore, CUU determinations for these uses should require renewal only upon a change in the relevant state or Federal program, standard, or specification to no longer authorize or necessitate the use of PFAS. If MPCA declines to provide an indefinite CUU determination for these uses, requests for renewals of CUU determinations for these uses should be limited to confirmation that they remain authorized under or necessary for alignment with other state or Federal programs, standards, or specifications.

Similarly, MPCA should provide an indefinite CUU determination for uses in sectors where assets have long useful lives or product development cycles. Absent an indefinite CUU determination or, at minimum, one much longer than 8 years, manufacturers of complex products with long useful lives would be unable to plan for the continued use of such products due to questions about the availability of replacement parts. Likewise, developers of infrastructure and other complex projects would be unable to rely on the continued availability of necessary products and components, creating significant uncertainty and disincentivizing investment in such projects. For comparison, the European Chemical Handling Agency provides 12-year and time-unlimited derogation options.

Other uses of PFAS may also warrant extended CUU determination periods. MPCA could consider allowing manufacturers seeking CUU determinations to request a CUU determination period longer than 8 years and to provide justification for a longer determination period, including the need to account for supply chain complexities, research and development timelines, and lead time needed for the capacity development and deployment of new technologies. This approach would achieve MPCA's goal of creating staggered renewal deadlines while ensuring that such renewal deadlines account for the differences between various categories of PFAS-containing products. SPAN also encourages MPCA to consider reduced information requirements for renewal applications, with the option to seek more information from submitters when deemed necessary.

SPAN would also strongly suggest that the start date for the duration of the initial positive CUU determination begin on the prohibition date (January 1, 2032), rather than the date of issuance. As the issuance dates are expected to vary across product categories resulting in different expiration dates, this would create unnecessary confusion, administrative complexity, and operational burden for companies and industries that manage multiple product categories.

The MPCA has developed a preliminary list of potentially eligible data categories that may be considered for trade secret requests. *(Please review the rule concept document for the list of potentially eligible data)*

- Do you have any concerns about unintended consequences with this proposal?
- Do you have any alternative recommendations for data that should or should not be eligible for trade secret requests?

SPAN encourages MPCA to adopt strong trade secret protections relating to the submission of CUU determination requests and supporting information. In addition to the specific categories identified in the Draft Rule Concept Summary, submitters should be permitted to designate information as trade secrets provided the claim is supported by justification for the protection of such information, including but not limited to the protection of such information as trade secrets under other state or Federal statutes (e.g., TSCA) or information that is subject to protection due to national security sensitivities.

What are the potential ongoing costs to society if the commissioner issues a positive currently unavoidable use determination for the continued use of PFAS within a product or product category? *(For example: environmental, human health, or remediation costs)*
PFAS are not a single substance but a broad and diverse group of chemistries with differing structures, properties, hazard profiles, and exposure pathways. For this reason, it is not scientifically appropriate to ascribe a uniform or generalized “cost to society” to the continued use of PFAS as a category. Any assessment of potential impacts—positive or negative—must be based on specific substances and specific use cases and associated potential exposures. Similarly, if a PFAS use is not granted a CUU determination, the consequences of restricting that use would vary significantly depending on the material, function, and sector involved.

Any assessment should therefore also consider the societal costs associated with denying a CUU determination for a specific substance and use to avoid the proliferation of unintentional regrettable substitutes. These impacts are use and substance-specific, and their magnitude varies by sector, underscoring the need for evaluations to be conducted at the individual substance and use-case level rather than for PFAS as a broad class.

For manufacturers: Administrative cost of requesting a CUU determination (Part 1 of 2). *Please provide your best estimates or rough orders of magnitude (for example "approx. 200 hours"). Precise accounting data is not necessary to answer this question.*

If your company currently possesses information regarding intentionally added PFAS (to the CAS number level) for all components in your product lines, please estimate the number of technical staff hours that were required to establish this baseline.
Other (please specify)
The administrative cost of requesting a CUU determination is likely to vary among SPAN members depending on their role and position within the supply chain. However, for at least some SPAN members, a CUU determination request is likely to require more than 500 hours of technical staff time based on the current CUU determination request proposal. This administrative cost includes the need to identify with specificity each PFAS used in a product and assess the availability—including the functional equivalency and safety—of alternatives. The administrative cost is likely to be particularly burdensome for manufacturers of complex goods, who may not possess such information and whose suppliers may be reluctant to share information that they view as proprietary. MPCA should clarify that it will consider CUU determination requests to be complete even if they do not include all of the information identified in the Draft Rule Concept Summary so long as the requester has exercised a reasonable level of diligence in trying to obtain the missing information.

For manufacturers: Administrative cost of requesting a CUU determination (Part 2 of 2). *Please provide your best estimates or rough orders of magnitude (for example "approx. 200 hours"). Precise accounting data is not necessary to answer this question.*

If your company does not possess information regarding intentionally added PFAS (to the CAS number level) for all components in your product lines, please estimate the number of technical staff hours needed to obtain this data from your Tier 2 or 3 suppliers for a single product line.
Other (please specify)
See response to question 14.

