



Office of Administrative Hearings
Attn: William Moore, OAH
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St. Paul, MN 55164-0620

May 21, 2025

Re: Comments of the Alliance for Automotive Innovation on Notice of Intent to Adopt New Rules Governing Reporting and Fees by Manufacturers Upon Submission of Required Information about Products Containing Per- and polyfluoroalkyl substances (PFAS), Revisor's ID Number R-4828, OAH docket number 5-9003-40410

To the Office of Administrative Hearings:

The Alliance for Automotive Innovation (Auto Innovators)¹ appreciates the opportunity to provide comments on the Minnesota Pollution Control Agency's Notice of Intent to Adopt New Rules Governing Reporting and Fees by Manufacturers Upon Submission of Required Information about Products Containing Per- and polyfluoroalkyl substances (PFAS), or the PFAS in Products: Reporting and Fees Rule.² Auto Innovators has been actively engaged with PCA staff since rule development began and, as is noted in the Statement of Need and Reasonableness (SONAR), has provided comment in response to the previous Requests for Comments published with respect to this rulemaking, and also participated in PCA's informal check-in group, as well as holding an individual meeting with PCA. We hereby affirm and incorporate comments made during these previous engagements.

Because of the significant impact this rulemaking will have on the automotive sector, Auto Innovators has a strong interest in the implementation of Amara's Law. Auto Innovators represents the full automotive industry, including the manufacturers producing over 90% of vehicles sold in the United States, as well as equipment suppliers, battery producers, semiconductor makers, technology companies, and autonomous vehicle developers.

I. Introduction to the Automotive Industry and Its Products

Before digging into Auto Innovators' policy and regulatory recommendations on the PFAS in Products: Reporting and Fees Rule, we think an introduction to the automotive industry and its products is important to fully understand our concerns and the anticipated impacts on the industry from the proposed PFAS reporting and fees structure. Unlike some sectors, the automotive industry has a complex international supply chain, and produces a product that may consist of 30,000

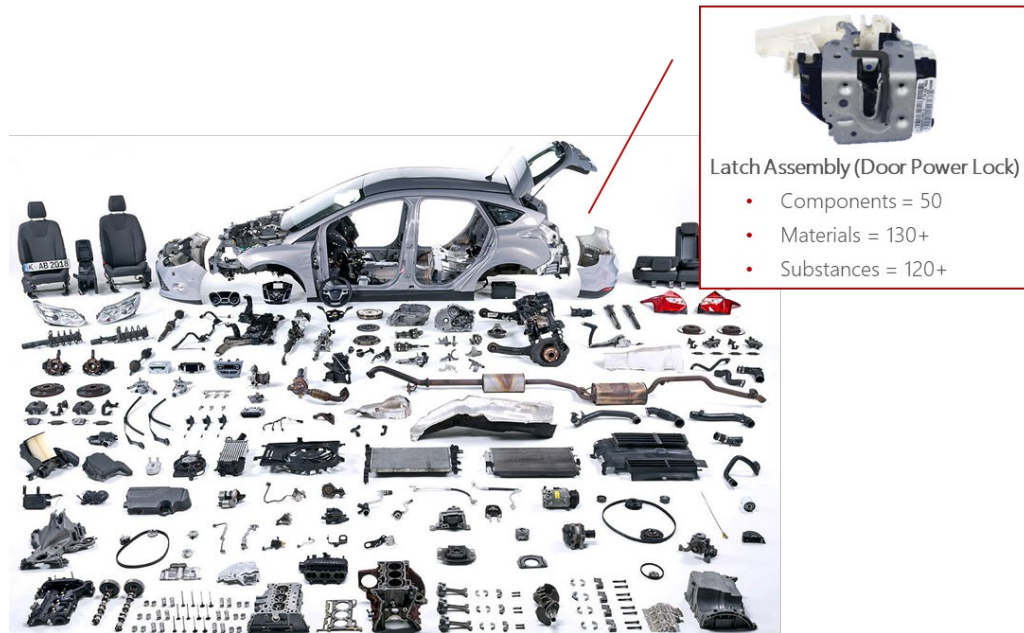
¹ Auto Innovators represents the full automotive industry, including the manufacturers producing most vehicles sold in the U.S., equipment suppliers, battery producers, semiconductor makers, technology companies, and autonomous vehicle developers. Our mission is to work with policymakers to realize a cleaner, safer, and smarter transportation future and to ensure a healthy and competitive automotive industry that supports U.S. economic and national security. Representing approximately 5 percent of the country's GDP, responsible for supporting nearly 10 million jobs, and driving \$1 trillion in annual economic activity, the automotive industry is the nation's largest manufacturing sector. www.autosinnovate.org.

