



May 21, 2024
Katrina Kessler
Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road N
St. Paul, MN 55155

RE: Proposed Permanent Rules Relating to PFAS in Products; Reporting and Fees

Dear Commissioner Kessler,

MEMA, The Vehicle Suppliers Association, submits these comments to the Minnesota Pollution Control Agency (MPCA) on its proposed permanent rules relating to PFAS in Products; Reporting and Fees¹.

MEMA, The Vehicle Suppliers Association, established in 1904, is the leading trade association in the U.S. for vehicle suppliers, parts manufacturers, and remanufacturers. The mobility sector depends on the resiliency and strength of suppliers. MEMA's members design and manufacture the technology, components and services that enable the production of new vehicles as well as the essential maintenance and repair of the more than 295 million highway vehicles that are currently on the road in the U.S.

Automotive and commercial vehicle suppliers are the largest employer of manufacturing jobs in the United States employing over 900,000 people throughout the country. Direct, indirect, and induced vehicle supplier employment accounts for over 4.8 million U.S. jobs and contributes 2.5 percent to U.S. GDP.

Vehicle suppliers play a crucial role as the innovators and manufacturers of a multitude of technologies and wide range of components, systems, and materials that improve vehicle safety, emissions, and efficiency. PFAS are critical to the production of motor vehicle parts and components, due to their durability and ability to withstand extreme use and high temperatures. PFAS play a crucial role in allowing vehicle suppliers to meet these safety and sustainability goals. The industry seeks to minimize the use of PFAS where possible, but for many components there are no currently available substitutes.

MPCA Must Provide Flexibility to the Motor Vehicle Sector

As MPCA finalizes its reporting requirements, it is critical that the agency adopt a scope that reflects the complexity of PFAS use in the motor vehicle industry. Motor vehicles are

¹ Office of the Revisor of Statutes Administrative Rules "Proposed Permanent Rules Relating to PFAS in Products; Reporting and Fees." 2025



composed of about 30,000 parts². Suppliers provide 77% of the value of a vehicle, ensuring the safe and efficient function of the vehicle, including new motor vehicles and the aftermarket components necessary for repair and maintenance³. The number of parts involved illustrates the need for flexibility to be granted to the industry to allow for the necessary research, development, and safety certifications to take place. For example, a 2023 -Department of Defense report found that it would take over 10 years to find suitable replacements where available for PFAS in semiconductor fabrication and energy storage⁴. Both semiconductors and batteries serve a critical role in advanced vehicle technologies.

Due to the large number of vehicle parts and anticipated reporting, MEMA urges MPCA to consider additional flexibility for the motor vehicle industry. For example, MEMA appreciates MPCA's use of Global Product Classification or Harmonized Tariff Schedule codes but cautions against the use of non-harmonized units such as stock keeping units (SKUs). It can be difficult to predict the demand for aftermarket parts to this level. It is possible that these requirements may lead to delays in the repair process, as there may be instances where a product has not yet been registered.

Further, MEMA urges MPCA to consider the adoption of de minimis language. MPCA has indicated its understanding of intentionally added PFAS to begin around 100 parts per million (ppm). In written follow-up from its July 2024 PFAS Rule Development webinar, the agency stated, "in general, we understand intentional additions of PFAS to be around 100 parts per million (ppm) or above; below that might be intentional but is more likely to be contamination (NOT intentional)⁵." MEMA is concerned by the inclusion of concentration limits below 100 ppm in the concentration ranges in the proposed permanent rule. Such a requirement is not practicable for the motor vehicle industry, which would have to test thousands of parts and may experience batch variability. This difficulty is compounded by the complexity of the supply chain. MEMA urges the agency to consider adopting a higher de minimis threshold, which will provide flexibility to reporting entities, and provide suppliers with leeway in instances where there is unreported data further down the supply chain.