For manufacturers: Expenditure considerations when seeking non-PFAS alternatives (Part 1 of 2). *Please provide your best estimates or rough orders of magnitude (for example "primary cost is CapEx"). Precise accounting data is not necessary to answer this question.*

If you have identified a technically viable non-PFAS alternative for one of your products

that contains intentionally added PFAS, does implementing this alternative require Capital Expenditure (such as purchasing new molds, retooling machinery) or primarily Operational Expenditure (such as purchasing more expensive raw materials)?

- Please estimate the ratio of Capital Expenditure to Operational Expenditure (or indicate which category is the dominant cost driver).

Pursuing non-PFAS alternatives often requires substantial upfront feasibility, testing, and redesign expenditures, even before full material qualification begins. Any meaningful feasibility assessment or early-stage testing program can reach hundreds of thousands to millions of dollars, with even the least intensive redesign or retrofit evaluation requiring hundreds of thousands of dollars in capital costs, underscoring the magnitude of resources required before technical viability can be determined. Additionally, component or system redesigns incur significant testing, modeling, and validation expenses because proposed substitutes often trigger changes to multiple interdependent parts of the system.

For manufacturers: Expenditure considerations when seeking non-PFAS alternatives (Part 2 of 2).

If you have not identified a technically viable non-PFAS alternative for one of your products that contains intentionally added PFAS, have you conducted a Research & Development (R&D) feasibility study?

- If so, what was the cost of that study?

See response to Question 16.

For manufacturers: Research and development safety validation cycles.

What is the typical duration of the R&D and safety validation cycle for a reformulated product in your sector (from concept to market entry)?

Does this cycle align with the 5-year renewal period typically associated with regulatory exemptions?

- If not, please explain the specific technical barriers that would require a longer validation period.

Research and development and safety validation cycles for reformulated products typically extend well beyond five years, often reaching 10–30 years depending on the application. In certain sectors, such as the commercial refrigeration, HVAC, and heat pump sectors, there are additional multiyear barriers including mandatory alignment with safety standards, technician training requirements, building code adoption cycles, and the need for component level redesigns and system level requalification before any new chemistry can be placed on the market.

Because of combined factors such as material compatibility constraints, the need to simultaneously redesign multiple interdependent components, multiyear system performance and reliability testing requirements, and safety validations and certifications, a 5-year renewal cycle does not align with real world product development cycles. If this process is rushed, it could result in regrettable substitutions that are more hazardous, generate more waste, result in greater exposure to people and the environment, and/or require greater use of energy, water, or other resources. Additionally, lack of certainty about whether research and development and safety validation cycles could be completed within the proposed 5-year renewal period would disincentivize innovation and investment and is likely to have a significant impact on industrial operations in Minnesota.

Please provide any additional information or documentation needed to support your answers to any of the questions posed.
In addition to revising the pertinent definitions as described in SPAN's responses to Questions 5-7 and extending or in some cases eliminating the expiration date for CUU determinations as described in SPAN's response to Question 11, SPAN strongly encourages MPCA to make CUU determinations for certain categories of products as part of its CUU rulemakings. As noted above, SPAN continues to recommend that Minnesota revise Amara's Law and its implementing regulations to exempt from the reporting requirements and prohibitions certain uses of PFAS without the need for a CUU determination. These uses, as listed on page 2, include use of PFAS in semiconductor devices and related equipment, motor vehicles, and products required for national security purposes. If Minnesota does not act to exempt these uses from the January 1, 2032 prohibition, MPCA should consider making CUU determinations for these uses, as appropriate, as part of the CUU rulemaking rather than requiring the submission of CUU determination requests.

Do you have any additional questions or comments regarding the PFAS in products: Currently unavoidable use rule? *(Please note that we may be unable to respond to specific questions regarding rule content in this phase of the rulemaking process)*
Please see the attached comment letter featuring SPAN's comments in full.

1. Acknowledgment of Supply Chain Complexities. The Draft Rule Concept Summary identifies detailed information that MPCA would expect to be included in a request for a CUU determination, including a significant amount of information on alternatives. Article manufacturers work within complex supply chains composed of potentially thousands of suppliers, and there is a strong likelihood that they will not possess such information. MPCA should provide clarification as to the level of due diligence required in preparing a

CUU determination request, and should provide a pathway for approval of requests that may not contain all of the identified information so long as the submitter has exercised the appropriate level of diligence in trying to collect any missing information.

2. CUU Determination Request Deadline. SPAN does not believe that the current January 1, 2030, deadline for submission of CUU determination requests for existing products provides manufacturers with sufficient time to seek the information—in particular as to alternatives—that MPCA envisions requiring based on the Draft Rule Concept Summary. As discussed in SPAN's response to Questions 16-18, pursuing non-PFAS alternatives is a time-consuming and expensive endeavor, and haste in identifying non-PFAS alternatives runs the risk of raising regrettable substitution issues. To allow manufacturers sufficient time to prepare the information identified as necessary by MPCA, the Agency should grant all CUU determination requests submitted by the January 1, 2030, deadline, subject to an option for MPCA to withdraw the grant if the requester fails to submit the necessary information within a reasonable period of time following the grant or if, following review of such information, MPCA determines that the use does not meet the CUU standard. This approach would also allow MPCA to consider information gathered through EPA's TSCA 8(a)(7) PFAS reporting rule and make adjustments to its CUU program as appropriate.