² <https://www.pca.state.mn.us/get-engaged/pfas-in-products-reporting-and-fees>.

individual parts at the lowest component level, encompassing various systems. Managing the manufacture of a vehicle with such a large variety of parts, including distribution and sourcing of those parts, involves a multifaceted supply chain network. This process encompasses the entire journey from raw material procurement to the final delivery of vehicles and spare parts to customers. A substantial number of the parts used in the manufacture of an automobile are imported, and may be subject to confidential business information treatment. Auto Innovators provides this background to ask PCA staff to consider the intricate engineering and management involved in the manufacture of a vehicle and the impacts and challenges posed by requiring information that may not be available to potential reporters.

A. Complexity of Autos as a Product

Vehicles are considered a “complex durable good.” The average age of a car on the road today is over 12 years old; vehicles are built and manufactured to last for many years, and their components must be durable and deliver performance. Vehicles at their lowest component level are made up of as many as 30,000 individual parts that are built into assemblies and sub-assemblies, with vehicles having around 3,000 to 7,000 end-item assemblies. We ask that PCA staff consider the time and cost implications for both PCA and the automotive sector of identifying and submitting data on each individual part for all vehicles sold in Minnesota as the agency moves forward with the scope, level of detail and required due diligence for this reporting system.



In order to keep vehicles safe and functional for consumers as long as possible, the automotive industry doesn't just build and sell vehicles; it also builds, stores, and sells a surplus of automotive parts and components to serve as service and replacement parts to keep those vehicles safely operating. Many times service and replacement parts are manufactured at the same time as the original vehicle, and are held in storage—often for years—until they are placed into service. Federal

safety statutes effectively require automakers to have parts on hand to service a vehicle for a period of 15 years after its sale.

Motor vehicles are required by law to meet a litany of rigorous state and federal performance standards, including Federal Motor Vehicle Safety Standards and fuel economy standards set by the National Highway Traffic Safety Administration; greenhouse gas and criteria pollution emissions standards set by both the Environmental Protection Agency and the California Air Resources Board; and more. These standards require both certification and testing before sale, as well as in-use compliance testing to ensure continued compliance.

Auto companies sell many different models of vehicles, with a plethora of variants to meet all the different preferences that consumers desire. Vehicles have long development and manufacturing timeframes, with the design process beginning seven or more years prior to the anticipated time of sale of the vehicles. Following design, there is supply and sourcing of the parts, machining and build-out of manufacturing lines for the actual manufacturing phase, plus certification and testing of the vehicles to ensure they meet the above-mentioned standards. Because of the complexity of this process, a single model line is only refreshed once every several years, and an original equipment manufacturer (OEM) will alternate refreshes for model lines over time to manage the burden of this process. Importantly, major technological improvements, including such things as a motor vehicle air conditioning system redesign that implements a new refrigerant substance, mostly occur during a redesign cycle only, and are not included as part of year-to-year minor model updates. This complexity substantially contributes to the burden of PFAS reporting and the requirement to report updated information, which will effectively be annual, as further discussed below.

