# Steven Bennett

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?
Commenting on behalf of the members of the Household & Commercial Products Association

If you represent a product manufacturer or industry group, what industry(ies) do you represent?
Formulated products in the consumer, commercial and institutional space

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?
cleaning products, fabric treatment products, aerosol propellants, and pesticides and components used therein

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)*
HCPA does not have suggested revisions to the definition of the term “essential for the health, safety, or the functioning of society.” However, we do encourage MCPA to develop guidance to clarify the intent. Such guidance could include illustrative examples of products that likely would (or would not) meet the definition in practice, thereby supporting consistent and transparent implementation. HCPA further emphasizes that performance is evaluated over the full-service life and under real-world conditions of use. Reliance solely on short-term or laboratory-based equivalency assessments may not adequately capture performance in practical applications. HCPA also cautions that there may be situations in which performance degrades over time, affecting durability, reliability, or safe operation, even if it does not result in immediate failure. These longer-term considerations should be incorporated into CUU evaluations.

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)*
HCPA seeks clarification on the meaning of “functionally equivalent” in the context of an alternative and encourages the MPCA to consider additional factors during the CUU application/evaluation. These factors may include efficacy, safety, availability, and commercial viability, all of which can materially affect the feasibility of adopting an alternative. The presence of an alternative in another product or from another manufacturer should not automatically mean it is viable for all applications, given differences in formulation, design, and use conditions across products.

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*)
HCPA seeks clarification on the meaning of “functionally equivalent” in the context of an alternative and encourages the MPCA to consider additional factors during the CUU application/evaluation. These factors may include efficacy, safety, availability, and commercial viability, all of which can materially affect the feasibility of adopting an alternative. The presence of an alternative in another product or from another manufacturer should not automatically mean it is viable for all applications, given differences in formulation, design, and use conditions across products.

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.")*

If MPCA were to utilize product categories, HCPA recommends aligning with the Consumer Product category definitions established by the California Air Resources Board (CARB). (See Consumer Products Regulation, § 94508. Definitions.
https://ww2.arb.ca.gov/sites/default/files/202211/Consumer%20Products%20Reg%20Article%202_11-30-22.pdf)

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?
HCPA encourages flexibility in CUU determinations and recommends that such determinations not be limited to narrowly defined product categories. This is particularly important for components that are used across multiple product categories. Allowing manufacturers to submit a single CUU application covering multiple product categories would improve efficiency for both the industry and the MPCA by enabling consolidated review and decision-making. While product categories may be useful in some contexts, overly narrow definitions could introduce unnecessary complexity.

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?

There is a significant discrepancy between the MPCA proposal and the MDA regulations regarding approval timeframes: MPCA proposes an 8-year approval period, whereas MDA specifies a 3-year timeframe. HCPA supports the longer eight-year approval period, as it allows sufficient time for product reformulation or evaluation of alternative components while reducing administrative burdens associated with frequent CUU application reviews.

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?

With respect to trade secrets, HCPA appreciates MPCA's identification of potentially eligible data elements, but recommends additional flexibility to ensure companies can protect commercially sensitive information, including formulation, process, and supply chain information. HCPA further recommends allowing protection of product-specific identifiers such as individual product names and UPCs, and enabling companies to designate additional information as trade secret where appropriate. While MPCA's goal of increasing transparency around PFAS use is understandable, HCPA believes that this can be achieved through aggregated or category-level disclosures without revealing specific product identities. The goal of Amara’s Law is to inform consumers and drive PFAS elimination, which can be achieved without compromising trade secrets. For example, MPCA would already receive this information via reporting, and it could publish aggregate information or product-category data (e.g., how many CUU requests are in a sector or general descriptions of uses deemed essential) without identifying specific products. The information would even be available to the public at the company level. The public would still learn about the scope of PFAS use and see that the state is acting on it. Meanwhile, withholding the exact product names/UPCs causes little harm to transparency. An interested consumer or watchdog would know which categories or uses are deemed essential, as would any company that has submitted the CUU. The concern is that providing information at this level of granularity may disadvantage the disclosing company while unduly benefiting competitors in the marketplace by giving them another company’s product details. Such an approach would inform the public and demonstrate regulatory progress while minimizing competitive harm and encouraging continued industry participation and innovation.

