Marcus Branstad

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 American Chemistry Council

If you represent a product manufacturer or industry group, what industry(ies) do you represent?
ACC represents manufacturers, processors, and users of PFAS. As a broad manufacturing sector, it is important to emphasize that we have member companies that produce some of today's critical PFAS substances and separately members that are also significant users for critical industrial applications.

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?
Given the extensive critical uses of PFAS in nearly every sector of the economy, ACC anticipates its members will be filing numerous CUU requests for a broad range of critical applications, including but not limited to:
• Fluoropolymer (including fluoroelastomer) emulsions, granules, powders, films etc. sold directly to processors and users
• Perfluoropolyether oils sold directly to processors and users
• Fluoropolymer-based coatings
• Fluoropolymer -based products (tubes, hoses, o-rings, gasket seals, etc.) used in laboratory diagnostics, pharmaceutical research and development, cable and wire insulation, vehicles, aircraft, vessels, semiconductor manufacturing, electronics, and manufacturing generally
• Fluorinated gases

Separately, many of ACC's members rely on hundreds of critical uses of PFAS. While many of ACC's members do not produce these products, they rely on them for critical safety and performance factors in chemical manufacturing, processing and distribution operations. Therefore, ACC's members will strongly encourage CUU determinations for these uses. For an example of critical uses of PFAS within the chemical sector please see report on "The use of PFAS in chemical plant equipment: an inventory study" prepared by Accenture for Cefic in 2023. See: https://cefic.org/app/uploads/2026/02/Study-on-uses-of-PFAS-in-chemical-manufacturing-plant-equipment.pdf

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)*
At its core, CUU is a new concept that has yet to be implemented, on the scale proposed in this rulemaking, anywhere in the world, and has the potential to create significant unintended consequences. ACC urges MCPA to consider a phased approach for implementing the CUU requirements.

The first step would be to consider the safety and potential risk of specific substances or appropriate sub-categories of PFAS. If a particular PFAS or sub-category of PFAS in a use is identified as a potential risk, then MCPA would proceed to the second step of evaluating whether that use is a CUU.

At its core, CUU is a risk management concept. Since not all PFAS are the same, and key sub-categories of PFAS and their uses do not present a risk, this phased approach would provide for a more effective and efficient assessment that focuses risk management on those substances or sub-categories of substances in uses that present a potential risk. This approach would also help streamline MPCA's CUU process and allow MPCA to focus on those uses that have the greatest potential for risk and exposure.

A CUU assessment should only be conducted when there is deemed to be a risk to human health or the environment from the use of an intentionally added PFAS in a product. Products that do not present an unacceptable risk to human health or the environment could be granted a CUU. If there is no risk concern regarding an intentionally added PFAS in a specific use, MPCA and stakeholder time and resources should not be wasted on a CUU analysis. Neither should residents of Minnesota be denied access to a myriad of products important to their daily lives simply because those products contain a PFAS substance of low concern.

More generally, the concept of "essential for health, safety, or the functioning of society" must be interpreted broadly in order to be workable. Under a narrow interpretation it may be argued that products such as cell phones, laptop computers, or automobiles are not "essential to the functioning of society" since society can continue to function without these conveniences. This narrow and inappropriate interpretation fails to properly account for the fact that these types of products are highly beneficial and are an essential feature of our society. Similarly, under a narrow interpretation, it could be argued that products such as refrigeration units are not "essential to health" since people can live healthy lives without refrigeration. However, this narrow interpretation ignores the critical role that refrigeration plays in supporting good health by preventing food spoilage and preserving pharmaceuticals. These are a few examples of the types of products that, if they became unavailable, would cause massive social and economic dislocation. To avoid this type of disruption we strongly urge MPCA to implement a phased approach to the CUU requirements and adopt a broad interpretation of "essential for health, safety, or the functioning of society".

In terms of essentiality, multiple federal initiatives provide examples of the concept of "essential" that could be informative.