3. Sale of Products Subject to Denied Requests for CUU Determinations. SPAN acknowledges MPCA's belief that it does not have authority to allow sell through of PFAS-containing products after January 1, 2032, absent an approved CUU determination request. However, the absence of a sell through provision is likely to cause significant hardship to manufacturers whose CUU determination requests are denied or not timely processed. SPAN strongly encourages MPCA to consider measures to prevent such hardship, which could take the form of time-limited CUU determination request approvals.

4. Stakeholder Engagement. SPAN is supportive of providing a public comment period on CUU determination requests, as well as the opportunity for the requester to provide responses to issues raised during the public comment period. SPAN strongly encourages MPCA to maintain an open dialogue with stakeholders during its review of CUU determination requests, in particular where such requests raise complex, industry-, sector-, or use pattern-specific issues.

SPAN welcomes the opportunity to meet with MPCA staff to assist in the development of a practical, implementable CUU determination program. Thank you for the opportunity to comment, and for considering SPAN's suggestions.

SUSTAINABLE PFAS ACTION NETWORK

March 29, 2026

Comments of the Sustainable PFAS Action Network
Minnesota Pollution Control Agency
PFAS in Products Currently Unavoidable Use –
Rulemaking Draft Rule Concept Summary

The Sustainable PFAS Action Network (SPAN) is providing these comments in response to the Minnesota Pollution Control Agency's (MPCA) Draft Rule Concept Summary for PFAS in Products: Currently Unavoidable Uses ("Draft Rule Concept Summary"). The Draft Rule Concept Summary describes the criteria and processes that MPCA is considering for use to determine which uses of intentionally added per- and polyfluoroalkyl substances (PFAS) will qualify as "currently unavoidable uses" (CUU) and will therefore be exempt from the January 1, 2032, prohibition on sale, offering for sale, and distribution in Minnesota of any product containing intentionally added PFAS under Minn. Stat. § 116.943 (Amara's Law).

SPAN is a coalition of PFAS users and producers committed to sustainable, risk-based PFAS management. Our members advocate for responsible policies grounded in science that provide assurance of long-term human health and environmental protection while recognizing the critical need for certain PFAS materials for U.S. economic growth and global competitiveness. SPAN was formed with the objectives of ensuring legislators and regulatory agencies are aware of the essentiality of products generated by our members while simultaneously supporting practical regulatory programs focused on protecting human health and the environment and maintaining America's global economic edge.

SPAN appreciates MPCA's willingness to consider these comments on the Draft Rule Concept Summary. A practical, implementable CUU determination program is key to the successful implementation of Amara's Law. The Draft Rule Concept Summary represents an important initial step towards the development of such a program. However, significant refinements are needed to ensure that:

(1) The evaluation of whether a use is essential and whether alternatives to the use are reasonably available is comprehensive;
(2) The administrative burden of requesting a CUU determination is not so significant as to make the program unusable, and
(3) The CUU process and resulting determinations provide sufficient certainty to support long-term investments in complex products and infrastructure and similar projects in reliance on the future availability of key products and components.

While an effective CUU program is important, SPAN continues to recommend changes to Amara's Law and its implementing regulations to exempt certain uses of PFAS from the reporting requirements and prohibitions without the need for a CUU determination. Exempting these uses from the reporting requirements and prohibition would help align Minnesota's PFAS product restrictions with similar restrictions in other jurisdictions, allowing MPCA to focus its regulation of PFAS in products on those uses most appropriate for regulation, and reduce the administrative burden on both manufacturers and MPCA by eliminating the need for CUU determinations for these uses. Minnesota should exempt the following categories of uses of PFAS from the requirements of Amara's Law without the need for a CUU determination:

- Packaging for any product that is a medical device or drug or that is otherwise used in a medical setting or in medical applications regulated by the United States Food and Drug Administration;
- Veterinary products and components;
- Products for environmental or water quality testing;
- Motor vehicles subject to Federal regulations;
- Other motor vehicles, including all off-highway vehicles and farm equipment;
- Watercraft;
- Semiconductor devices and related equipment, chemicals, and materials used in the manufacture of semiconductors;
- Non-consumer electronics and laboratory equipment;
- Cooling, heating, ventilation, air conditioning, refrigeration or water heating equipment that contains PFAS or refrigerants listed as acceptable, acceptable subject to use conditions or acceptable to narrowed use limits pursuant to the United States Environmental Protection Agency (EPA) Significant New Alternatives Policy (SNAP) Program;
- Other products that contain PFAS with uses that are currently listed as acceptable, acceptable subject to use conditions or acceptable subject to narrowed use limits by the EPA SNAP Program; provided that the product contains per- or poly-fluoroalkyl substances that are being used as substitutes for ozone-depleting substances under the conditions specified in the rules;
- Products used for the generation, distribution, or storage of electricity;
- Products that contain fluoropolymers;
- Products required for national security purposes to meet the standards of the United States Department of Defense, the United States Department of Transportation, the United Department of Homeland Security, the Federal Aviation Administration, and the National Aeronautics and Space Administration;
- Equipment or compounds directly used for the manufacture or development of all listed products;
- Products that contain PFAS in electronic components or internal components and enclosures of such components;
- Materials and coatings the extend the lifespan and/or energy efficiency of buildings

Responses to MPCA Feedback Period Questions

MPCA has asked that parties interested in commenting on the Draft Rule Concept Summary provide responses to a series of questions. SPAN's responses to MPCA's questions are below.