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)*

HCPA appreciates MCPA's efforts to better understand the costs associated with CUU development, but notes that estimating these costs remains challenging due to limited experience to date. Costs and timelines vary significantly depending on how PFAS are used within a product, whether as ingredients or components, and on the availability of viable alternatives. Due to the unique functional properties of various substances classified as PFAS, identifying substitutes is often technically complex and resource-intensive. <br>To illustrate this situation, consider a tire inflator, among other products within the scope of MCPA and MDA, that utilizes HFO-1234ze as its propellant. First and foremost, HFO-1234ze has been identified by the U.S. EPA as a substitute for ozone-depleting substances under the Significant New Alternatives Program (SNAP), 5 which in and of itself is an important consideration and likely meets the "Essential for health, safety, or the functioning of society" criteria. In addition, one could make a convincing argument that HFO-1234ze is exempt from regulation under this statute as it is "a product for which federal law governs the presence of PFAS in the product in a manner that preempts state authority." 6 Even if you ignore these important considerations and focus on the product's specific use in a tire inflator, two essential requirements are that it delivers sufficient pressure to inflate a tire and that it is non-flammable. This combination of performance and safety requirements effectively precludes the use of all other known or allowable propellants. Compressed inert gases, such as air, nitrogen, or argon, would meet the safety requirements but would need to be stored in specialized pressurized containers, which would require handling and storage that would not be usable by the public. The CFCs and HFCs that HFO-1234ze replaced would work, but they are no longer allowable under the SNAP program or the Montreal Protocol.

**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)
HCPA wanted to share a few experiences and perspectives from our members on PFAS and efforts to reformulate PFAS-containing products. It is important to consider that, in our members' experience, PFAS are not typically used, but when they are, they address a specific need. Consequently, reformulating away from PFAS is not always straightforward and likely requires a significant investment of time and resources. And that doesn't even take into account situations in which multiple PFAS-containing products must be reformulated, or in which key components are necessary for a product to function or be used or stored safely.

**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 <u>does not</u> 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)
Companies shared their experiences attempting to remove PFAS from all their product lines, including their formulations, components, and packaging. These efforts can easily entail hundreds of hours of technical staff time and significant capital and operational expenditures to identify replacement raw materials, develop new formulations and manufacturing processes, and pursue the necessary regulatory approvals. This process can easily take multiple years, even if successful. In some cases, manufacturers are still attempting to identify technically viable alternatives. Further, when product lines include proprietary components that require downstream supplier engagement, many Tier 2 and Tier 3 suppliers are not equipped to provide CAS-level PFAS data or component-level attestations under the varied U.S. state definitions. This level of data collection requires substantial new processes and validation to ensure compliance.

**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).

Companies shared their experiences attempting to remove PFAS from all their product lines, including their formulations, components, and packaging. These efforts can easily entail hundreds of hours of technical staff time and significant capital and operational expenditures to identify replacement raw materials, develop new formulations and manufacturing processes, and pursue the necessary regulatory approvals. This process can easily take multiple years, even if successful. In some cases, manufacturers are still attempting to identify technically viable alternatives. Further, when product lines include proprietary components that require downstream supplier engagement, many Tier 2 and Tier 3 suppliers are not equipped to provide CAS-level PFAS data or component-level attestations under the varied U.S. state definitions. This level of data collection requires substantial new processes and validation to ensure compliance.

**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?

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**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.

There is a significant discrepancy between the MPCA proposal and the MDA regulations regarding approval timeframes: MPCA proposes an 8-year approval period, whereas MDA specifies a 3-year timeframe. HCPA supports the longer eight-year approval period, as it allows sufficient time for product reformulation or evaluation of alternative components while reducing administrative burdens associated with frequent CUU application reviews.

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

HCPA's comments

March 29, 2026
Andria Kurbondski
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

Re: Draft Rule Concept Summary for PFAS in products: Currently Unavoidable Use (CUU) Rule

Dear Ms. Kurbondski,

On behalf of the Household & Commercial Products Association[1] (HCPA) and its members, we want to convey our comments on the Draft Rule Concept Summary for PFAS in products: Currently Unavoidable Use (CUU) rule. HCPA has commented throughout the process and appreciates the Minnesota Pollution Control Agency's (MPCA) efforts to ensure the regulation is implemented effectively and that the information collected is consistent with legislative intent. We appreciate that MPCA is moving deliberately and seeking thoughtful stakeholder input, but we caution that manufacturer development and MPCA evaluation of CUUs will be a lengthy process.

HCPA remains committed to promoting responsible production, use, and management of fluorinated substances, with a strong focus on ensuring regulatory requirements that safeguard both human health and the environment, particularly in cases involving persistent, bioaccumulative, and toxic (PBT) chemistries.

We continue to strongly recommend that the agency closely monitor PFAS-related activities conducted by the U.S. Environmental Protection Agency (EPA) and increasingly by other state regulators. This will help the MPCA fulfill its statutory obligations and reduce the risk of conflicting or duplicative requirements for manufacturers.

HCPA members have several product categories affected by this activity, including cleaning products, fabric treatment products, aerosol propellants, and pesticides. Many of these products may also contain components that contain PFAS, which adds to the complexity of the regulatory landscape.