First, the Cybersecurity and Infrastructure Security Agency (CISA) identified 16 Critical Infrastructure sectors whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or destruction would have a debilitating effect on security, national economic security, or national public health or safety. See: https://www.cisa.gov/topics/critical-infrastructure-security-and-resilience/critical-infrastructure-sectors. While not inclusive of all uses that would meet the criteria for "essential," CISA's list demonstrates the need for broad interpretation to mitigate against potential unforeseen adverse impacts to critical end uses and the people who rely on them.

Second, ACC urges MPCA to take notice of a report issued by the Department of Defense (DOD) in 2022, highlighting the criticality of certain PFAS chemistries across a broad swath of applications of strategic and national importance. See: Report on Department of Defense's Per- and Polyfluoroalkyl Substances Task Force Activities, September 2022. https://media.defense.gov/2022/Oct/13/2003095518/-1/-1/1/REPORT-ON-DEPARTMENT-OF-DEFENSE'S-PER-AND-POLYFLUOROALKYL-SUBSTANCES-TASK-FORCE-ACTIVITIES.PDF. Based on an extensive survey of known uses of PFAS chemistries, DOD concluded:

"PFAS are critical to DoD mission success and readiness and to many national sectors of critical infrastructure, including information technology, critical manufacturing, health care, renewable energy, and transportation. DoD relies on an innovative, diverse U.S. industrial economy. Most of the structurally defined PFAS are critical to the national security of the United States, not because they are used exclusively in military applications (although a few are) but because of the civil-military commonality and the potentially broad civilian impact."

The DOD further warned:

"Emerging environmental regulations focused on PFAS are broad, unpredictable, lack the specificity of individual PFAS risk relative to their use, and in certain cases will have unintended impacts on market dynamics and the supply chain, resulting in the loss of access to mission critical uses of PFAS. These market responses will impact many sectors of U.S. critical infrastructure, including but not limited to the defense industrial base.
In addition, the U.S. Chamber of Commerce recently prepared a report examining the dependence of seven critical U.S. sectors -- aerospace manufacturing, data centers, defense equipment and systems, the energy transition, health care, mobility, and semiconductors. See: https://www.uschamber.com/environment/new-chamber-analysis-reveals-potential-risks-of-widespread-bans-on-essential-chemistries | U.S. Chamber of Commerce

These sources of information can inform MPCA's consideration of the concept of "essential for health, safety, or the functioning of society."

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)*
The assessment of alternatives is critical for this new program and is also needed to help avoid regrettable substitution. Key considerations for the assessment of alternatives include:
• The safety and efficacy of alternatives.
• The ability of the alternative to provide equivalent functional performance. This includes whether an alternative can meet ALL relevant product and performance standards.
• The regulatory environment for the identified alternatives as well as broader circularity and safety considerations relevant for product design related to the available alternative. For example, in addition to the hazard and exposure profiles of potential alternatives, MPCA should also consider impacts such as water use, consumption of raw materials, emissions, energy efficiency, reliability/safety during use, and useful life.
• The technical and economic feasibility of deploying alternative technology. "Feasibility" under the National Academy of Sciences (NAS) Alternatives Assessment Framework includes an analysis of both technical feasibility and economic feasibility. Technical feasibility requires a demonstration that a substitute chemistry or formulation provides equivalent or better performance for the relevant performance criteria for a particular product. In any given class of chemistry, different individual chemistries may be used or marketed for different applications with different levels of necessary performance. For example, marine paint, outdoor paint for a bridge, outdoor paint for a building, and interior paint for a kitchen, may have performance requirements that differ significantly. The full report from the National Academy of Sciences can be found at https://nap.nationalacademies.org/catalog/18872/a-framework-to-guide-selection-of-chemical-alternatives.
• The availability of the alternative including a.) what is the approximate cost and availability of other materials that may be required for use of the potential alternatives including required product design changes b.) what will be the approximate costs and supply chain implications for redesigning the product, including product testing and recertification, sourcing of that product etc., and c.) how long would it take the relevant company/industry to transition.