1. **Who is Commenting?**

   Response: Representative of a product manufacturer(s)/industry group.

2. **If you are commenting as a representative, what is the name of the entity you are commenting on behalf of?**

   Response: The Sustainable PFAS Action Network (SPAN) is a non-profit organization representing industry stakeholders that responsibly produce and utilize PFAS compounds in a wide range of commercial products.

3. **If you represent a product manufacturer or industry group, what industry(ies) do you represent?**

   SPAN's members represent a diverse range of industries including heating, air-conditioning, and refrigeration, chemical manufacturing, electronics and semiconductors, and aerospace.

4. **If you represent a product manufacturer, what types of components, products, or product categories do you manufacture that you will be requesting a CUU determination for?**

   As discussed above, SPAN continues to recommend that Minnesota revise Amara's Law and its implementing regulations to exempt certain uses of PFAS from the reporting requirements and prohibitions without the need for a CUU determination. If such exemptions are not effectuated, the types of components, products, or product categories for which SPAN members may request CUU determinations include, but are not limited to:

   - Semiconductors, electronic equipment and devices that contain semiconductors, and the related equipment, chemicals, and materials used in the manufacture of semiconductors;
   - Cooling, heating (including space heating), ventilation, air conditioning, refrigeration (including transport), and water heating materials, equipment, and parts, including refrigerants subject to EPA's SNAP program and refrigerants necessary to manage thermal control for battery modules in electric vehicles; and
   - Materials, equipment, and parts necessary for aerospace applications, including applications necessary for national security, defense, and space exploration uses.

5. **Do you have any recommended changes or other considerations that you think the MPCA should take into account when defining the term "essential for health, safety, or the functioning of society"?**

   SPAN appreciates MPCA's efforts to define "essential for health, safety, or the functioning of society," but believes the following refinements are necessary to ensure that the definition is comprehensive enough to encompass all currently unavoidable uses.

   First, this definition should make clear that uses necessary for alignment with state or Federal requirements are "essential to the health, safety, or the functioning of society." Specifically, this definition should be inclusive of all uses necessary to align with state or Federal statutes, regulations, energy, building, or environmental codes, and applicable Federal standards and specifications, such as those issued by the Department of Defense, Federal Aviation Administration, National Aeronautics and Space Administration, Department of Transportation, and the U.S. Food and Drug Administration. The necessity of uses to align with such standards should be sufficient to establish their essentiality. These uses have been determined by other jurisdictions, such as New Mexico, Maine, and the European Union, to be necessary, and should likewise be presumed to be essential.

   Similarly, SPAN recommends that MPCA revise this definition to specify that uses "essential for health, safety, or the functioning of society" include uses that are necessary for the purposes of national security, defense, or space exploration, as well as those necessary for critical infrastructure. Additionally, this definition should make explicit that essential uses include uses necessary for the mitigation of climate change and ozone depletion, and the delivery of food, medications, blood, and other temperature-sensitive materials.

Finally, SPAN encourages MPCA to revise this definition to clarify that the use of PFAS in equipment or materials directly used for the manufacture or development of products that are essential to the health, safety, or the functioning of society are also considered to be essential, as the absence of this equipment or materials would result in the unavailability of essential products and the services they provide.

6. **Do you have any recommended changes or other considerations that you think the MPCA should take into account when defining the term "alternative"?**

   Response: SPAN is concerned that the focus solely on functional equivalency in the Draft Rule Concept Summary definition of "alternative" overlooks several important factors that must be considered when assessing the existence of alternatives.

   First, SPAN suggests that the definition of "alternative" be revised to specify that functional equivalency requires consideration of both whether a substitute chemical, product, or process performs as well as or better than the chemical, product, or process which would be replaced, and whether the performance of the substitute is as reliable and durable as what it would replace. Where relevant, this assessment of performance should be made against mandatory standards and codes. Further, where PFAS in a product serves multiple functions within a product, "functional equivalency" should include an assessment of whether a substitute chemical, product, or process can serve all of the same functions as the PFAS it is under consideration to replace, or whether multiple alternative chemicals, products, or processes may be necessary to serve those functions. Where multiple changes would be necessary, the replacement of the PFAS with an alternative may not be feasible or practicable.