The Minnesota Department of Agriculture (MDA) is responsible for regulating pesticides, fertilizers, specialty fertilizers, soil and plant amendments, and agricultural

[1] HCPA is the premier trade association representing the interests of companies engaged in the manufacture, formulation, distribution and sale of more than $180 billion annually in the U.S. of familiar consumer products that help household and institutional customers create cleaner and healthier environments. HCPA member companies employ hundreds of thousands of people globally. HCPA represents products including disinfectants that kill germs in homes, hospitals and restaurants; air fresheners, room deodorizers, and candles that eliminate odors; pest management products for pets, home, lawn, and garden; cleaning products and polishes for use throughout the home and institutions; products used to protect and improve the performance and appearance of automobiles; aerosol products and a host of other products used every day.

liming, including those with intentionally added PFAS. However, the extent of coordination between the MPCA and the MDA is unclear. Strengthened interagency coordination would help mitigate potential market disruptions and regulatory inconsistencies.

Several areas illustrate the need for alignment. For example, certain pesticide inert ingredients are considered PFAS, and if such an ingredient meets the CUU criteria under MDA regulations, a consistent determination would be expected under the MPCA regulations. Additionally, there is ambiguity regarding how components and packaging materials will be treated. While MPCA's proposed regulations explicitly address this consideration, the MDA CUU process does not do so clearly.[2]

Although MPCA has issued a Frequently Asked Questions document that attempts to clarify, practical implementation remains uncertain, particularly in cases where CUU determinations for individual components differ from the CUU evaluation of the finished product. This is especially relevant because there are currently approved CUUs under the Maine process for cleaning products, and there are likely analogous MDA-regulated products.[3]

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[2] See https://www.mda.state.mn.us/environment-sustainability/pfas-currently-unavoidable-use

[3] Approved CUUs available at https://mels.maine.gov/ncore/downloadpdf/-5249272401994566444 and https://mels.maine.gov/ncore/downloadpdf/-7327480081297793536

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[4] See Consumer Products Regulation, § 94508. Definitions. https://ww2.arb.ca.gov/sites/default/files/2022-11/Consumer%20Products%20Reg%20Article%202_11-30-22.pdf

limited experience to date. Costs and timelines vary significantly depending on how PFAS are used within a product, whether as ingredients or components, and on the availability of viable alternatives. Due to the unique functional properties of various substances classified as PFAS, identifying substitutes is often technically complex and resource-intensive.

To illustrate this situation, consider a tire inflator, among other products within the scope of MCPA and MDA, that utilizes HFO-1234ze as its propellant. First and foremost, HFO-1234ze has been identified by the U.S. EPA as a substitute for ozone-depleting substances under the Significant New Alternatives Program (SNAP),[5] which in and of itself is an important consideration and likely meets the "Essential for health, safety, or the functioning of society" criteria. In addition, one could make a convincing argument that HFO-1234ze is exempt from regulation under this statute as it is "a product for which federal law governs the presence of PFAS in the product in a manner that preempts state authority."[6] Even if you ignore these important considerations and focus on the product's specific use in a tire inflator, two essential requirements are that it delivers sufficient pressure to inflate a tire and that it is non-flammable. This combination of performance and safety requirements effectively precludes the use of all other known or allowable propellants. Compressed inert gases, such as air, nitrogen, or argon, would meet the safety requirements but would need to be stored in specialized pressurized containers, which would require handling and storage that would not be usable by the public. The CFCs and HFCs that HFO-1234ze replaced would work, but they are no longer allowable under the SNAP program or the Montreal Protocol.

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Companies shared their experiences attempting to remove PFAS from all their product lines, including their formulations, components, and packaging. These efforts can easily entail hundreds of hours of technical staff time and significant capital and operational expenditures to identify replacement raw materials, develop new formulations and manufacturing processes, and pursue the necessary regulatory approvals. This process can easily take multiple years, even if successful. In some cases, manufacturers are still attempting to identify technically viable alternatives. Further, when product lines include proprietary components that require downstream supplier engagement, many Tier 2 and Tier 3 suppliers are not equipped to provide

[5] See Protection of Stratospheric Ozone: Notice 25 for Significant New Alternatives Policy Program https://www.govinfo.gov/content/pkg/FR-2010-06-16/pdf/2010-14510.pdf

[6] See 116.943 Subd 8(1)

CAS-level PFAS data or component-level attestations under the varied U.S. state definitions. This level of data collection requires substantial new processes and validation to ensure compliance.

To address these challenges, HCPA encourages MPCA, where possible, to support the formation of industry consortia or similar collaborative efforts to develop a CUU application and/or alternatives. Consortia benefit manufacturers by spreading the costs of a CUU application across multiple manufacturers, and would allow MPCA to review a single CUU to address multiple uses simultaneously, thereby improving efficiency.

In conclusion, HCPA appreciates the opportunity to provide these comments and looks forward to collaborating with MPCA and other stakeholders to ensure that Minnesota residents continue to have access to products that enhance their daily lives. If the Agency staff would like to discuss our comments further, please do not hesitate to contact us.

Sincerely,

Steven Bennett, Ph.D.
Executive Vice President, Scientific & Regulatory Affairs