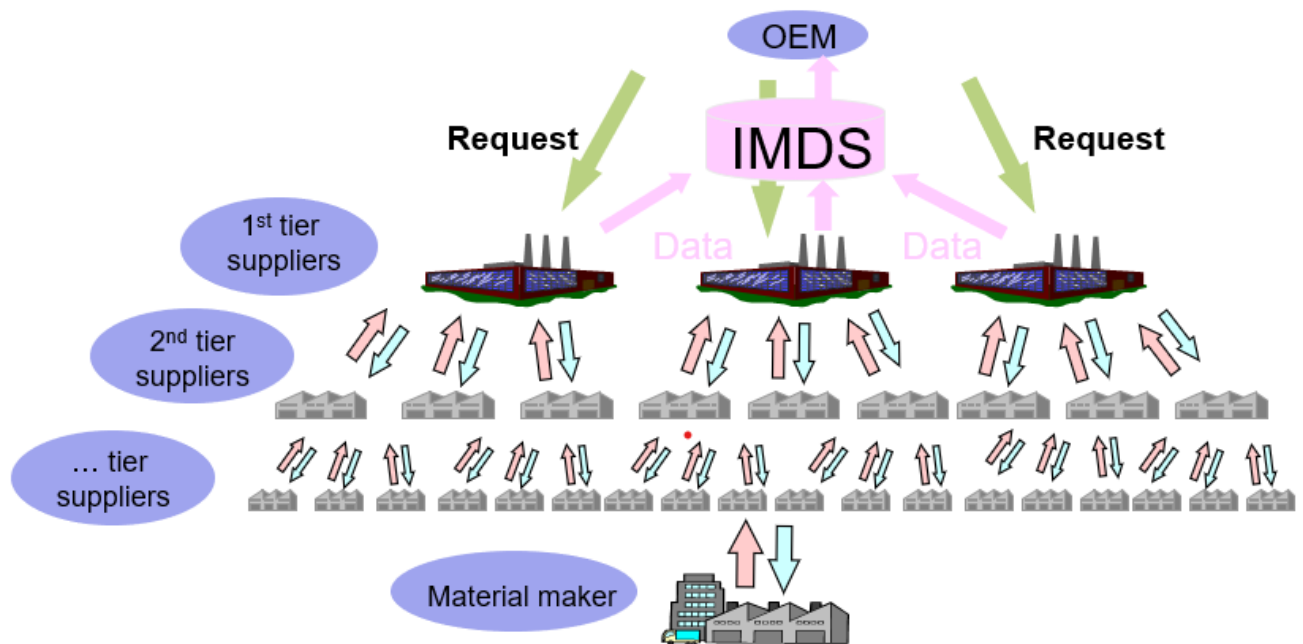
B. Complexity of Supply Chain

When considering the complex manufacture of vehicles, and in particular inquiries that must be made down the supply chain regarding the presence of PFAS chemicals in products or components, it is critical that PCA staff understand the complexity of the automotive supply chain. Our supply chain can have as many as 10 tiers of suppliers providing component substances and parts all the way up to the OEM that assembles the vehicle. Additionally, automotive suppliers are located across the globe.



The International Materials Data System (IMDS) is the global automotive industry's material data system, facilitating the collection, recording, and tracking of substance and material information throughout the complex supply chain. IMDS empowers the automotive industry to conduct

compliance verification by analyzing the substances present in vehicles and vehicle parts. Suppliers proactively send declaration of material content forward through the supply chain. IMDS is an incredibly useful, robust tool, as it can provide a primary glimpse into where various substances are located in an automobile. However, it does have limitations, especially in light of the scope PCA is considering for reporting. IMDS is reliant on the accuracy of the information that is input by the supply chain, in part due to the many tiers involved in manufacture. Because of the strict due diligence standard proposed for the PFAS in Products: Reporting and Fees Rule, further discussed below, OEMs would be required to expend substantial time and resources attempting to track the required information throughout the supply chain, and ultimately still may not be able to satisfy the proposed requirements. This is one of many reasons why PCA should reconsider them.