   Additionally, SPAN recommends that this definition also be revised to require that an "alternative" be equivalent to or better than the specific PFAS to be replaced with respect to safety to human health and the environment, considering factors including the characteristics of a substitute chemical (persistence, bioaccumulation, toxicity, flammability, etc.), as well as the potential for significant exposure to human health and the environment resulting from the need to use high quantities of a substitute chemical or the need to change manufacture, processing, or use processes to accommodate the use of a substitute chemical. This increased exposure could result in greater risk to human health and the environment, even for substitute chemicals with more favorable hazard profiles. Finally, this definition should make clear that the assessment of equivalency must consider not only the direct human health and environmental effects of a potential substitute chemical, process, or product, but also the lifecycle impacts—e.g., increased energy and water usage, greenhouse gas emissions, generation of hazardous waste, and shorter lifespan.

7. **Do you have any recommended changes or other considerations that you think the MPCA should take into account when defining the term "reasonably available"?**

   Response: SPAN supports MPCA's definition of "reasonably available" insofar as it acknowledges the need to consider whether alternatives are available in sufficient quantities. However, revisions are necessary to ensure that this definition adequately addresses additional factors that may affect whether alternatives are available in sufficient quantities—such as an entire industry or multiple industries simultaneously moving towards use of the alternative—and whether, even if available in sufficient quantities, alternatives are technologically and economically feasible such that their availability is "reasonable."

First, SPAN strongly encourages MPCA to take a holistic approach to determining the availability of sufficient quantities of an alternative. This determination should consider not only the submitter's uses, but all reasonably foreseeable uses of the alternative as a replacement for PFAS. Any other approach is likely to overestimate the available quantities of an alternative. Additionally, an assessment of the technological feasibility of an alternative must go beyond whether it provides equivalent or better functionality, safety, and durability, as discussed in SPAN's response to Question 6. This assessment must also consider the feasibility of the transport of the alternative to the locations at which it is required to be used, based on existing infrastructure. Even if available in sufficient quantities, an alternative that cannot safely and economically be transported to the relevant use sites is not reasonably available. Similarly, the reasonable availability of an alternative should take into consideration whether specialized expertise is necessary to deploy the alternative and the availability of such specialized expertise.

Further, while MPCA has indicated that it does not intend to allow persons seeking CUU determinations to rely solely on cost considerations to establish that there is no reasonably available alternative for a PFAS, the definition of "reasonably available" should be revised to acknowledge that cost is a factor in making this determination. When assessing reasonable availability, cost should include not only the cost of the replacement chemical or process as compared to the relevant PFAS or existing process, but also costs associated with the development, implementation, and application of the substitute substance or process (including research and development and training costs), the replacement of goods with long useful lives for which spare parts will no longer be available, and costs associated with increased use of energy, water, labor, and other resources.

Such a revision would recognize that the comparative price of a PFAS alternative cannot be limited to per volume material cost—manufacturing processes, equipment changes, and reformulation requirements introduce additional costs that ultimately affect the affordability of the finished product for consumers. It would also help to align Minnesota's assessment of the reasonably available alternatives with established federal practice under both the federal Toxic Substances Control Act (TSCA) (which provides for the consideration of the availability of "technically and economically feasible alternatives") and the federal American Innovation and Manufacturing (AIM) Act of 2020 (which requires the review of substitutes for hydrofluorocarbons to include an assessment of "technological achievability, commercial demands, affordability for residential and small business consumers, safety, consumer costs, building codes, appliance efficiency standards, contractor training costs, and other relevant factors"). *See* 15 U.S.C. § 2605(c)(2)(C) (TSCA requirements for consideration of alternatives); 42 U.S.C. § 7675(f)(3)(C)(ii), (i)(4)(B) (AIM Act considerations for determining the availability of substitutes).

Revisions to the definitions of "alternative" and "reasonably available" as described in SPAN's responses to questions 6 and 7 will help to ensure that substitutes are technically viable, compliant with other relevant state and Federal laws, regulations, and standards, implementable, and not cost prohibitive.

8. **When considering the proposed definition of "product category", how broadly should the agency group product categories? (Examples: "vehicles" versus "sedans, SUV's, vans, trucks, RV's" or**

"printers" versus "receipt printers, thermal printers, label printers, residential printers, commercial printers, etc.")

Response: MPCA should group product categories broadly (e.g., by industry or end use) and consider existing categories under established federal programs when developing product categories. For example, EPA's SNAP Program considers substitutes available for end uses in sectors such as "refrigeration and air conditioning."[1] Additionally, EPA is working to finalize a revised rule that would require any person who has manufactured (including imported) PFAS in any year since January 1, 2011, to report to EPA information including categories of industrial, commercial, and consumer uses of PFAS. Under this rule, it is expected that manufacturers will have to report information about uses in categories such as "Computer and electronic product manufacturing," and "Electrical equipment, compliance, and component manufacturing."[2] This approach would lighten the regulatory burden, avoid duplicative filings for products that share the same service and exposure pathways, and allow MPCA to focus on the essential function of the product rather than narrowly defined models or sub-types. It would also allow MPCA to more easily make use of existing reviews of potential alternatives under Federal programs and encourage consistency across programs.