Additionally, we recommend MPCA consider that a product or product component should only be considered an alternative once it is demonstrated, through scientific data, to present less risk under intended conditions of use compared to the incumbent substance. As a threshold matter, this would require MPCA to determine that the product containing the incumbent substance presents an appreciable risk to human health or the environment. Furthermore, any comparison of potential risks must include an assessment of the risks associated with any increased potential for product or product component failure.

As noted separately in Question #20 regarding "other comments," the assessment of alternatives should take into account and seek to align with exiting standards and regulations to avoid a patchwork of differing, and, in some cases, conflicting requirements. This applies to numerous federal and international standards and regulations, but also for other state regulatory policies. For example, there are instances where other states have identified a PFAS substance as a preferred alternative to other chemicals in specific applications or have failed to identify an alternative.

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*)
The basis for "reasonably available" alternative determinations must be consistent, fair, transparent, and well-defined. MPCA should propose objective criteria for determining when alternatives are or are not "reasonably available."

The proposed definition includes the concept of performance. We strongly recommend that it is more appropriate to address performance in the definitions of "alternative" and "functionally equivalent." The alternative is the thing that will be assessed for performance. Performance should not be addressed also in the definition of "reasonably available." "Reasonably available" should be about access and must therefore the definition should include consideration of costs.

If the cost of utilizing an alternative is prohibitive – for example because the only suitable alternative for a particular application is a precious metal – that cost differential would indicate that the alternative is not "reasonably available." Cots may also be a signal for other "availability" considerations – e.g., is the alternative only available from a single source, is sourcing of the alternative only available from sources subject to tariffs or import restrictions. To use an example relevant to Minnesotans, if the price of a home appliance increases two- or three-fold because a more expensive material is needed or mor of the material is needed or production processes or product design need to be significantly changed to use the alternative to achieve required functionality, that price differential is relevant in assessing whether the alternative is "reasonably" available.

As noted above, given global supply chains, it is also important to consider other factors or circumstances limiting the availability of alternatives. For example, considering whether the alternative is readily available domestically or whether it requires import. If imported, are those supplies readily available from multiple sources or a sole source, which presents competitiveness issues. Are there other

factors impacting availability – tariffs, trade restrictions, etc. Likewise, what is the timing for the transition to a potential alternative and is the alternative available at the levels necessary to support the transition or is more time needed. These are all critical factors that influence “reasonably available.”

We propose the following alternative definition:

“Reasonably available” means that one or more alternatives to a PFAS for the specific application and condition of use being evaluated can perform comparably to the PFAS being considered for replacement in a product or component and is currently available in sufficient quantity and at substantially the same cost as the PFAS. PFAS alternatives that are in use in equivalent identical products or components for identical applications may be are considered “reasonably available.” Conditions of current reasonable availability may change over time as a result of new research or innovation.

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 not dictate how products must be grouped into categories. Product manufacturers are in the best position to understand what specific set of performance characteristics provide the most appropriate basis on which to segregate similar products into different categories. Therefore, manufacturers should be permitted to identify the particular product category for which they are seeking a CUU determination. Moreover, if MPCA anticipates that CUU determinations will be manufacturer-specific, there is no need for MPCA to establish uniform product categories to be used by all manufacturers.

To accomplish what is described in the paragraph immediately above, MPCA may need to reconsider whether allowing manufacturers to use existing standardized systems, such as the North American Industry Classification System, Harmonized Tariff Codes, or others, that industry uses broadly to describe its products and the uses of its products.

Giving manufacturers the ability to identify the industries in which their product will be used will create enormous efficiencies. Consider, for example, the scenario in which the manufacturer of an engine gasket receives a CUU determination for the gasket. Separate CUUs should not also be required for the engine manufacturers that use that gasket in their products.