C. PFAS Use in Automobiles

PFAS are used in vehicles in many critical applications;³ it is impossible to build today’s vehicle without PFAS, and it is highly unlikely that the automotive industry will be able to eliminate all uses of PFAS in vehicles by 2032. Automakers and their suppliers take the potential impacts of chemicals used to build today’s vehicles very seriously and are always looking for substitute compounds that can perform the same function with a lower environmental impact. The industry has recognized areas where it can reduce the use of PFAS chemicals in specific applications and eliminated use of PFOA and PFOS in new vehicles. Despite this, there are some uses that cannot yet be replicated by

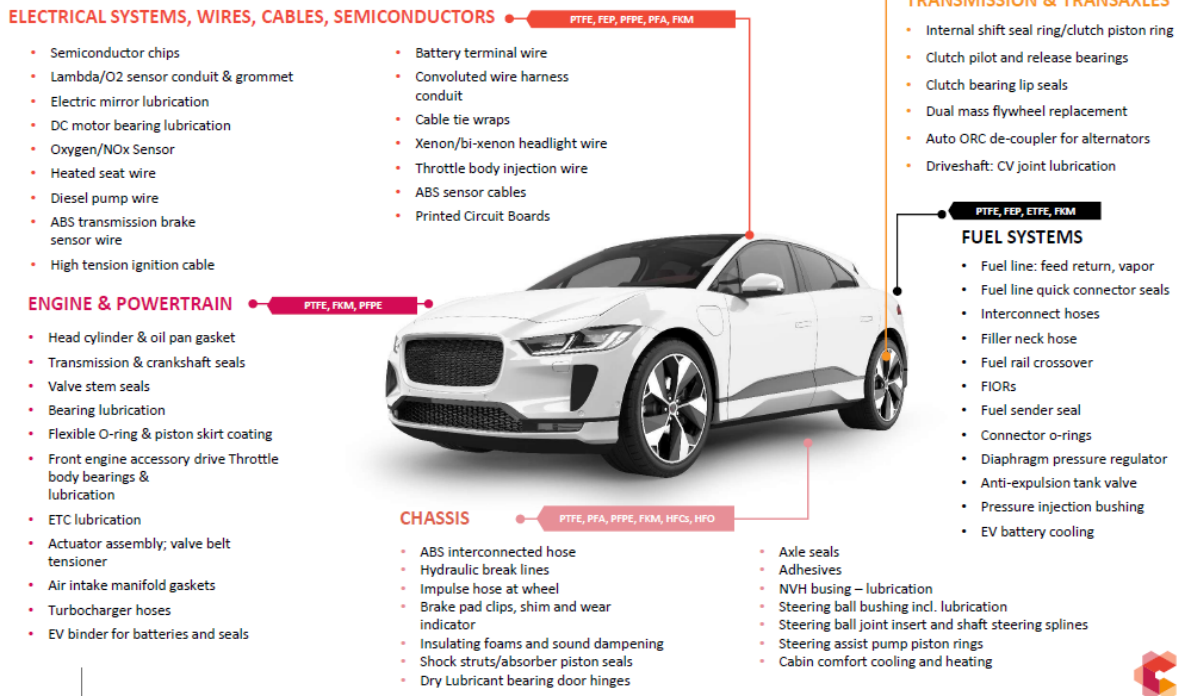
³ Several automotive interest organizations and companies commented on the European Chemicals Agency’s proposed Restriction on the Manufacture, Placing on the Market and Use of PFAS to provide information on automotive uses of PFAS. Those comments can be found at <https://echa.europa.eu/restrictions-under-consideration/-/substance-rev/72301/term>, and Auto Innovators can provide a list of those comments for PCA if desired.

any other known chemical. Although the industry is beginning efforts to identify alternative technologies and formulas that do not use PFAS, once those are identified it could take many years of testing and validation to prove their safety and performance. Then, those alternatives must be implemented in vehicle design and production.