9. **Should each request for a CUU determination be limited to a single product category, or should applicants be allowed to submit a request for a CUU determination for multiple product categories?**

Response: Applicants should be allowed to submit a request for CUU determinations for multiple product categories. For product categories with similar use cases for PFAS, MPCA should encourage requesters to submit a single CUU determination request for multiple product categories. This approach would not only reduce the administrative burden for both the requester and MPCA, it will also ensure that MPCA has a more holistic view of the availability of alternatives and whether sufficient quantities of an alternative are available for all of the product categories that intend to shift to such alternative. As noted above, looking at the availability of an alternative on an industry-by-industry (or product category-by-product category) basis would not account for the fact that the same alternative may be needed to serve the same function across multiple product categories. Therefore, allowing applicants to submit a CUU determination request for multiple product categories would allow for a more efficient and more accurate review.

10. **What safety or other standards require the use of PFAS in a product?**

Response: SPAN members are subject to a broad range of safety and other standards that require the use of PFAS in a product. Some of these standards specifically require the use of PFAS, while others impose standards that are currently achievable only through the use of PFAS. For example, in the context of refrigeration equipment, refrigerant and component performance requirements under relevant standards drive the need for PFAS-based chemistries in order to maintain safe operating pressures, material compatibility, and long-term reliability.[3] While any single safety standard may not specify the use of a certain chemical, products that must be compliant under multiple codes and standards often must use certain materials or chemicals to be compliant under all relevant standards. Additionally, SPAN members are subject to standards and specifications set by the U.S. Department

[1] U.S. EPA, *Significant New Alternatives Policy: Substitutes in Refrigeration and Air Conditioning* (last updated Mar. 16, 2026).

[2] 40 C.F.R. § 705.15(c)(2); Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Data Reporting and Recordkeeping Under the Toxic Substances Control Act (TSCA); Revision to Regulation, 90 Fed. Reg. 50,923 (Nov. 13, 2025).

[3] These standards include UL 60335-2-89, ASHRAE 15, ISO 51491, and EN 378.

of Defense, U.S. Department of Transportation, Federal Aviation Administration, National Aeronautics and Space Administration, and the U.S. Food & Drug Administration (for pharmaceuticals, medical devices, catheters, etc.), among others, that necessitate the use of PFAS to achieve the required safety and performance metrics.

One such example relevant to SPAN members is critical safety standards required for safe semiconductor production:

- In semiconductor manufacturing, chemical and fire safety performance requirements for semiconductor equipment are specified in sector-specific standards such as SEMI S2 (Environmental, Health, and Safety Guideline for Semiconductor Manufacturing Equipment) and SEMI S14 (Safety Guideline for Fire Risk Assessment and Mitigation for Semiconductor Manufacturing Equipment) that specify thresholds and measurement techniques to ensure safety of employees and the protection of the manufacturing environment. Additionally, FM 4910 and UL 2360 are safety standards for plastics used in semiconductor cleanroom equipment, particularly wet benches, to minimize fire propagation and smoke damage.
- Note that while none of these standards explicitly require use of PFAS-containing materials, PFAS-containing materials are often used to meet the performance standards due to their unique combination of capabilities, which include high chemical and temperature resistance, as well as low/no fire propagation potential.

11. **The agency is seeking feedback on the potential that the initial positive CUU determination duration for existing products will expire eight years from the date of issuance regardless of product category. This is intended to stagger renewal deadlines and ease the administrative burden of processing renewals. Do you have any concerns about unintended consequences with this proposal? Do you have any alternative recommendations to stagger renewal deadlines?**

Response: SPAN supports an approach that would stagger CUU renewal deadlines. However, an 8-year renewal deadline is not appropriate for many categories of products.

First, as noted above, SPAN continues to recommend that Minnesota revise Amara's Law and its implementing regulations to exempt from the reporting requirements and prohibitions certain uses of PFAS without the need for a CUU determination. However, if such an exemption is not provided, MPCA should implement an approach to stagger CUU renewal deadlines that accounts for differences between categories of PFAS-containing products. First, MPCA should provide an indefinite CUU determination for uses of PFAS that are authorized under or necessary for alignment with other state or Federal programs, standards, or specifications—for example, EPA's SNAP program or Department of Defense or Federal Aviation Administration standards. MPCA should seek to ensure fairness and market stability for businesses that have made investments in their PFAS-containing products pursuant to these programs, standards, and specifications. Therefore, CUU determinations for these uses should require renewal only upon a change in the relevant state or Federal program, standard, or specification to no longer authorize or necessitate the use of PFAS. If MPCA declines to provide an indefinite CUU determination for these uses, requests for renewals of CUU determinations for these uses should be limited to confirmation that they remain authorized under or necessary for alignment with other state or Federal programs, standards, or specifications.