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?
MPCA should allow applicants to submit a request for a CUU determination for multiple product categories. Many of the parameters for consideration of a CUU designation will be the same across product categories. MPCA can accept or reject the CUU rationale for each product category separately. In general, given the large volume of requests likely to be submitted, MPCA should seize every opportunity to make the submission process more efficient. Absent this, MPCA will likely be overwhelmed with CUU requests.

What safety or other standards require the use of PFAS in a product? *(Please include the specific citation)*
Standards very rarely dictate the use of specific substances. Instead, they define performance specifications. A manufacturer can select the substance, engineering, or other design features to meet the performance specifications.

Some examples of standards or legal requirements that may lead a manufacturer to use a product containing PFAS include air or water emission limits, occupational safety requirements, product purity/contamination regulations, or in-life product performance and safety standards like performance specifications for the multiple components of automobiles, airplanes, and electronic devices of all types.

A misalignment with national or Minnesota energy, building, safety, or environmental codes, regulations, or requirements, or with applicable federal standards and specifications (including, Department of Defense, Federal Aviation Administration, National Aeronautics and Space Administration, Department of Transportation, Department of Energy, Food and Drug Administration) would prevent the product’s service from being available or compliant, resulting in a structural lack of feasible alternatives.

If the purpose of this question is to identify standards to be listed in the final regulations, MPCA must ensure that the list of standards in the regulations is illustrative and not exhaustive. Also, in addition to considering published standards in assessing alternatives, it is equally important to consider customer specifications, since those are typically intended to ensure the safety, reliability, and/or durability of the finished product. In many cases, these exceed specific standards to ensure safety, reliability and performance under different parameters.

Often, standards or legal requirements are viewed as minimum requirements for many Original Equipment Manufacturers (OEM) and overall performance and safety can often go beyond these standards for specific applications. Changes in product formulation and design may affect the ability to meet certain standards and/or require product redesign, re-sourcing, re-testing and recertification. This can also negatively impact overall product safety, performance, sustainability and other factors.

As noted separately in Question #20 regarding “other comments,” this area should also take into account existing regulations and avoid decisions that run counter to established federal and international regulations.

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?

To address concerns about the excessive administrative burden associated with CUU renewals, MPCA should simplify the renewal process as described elsewhere. Specifically, if there is no new information to include in a renewal request (i.e., if the information provided in the renewal request would be substantially the same as the information in the original CUU request), the applicant should be allowed to submit a certification to that effect in lieu of submitting a complete application package again. CUU exemptions should be automatically renewed within 30 days of submission of a certification unless, during that period, MPCA receives comments providing new information, not addressed as part of the original CUU determination, that materially alters the assessment made in the original CUU determination. This process change should reduce the administrative burden for MPCA as well as the burden on regulated entities.

There may also be instances where product life cycle and product redesign timelines can be quite long, especially for complex products with complex supply chains. In some cases, this can be longer than 8 years, which would require manufacturers to re-submit renewal requests immediately to avoid product disruption. This should be taken into account, where appropriate, for specific applications.

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?

ACC has significant concerns that MPCA’s CUU draft rule concepts have the potential to undermine protection of confidential business information (CBI) and create anti-competitive issues for products that are deemed a CUU, thereby undermining Minnesota and overall US domestic manufacturing. The entire CUU process, as currently outlined by MPCA, will create potential and likely CBI concerns. If MCPA expects to receive the detailed information that it is proposing, then all of it should be eligible for classification as CBI and appropriate measures need to be in place by MPCA to guarantee the protection of that information. Absent this, many manufacturers will likely forego sales of products creating significant unintended consequences for Minnesota consumers, businesses and the overall State.

The list should also include detailed design factors and specific pricing and cost of production information as eligible for trade secret requests. Also, the list should be illustrative (“including, but not limited to”) instead of exhaustive.

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)*
In evaluating any potential ongoing costs and benefits of granting a CUU determination, MCPA should utilize established frameworks for socio-economic analysis. These principles are embodied in federal guidance for federal regulatory agencies: Executive Orders 12866 and 13563, and OMB Circular A-4.

