

Minnesota Requests Public Comments by December 19 on Consolidated PFAS Reporting and Fee Rulemaking

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The Minnesota Pollution Control Agency (“MPCA” or “the Agency”) is requesting comments by December 19 on development of the state’s program for reporting per- and polyfluoroalkyl substances (“PFAS”) in products and the payment of associated fees by product manufacturers. With a statutory reporting deadline of January 1, 2026, the regulated community anxiously awaits the issuance of a draft rule.

This request for comments may seem familiar. In September 2023, MPCA promulgated two Request for Comments (“RFCs”) in furtherance of the state’s Per- and Polyfluoroalkyl Substances (“PFAS”) in Products Ban (also known as “Amara’s Law”). Now, having received over 500 pages worth of comments on these two rules, MPCA [plans to combine these two rules](#) and is seeking comments accordingly.

The two previous RFCs focused on implementing the [reporting](#) and [fees](#) elements of the Minnesota PFAS in Products Ban. In combining these efforts, MPCA is seeking “to ensure that the fee process is directly a part of the reporting system being created for products with intentionally-added PFAS.”

Under [Amara’s Law](#), in addition to banning numerous products containing intentionally-added PFAS, MPCA is authorized to promulgate rules requiring “manufacturers” of a product containing “intentionally-added PFAS” to disclose to the Agency, among other things, a brief description of the product (including a universal product code (“UPC”), stock keeping unit (“SKU”)), the purpose for which PFAS are used in the product (including in any product components), and the amount of each PFAS (identified by its chemical abstracts service registry number) in the product, reported as an exact quantity determined using commercially available analytical methods. In developing a rule to effectuate these disclosure requirements, MPCA sought, and continues to seek, answers to the following questions:

- Are there definitions in the law for which clarification would be useful to understanding reporting responsibilities?
- Are there terms or processes in the law for which clarifications will help reporting entities determine reporting status or data-gathering process?
- How should the MPCA balance public availability of data and trade secrecy as part of the reporting requirements?
- Are there any terms used in the law that should be further defined or where examples would be

helpful?

- Are there specific portions of the reporting process that should not be defined through guidance or the development of an application form?
- Other questions or comments relating to reporting or the process of reporting.

Regarding fees, Amara's Law authorizes the MPCA to require a fee to submit this information "to cover the agency's reasonable costs to implement" Amara's Law. In developing the fee rule, the MPCA sought comments on following questions:

- Should the Agency consider tiered fees for different sizes of business?
- Should the Agency consider a per-product or per-company fee?
- Should the Agency consider a per-PFAS or PFAS amount fee?
- Are there other state program fee structures on which the Agency should model the fees?
- Should the Agency consider a fee to be paid when updates to information on previously reported products are submitted? (e.g., decreased amounts or elimination of one or more PFAS)

Now, MPCA simply is combining these rulemaking dockets. There are no draft rules yet, though MPCA is continuing to solicit comments on these two PFAS efforts to inform draft rule development. Thus, this is simply the second of several opportunities for public comment and input on this rulemaking.

Comments submitted to the original RFCs will still be considered along with the responses to this second RFC, so there is no need to resubmit comments. For those entities that missed this first opportunity though, this is an excellent opportunity to have your voice heard prior to MPCA's drafting rules regarding these reporting and fee requirements.

Comments are due back to the Agency by **December 19, 2024**.