MEMA appreciates the efforts taken by MPCA to provide flexibility to manufacturers in its proposed rules, specifically its proposal to allow manufacturers to group similar products. However, the criteria outlined to group products are restrictive to the motor vehicle industry, which sees a variance in the form, fit and function of its products in order to meet the needs of consumers. For example, the commercial vehicle industry is highly specialized to meet the needs of the end users, which range from construction to emergency services, to the transportation of goods. As a result of this necessary customization, the flexibility provided by MPCA is inaccessible to the motor vehicle industry, which as noted above has a large range

² Sabhadiya, Jingesh "40 Basic Parts of a Car." February 2021

³ AAPEX "Automotive Aftermarket Industry Analysis." 2023

⁴ Department of Defense. "Report on Critical Per- and Polyfluoroalkyl Substance Uses." August 2023

⁵ Minnesota Pollution Control Agency "Progress on PFAS Rule Development Webinar." September 2024

of products that may be subject to reporting requirements. MEMA urges MPCA to consider adopting further flexibilities for manufacturers of complex products like motor vehicles.

MPCA Must Adopt a Practicable Due Diligence Standard

MEMA urges MPCA to reconsider the due diligence requirement outlined in its proposed rules. It is critical that for such a complex and expansive reporting requirement that MPCA adopt a practicable due diligence standard. This is especially important for the motor vehicle industry, which has a complex, global supply chain.

The supply chain is several levels deep and global in scope. There are manufacturers who supply new original equipment, such as finished parts, components and systems directly to the new vehicle manufacturers. Some manufacturers produce a niche of specialty components and other content to be incorporated into finished parts, components, and systems. There are also members of the vehicle supply chain that provide critical raw or semi-finished materials, such as metals, both for specialty and finished parts, components, and systems. These supply chains vary based on the component being produced or sourced. All layers of the supply chain are highly interdependent- one change to the supply chain will cause ripple effects across the industry.

Vehicle suppliers require flexibility to meet the proposed due diligence standards, which currently state that manufacturers must request detailed information from the supply chain until all required information is known. MEMA urges MPCA to adopt a standard that would allow for accommodation where responses are not provided further down the supply chain. This is an important consideration for the motor vehicle industry, which has a high number of parts supplied by a global supply chain.

For this reason, MEMA urges MPCA to adopt a “known and reasonably ascertainable” standard as it finalizes its reporting standard. This is a provision that has been adopted by EPA, which the industry has been preparing to comply with since a final rule was promulgated in October 2023. EPA defines the standard as “all information in a person’s possession or control, plus all information that a reasonable person similarly situated might be expected to know⁶.” Adoption of a similar reporting standard to EPA would streamline the process and allow reporting entities to focus on providing the highest quality data.

MPCA MUST EXTEND ITS REPORTING DEADLINE

In accordance with Minnesota Session Law- 2023, Chapter 60, H.F. No. 2310, manufacturers must submit reports by January 1, 2026, a date that is a mere seven months away. MEMA urges MPCA to extend its reporting deadline to allow for the finalization of its proposed rules and the development of its reporting platform.

⁶ U.S. Environmental Protection Agency “*Instructions for Reporting PFAS Under TSCA Section 8(a)7.*” May 2024



The Vehicle Suppliers Association

It is critical that industry have access to the permanent rules and the reporting tool well in advance in order to ensure compliance. Given the short timeframe before reports are due, MEMA urges MPCA to extend the deadline to allow for these critical developments.

CONCLUSION

As MPCA develops its final rules relating to PFAS in products, MEMA urges the agency to provide flexibility to the vehicle supplier industry and adopt a more practicable due diligence requirement. MEMA also urges MPCA to consider providing an extension to the reporting timeline, to allow time for the development and testing of a reporting tool.

MEMA appreciates MPCA's consideration of our comments on its proposed permanent rules for PFAS in products. For more information or questions, please contact Emily Sobel, senior manager of regulatory policy at esobel@mema.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Ana".

Ana Meuwissen

Senior Vice President of Government Affairs