MPCA’s analysis should also recognize the many different types of PFAS. As noted throughout the development of the underlying law, PFAS are a diverse universe of chemistries with different physical, chemical, and toxicological properties as well as uses. It is not scientifically accurate or appropriate to group them all together for the purpose of regulation. Therefore, it is important to recognize and distinguish among the different types of PFAS when conducting this analysis as it will affect the socio-economic assessment.

MPCA must acknowledge that, for certain categories of products and materials, granting CUU requests will result in substantial cost savings for society, and help Minnesota meet its legally binding goals to achieve 100% carbon-free electricity by 2040 and reduce greenhouse gas emissions by 50% by 2030. Examples include, but are not limited to, the use of products and components for energy efficiency, energy conservation, renewable energy, sustainable packaging, product longevity, natural resource consumption versus alternatives, and protecting biodiversity.

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.
Not applicable

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.
Not applicable

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?

No Response

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.

This will vary by sector, but the cycle for product design, testing, sourcing, recertification and production could take substantially longer for some complex products and may not align with the 5-year renewal period.

Please provide any additional information or documentation needed to support your answers to any of the questions posed.
No Response

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)*
ACC fully supports the sound management of chemicals, including PFAS, however, this rulemaking provides MPCA unprecedented authority to determine which sectors of the economy could continue in their present state. The wide-reaching nature of the regulation will require vast resources to implement and therefore threatens to prevent the MPCA, other state agencies and the overall State from focusing on other environmental, health, and safety priorities.

The CUU components of this incredibly broad law will impact thousands of products and would require thousands of companies to file for exemptions to continue to sell products across Minnesota. While many of these will likely be able to be grouped according to general industrial and commercial sectors, there will be multiple applications and uses within each sector. For an example of magnitude, the broad sector of electronic equipment which relies heavily on fluoro technology, accounts for more than a hundred pages of the U.S. International Trade Commission's Harmonized Tariff Schedule codes.

Under this rulemaking, examples of industries that would need to file numerous CUU requests to continue to operate, include but are not limited to:
• Electronics
• Medical
• Refrigeration
• HVAC
• Optical and Data Transmission
• Automotive
• Aerospace
• Semiconductors
• Agriculture
• Paint and Coatings
• Food
• Batteries and Battery Storage
• Energy Generation Including Nuclear, Solar and Wind Energy
• Industrial Equipment
• Specialty Films
• Other

In addition to the comments submitted for the specific questions posed by MPCA, ACC urges the agency to thoroughly and thoughtfully consider the following additional points as it evaluates the CUU concept.

a. Alignment with Federal and International Regulations –As noted in ACC's comments for key consideration regarding alternatives, MPCA should seek to align with existing federal and international regulations to prevent a patchwork of competing and conflicting requirements. If not implemented carefully, the current law may also run counter to federal and international health and safety standards. This alignment will also help avoid many critical products that can be used safely from not being available in Minnesota as product manufacturers will need to comply with these other regulations. This would also create implementation efficiencies for MPCA. To advance this, MPCA should create an exemption category or have a requirement to align CUU determinations with "federally approved uses" or "products aligning to federal programs, specifications, standards, etc."

For example, this should include products approved under the U.S. EPA Significant New Alternatives Policy (SNAP) program that evaluates and regulates substitutes for ozone-depleting substances and hydrofluorocarbons (HFCs) to protect human health and the environment. SNAP applications already undergo a federal review process perhaps comparable to what MPCA is considering, and they remain subject to U.S. EPA delisting should viable alternatives emerge. Recognizing these pathways for CUUs would help MPCA focus its resources on the targeted assessments for the substances of greatest concern that sit at the core of its proposal. Another example includes products reviewed and approved for packaging of a medical device or drug, that is regulated by the United States Food and Drug Administration, where the use is approved to prevent the product, component, or its packaging from meeting required safety, sterility, performance, or handling standards necessary for clinical use and patient care.