Similarly, MPCA should provide an indefinite CUU determination for uses in sectors where assets have long useful lives or product development cycles. Absent an indefinite CUU determination or, at

minimum, one much longer than 8 years, manufacturers of complex products with long useful lives would be unable to plan for the continued use of such products due to questions about the availability of replacement parts. Likewise, developers of infrastructure and other complex projects would be unable to rely on the continued availability of necessary products and components, creating significant uncertainty and disincentivizing investment in such projects. For comparison, the European Chemical Handling Agency provides 12-year and time-unlimited derogation options.[4]

Other uses of PFAS may also warrant extended CUU determination periods. MPCA could consider allowing manufacturers seeking CUU determinations to request a CUU determination period longer than 8 years and to provide justification for a longer determination period, including the need to account for supply chain complexities, research and development timelines, and lead time needed for the capacity development and deployment of new technologies. This approach would achieve MPCA's goal of creating staggered renewal deadlines while ensuring that such renewal deadlines account for the differences between various categories of PFAS-containing products. SPAN also encourages MPCA to consider reduced information requirements for renewal applications, with the option to seek more information from submitters when deemed necessary.

SPAN would also strongly suggest that the start date for the duration of the initial positive CUU determination begin on the prohibition date (January 1, 2032), rather than the date of issuance. As the issuance dates are expected to vary across product categories resulting in different expiration dates, this would create unnecessary confusion, administrative complexity, and operational burden for companies and industries that manage multiple product categories.

12. The MPCA has developed a preliminary list of potentially eligible data categories that may be considered for trade secret requests. Do you have any concerns about unintended consequences with this proposal? Do you have any alternative recommendations for data that should or should not be eligible for trade secret requests?

Response: SPAN encourages MPCA to adopt strong trade secret protections relating to the submission of CUU determination requests and supporting information. In addition to the specific categories identified in the Draft Rule Concept Summary, submitters should be permitted to designate information as trade secrets provided the claim is supported by justification for the protection of such information, including but not limited to the protection of such information as trade secrets under other state or Federal statutes (e.g., TSCA) or information that is subject to protection due to national security sensitivities.

13. What are the potential ongoing costs to society if the commissioner issues a positive currently unavoidable use determination for the continued use of PFAS within a product or product category?

Response: PFAS are not a single substance but a broad and diverse group of chemistries with differing structures, properties, hazard profiles, and exposure pathways. For this reason, it is not scientifically appropriate to ascribe a uniform or generalized "cost to society" to the continued use of PFAS as a category.[5] Any assessment of potential impacts—positive or negative—must be based on specific substances and specific use cases and associated potential exposures. Similarly, if a PFAS use is not

[4] https://echa.europa.eu/documents/10162/1c480180-ece9-1bdd-1eb8-0f3f8e7c0c49

[5] Notably, there are even significant differences in how PFAS are defined by the U.S. EPA, Environment and Climate Change Canada, and others.

granted a CUU determination, the consequences of restricting that use would vary significantly depending on the material, function, and sector involved.

Any assessment should therefore also consider the societal costs associated with denying a CUU determination for a specific substance and use to avoid the proliferation of unintentional regrettable substitutes. These impacts are use and substance-specific, and their magnitude varies by sector, underscoring the need for evaluations to be conducted at the individual substance and use-case level rather than for PFAS as a broad class.

14. **For manufacturers: Administrative cost of requesting a CUU determination (Part 1 of 2). If your company currently possesses information regarding intentionally added PFAS (to the CAS number level) for all components in your product lines, please estimate the number of technical staff hours that were required to establish this baseline.**

    Response: The administrative cost of requesting a CUU determination is likely to vary among SPAN members depending on their role and position within the supply chain. However, for at least some SPAN members, a CUU determination request is likely to require more than 500 hours of technical staff time based on the current CUU determination request proposal. This administrative cost includes the need to identify with specificity each PFAS used in a product and assess the availability—including the functional equivalency and safety—of alternatives. The administrative cost is likely to be particularly burdensome for manufacturers of complex goods, who may not possess such information and whose suppliers may be reluctant to share information that they view as proprietary. MPCA should clarify that it will consider CUU determination requests to be complete even if they do not include all of the information identified in the Draft Rule Concept Summary so long as the requester has exercised a reasonable level of diligence in trying to obtain the missing information.

15. **For manufacturers: Administrative cost of requesting a CUU determination (Part 2 of 2). If your company does not possess information regarding intentionally added PFAS (to the CAS number level) for all components in your product lines, please estimate the number of technical staff hours needed to obtain this data from your Tier 2 or 3 suppliers for a single product line.**

    Response: See response to question 14.

16. **For manufacturers: Expenditure considerations when seeking non-PFAS alternatives (Part 1 of 2). If you have identified a technically viable non-PFAS alternative for one of your products that contains intentionally added PFAS, does implementing this alternative require Capital Expenditure (such as purchasing new molds, retooling machinery) or primarily Operational Expenditure (such as purchasing more expensive raw materials)?**

    Response: Pursuing non-PFAS alternatives often requires substantial upfront feasibility, testing, and redesign expenditures, even before full material qualification begins. Any meaningful feasibility assessment or early-stage testing program can reach hundreds of thousands to millions of dollars, with even the least intensive redesign or retrofit evaluation requiring hundreds of thousands of dollars in capital costs, underscoring the magnitude of resources required before technical viability can be determined. Additionally, component or system redesigns incur significant testing, modeling, and validation expenses because proposed substitutes often trigger changes to multiple interdependent parts of the system.