b. Consideration of Relevant, Existing Safety Assessments and Regulatory Determinations – In many cases there are existing assessments and regulatory determinations that govern the use of specific chemistries. This includes instances where specific PFAS substances have been identified as a preferred alternative. Consideration of such information will be important as part of MPCA's assessment.

c. Timelines for Any Potential Transitions – The 2032 timeline may not allow sufficient time for manufacturers of complex products acting in good faith to adequately test and document the performance of PFAS versus potential substitutes at scale. While such information is being generated, certain uses could be banned, which could lead to shortages or disruptions of supplies critical to the health, safety, and functioning of society. Implementing regulations should have a mechanism for extensions for manufacturers acting in good faith to generate information to support a CUU determination. Therefore, MCPA should create a continuous process for CUU applications, extensions and determinations. This includes necessary time for product testing and product recertification, as well as time for any required regulatory approvals.

d. Product Innovation and New Technologies – Advances in technology and/or the emergence of new societal threats and challenges may result in new CUUs recognized after 2032. MPCA should ensure that the regulatory process under development will allow "new" CUU applications to be designated as such and allowed in commerce in Minnesota after January 1, 2032. Failure to consider this will undermine product innovation and new technologies. The most recent examples of this include recent technological developments related to EV batteries, alternative energy sources, datacenters, etc.

e. Ongoing Process for Engaging Downstream Users and Submission of CUUs – It is clear that there is imperfect information in the supply chain, and many downstream users are not fully aware of the Minnesota law or process to implement the law. MPCA should not assume that all downstream users are aware of the regulatory process or that they realize their products rely on PFAS technology. To help address this, MPCA should establish an ongoing process for the submission of uses. This is particularly true for complex supply chains where end-users will not be aware of where PFAS technology may be used, and which rely on subcomponents manufactured by others. MCPA should also consider forming a downstream users stakeholder group, like it did for the Reporting process, to help inform this novel concept of CUU including all aspects of implementation.

f. Eligibility – We have a comment regarding the "Eligibility" section of the Draft Rule Concept Summary. In that section, MPCA states, "In order for an applicant to be eligible to request a CUU determination, the use of PFAS in their product must meet the statutory definition of "currently unavoidable use." However, the definition of "currently unavoidable use" makes it unmistakably clear that a product is not a CUU until the Commissioner determines it to be a CUU by rule. It would therefore be impossible for a product to meet the application eligibility criteria for the designation its manufacturer seeks via the act of applying unless it had already received a CUU determination by the Commissioner. We recommend that MPCA either remove the "Eligibility" section or rewrite in a way that ties back to the manufacturers act of applying for a CUU determination. For example:

"A manufacturer of a product containing intentionally added PFAS is eligible to apply for a CUU determination for a product or group of products if the manufacturer meets the statutory definition of 'manufacturer.'"

g. Applicant Information – Regarding the last sentence of the first paragraph, if CUU determinations are manufacturer-specific rather than product specific, the burden on MPCA (and the regulated community) will be multiplied manyfold. Absent the option for collaboration among manufacturers making similar products, each manufacturer of a fungible product will submit an individual CUU proposal, resulting in multiple CUU proposals being submitted for the same product. In addition, this approach would disproportionately impact smaller companies that are not, for example, members of a trade association that might potentially file a CUU proposal on behalf of its membe rs. We recommend that MPCA adopt a mechanism for a joint submission as is allowed in the reporting rule.

h. CUU Determination Deadline – Regardless of the specific deadline that's adopted, if a CUU application is submitted within the deadline and MPCA fails to make a final determination prior to January 1, 2032, the applicant should receive a conditional CUU determination that is valid until 6 months after the date on which MPCA makes a final determination on the CUU application.

i. CUU Determination Timeline – The text suggests that an applicant will have 30 days to submit revisions to corrections or deficiencies identified by the commissioner. MPCA should give itself the discretion to extend that deadline if circumstances warrant (e.g., if the requested information is especially difficult to collect, new product testing is required, etc.).