17. **For manufacturers: Expenditure considerations when seeking non-PFAS alternatives (Part 2 of 2). If you have not identified a technically viable non-PFAS alternative for one of your products that**

contains intentionally added PFAS, have you conducted a Research & Development (R&D) feasibility study? If so, what was the cost of that study?

Response: See response to Question 16.

18. **For manufacturers: Research and development safety validation cycles. What is the typical duration of the R&D and safety validation cycle for a reformulated product in your sector (from concept to market entry)? Does this cycle align with the 5-year renewal period typically associated with regulatory exemptions? If not, please explain the specific technical barriers that would require a longer validation period.**

    Response: Research and development and safety validation cycles for reformulated products typically extend well beyond five years, often reaching 10–30 years depending on the application. In certain sectors, such as the commercial refrigeration, HVAC, and heat pump sectors, there are additional multiyear barriers including mandatory alignment with safety standards, technician training requirements, building code adoption cycles, and the need for component level redesigns and system level requalification before any new chemistry can be placed on the market.

    Because of combined factors such as material compatibility constraints, the need to simultaneously redesign multiple interdependent components, multiyear system performance and reliability testing requirements, and safety validations and certifications, a 5-year renewal cycle does not align with real world product development cycles. If this process is rushed, it could result in regrettable substitutions that are more hazardous, generate more waste, result in greater exposure to people and the environment, and/or require greater use of energy, water, or other resources. Additionally, lack of certainty about whether research and development and safety validation cycles could be completed within the proposed 5-year renewal period would disincentivize innovation and investment and is likely to have a significant impact on industrial operations in Minnesota.

19. **Please provide any additional information or documentation needed to support your answers to any of the questions posed.**

    Response: In addition to revising the pertinent definitions as described in SPAN's responses to Questions 5-7 and extending or in some cases eliminating the expiration date for CUU determinations as described in SPAN's response to Question 11, SPAN strongly encourages MPCA to make CUU determinations for certain categories of products as part of its CUU rulemakings. As noted above, SPAN continues to recommend that Minnesota revise Amara's Law and its implementing regulations to exempt from the reporting requirements and prohibitions certain uses of PFAS without the need for a CUU determination. These uses, as listed on page 2, include use of PFAS in semiconductor devices and related equipment, motor vehicles, and products required for national security purposes. If Minnesota does not act to exempt these uses from the January 1, 2032 prohibition, MPCA should consider making CUU determinations for these uses, as appropriate, as part of the CUU rulemaking rather than requiring the submission of CUU determination requests.

20. **Do you have any additional questions or comments regarding the PFAS in products: Currently unavoidable use rule?**

    Response:

1. *Acknowledgment of Supply Chain Complexities.* The Draft Rule Concept Summary identifies detailed information that MPCA would expect to be included in a request for a CUU determination, including a significant amount of information on alternatives. Article manufacturers work within complex supply

chains composed of potentially thousands of suppliers, and there is a strong likelihood that they will not possess such information. MPCA should provide clarification as to the level of due diligence required in preparing a CUU determination request, and should provide a pathway for approval of requests that may not contain all of the identified information so long as the submitter has exercised the appropriate level of diligence in trying to collect any missing information.

2. *CUU Determination Request Deadline*. SPAN does not believe that the current January 1, 2030, deadline for submission of CUU determination requests for existing products provides manufacturers with sufficient time to seek the information—in particular as to alternatives—that MPCA envisions requiring based on the Draft Rule Concept Summary. As discussed in SPAN's response to Questions 16-18, pursuing non-PFAS alternatives is a time-consuming and expensive endeavor, and haste in identifying non-PFAS alternatives runs the risk of raising regrettable substitution issues. To allow manufacturers sufficient time to prepare the information identified as necessary by MPCA, the Agency should grant all CUU determination requests submitted by the January 1, 2030, deadline, subject to an option for MPCA to withdraw the grant if the requester fails to submit the necessary information within a reasonable period of time following the grant or if, following review of such information, MPCA determines that the use does not meet the CUU standard. This approach would also allow MPCA to consider information gathered through EPA's TSCA 8(a)(7) PFAS reporting rule and make adjustments to its CUU program as appropriate.

3. *Sale of Products Subject to Denied Requests for CUU Determinations*. SPAN acknowledges MPCA's belief that it does not have authority to allow sell through of PFAS-containing products after January 1, 2032, absent an approved CUU determination request. However, the absence of a sell through provision is likely to cause significant hardship to manufacturers whose CUU determination requests are denied or not timely processed. SPAN strongly encourages MPCA to consider measures to prevent such hardship, which could take the form of time-limited CUU determination request approvals.

4. *Stakeholder Engagement.* SPAN is supportive of providing a public comment period on CUU determination requests, as well as the opportunity for the requester to provide responses to issues raised during the public comment period. SPAN strongly encourages MPCA to maintain an open dialogue with stakeholders during its review of CUU determination requests, in particular where such requests raise complex, industry-, sector-, or use pattern-specific issues.

SPAN welcomes the opportunity to meet with MPCA staff to assist in the development of a practical, implementable CUU determination program. Thank you for the opportunity to comment, and for considering SPAN's suggestions.