PFAS are critical to the functioning of motor vehicles and their parts in many different ways and are found throughout the vehicle. One non-exhaustive inventory of just the fluoropolymers used in the automotive industry identified more than 250 types of parts that are comprised entirely of fluoropolymers, including seals, tubes, and gaskets—half of which are located in the engine. A non-exhaustive list of places where PFAS are used in vehicles includes refrigerants for air conditioning systems (some of which are separately regulated and/or incentivized by other government regulations), semiconductors, electric vehicle batteries, fuel lines, on-board diagnostic (OBD) system sensors, emissions reduction seals, wiring, anti-lock braking systems, radar and proximity sensors for blind spot detection and automatic braking, power steering, head gaskets, shock absorber piston seals, and coated weather stripping. Data from the automotive industry's IMDS with information on current production and replacement/legacy parts found nearly 8 million auto parts that contain PFAS, with more than 5 million of those containing fluoropolymers. Current data is showing that available information on PFAS in vehicles indicates between 500 and 1,500 components that contain PFAS; we expect that as OEMs continue to identify PFAS within their component supply chain, that number will exceed 1,500 and could get as high as 3,000. Multiply those roughly 1,500 parts known to contain PFAS by an estimated 15 vehicle reports, by the approximately 15 OEMs selling new light-duty vehicles in the state of Minnesota, and OEMs would be reporting as many as 337,500 lines of data in accordance with PCA's proposed reporting requirements and structure. This data would just cover the sale of new vehicles. This is an estimate of the amount of data OEMs could be reporting, and we anticipate the number to actually be higher if PCA finalizes the reporting requirements and structure that it has proposed.

PFAS are used in automotive applications because of their temperature resistance, low flammability, flexibility, resistance to fluids, lightweight nature, and more. The water-resistant properties of PFAS makes them key for the lubricants and greases used in vehicle suspension systems. The heat resistance qualities of PFAS allow flexible fuel lines to safely deliver gasoline into a hot engine without causing a fire. Similarly, heat resistance – along with protection from water intrusion – protects the integrity of wire looms and sensors on a vehicle that allow today's advanced safety systems to function. Further, brake fluids are hygroscopic, which means they absorb moisture from the atmosphere under normal humidity levels. PFAS coatings on brake lines keep brake systems operating at peak performance levels for extended periods. Reduction of vehicle emissions comes in part due to the chemical and heat-resistant protections that PFAS provide to gaskets and O-rings, which keep engines tightly sealed. PFAS coatings on cylinder heads and hoses increase fuel efficiency and reduce fugitive gasoline vapor emissions. It is not an exaggeration to say that nearly every automotive system depends on certain types of PFAS chemicals to provide a safe, durable, and reliable product to consumers.

Applications in ICE Vehicles



II. Comments on Draft Rules Governing PFAS Reporting and Fees

In this section Auto Innovators provides comments on the text of the draft PFAS in Products: Reporting and Fees Rule.

A. *Proposed Criteria for Aggregating Products for Reporting Are Too Strict*

The draft PFAS in Products: Reporting and Fees Rule proposes that products could be grouped together for reporting:

The manufacturer may group together similar products comprised of homogenous materials if the products meet the following criteria:

- i. the PFAS chemical composition in the products are the same;
- ii. the PFAS chemicals in the products fall into the same reporting concentration ranges;
- iii. the PFAS chemicals in the products provide the same function in each product; and
- iv. the products have the same basic form and function and only differ in size, color, or other superficial qualities that do not impact the composition of the intentionally added PFAS.⁴

⁴ Proposed Minnesota Rules, part 7026.0030, subpart 1, item A.(1)(a).

Auto Innovators recommends that PCA provide looser criteria for the grouping of products. Automakers produce vehicle lines with many vehicle variants, an issue that has been discussed in previous PCA workshops and stakeholder meetings. The requirements for the PFAS chemical composition to be exactly the same and within the same narrow concentration ranges will quite possibly restrict OEMs' abilities to group product variants together. PCA should instead consider setting a threshold for "substantially similar" products that would allow for greater grouping of products for reporting.

B. Component-Level Reporting as Proposed Will Be Burdensome for the Automotive Industry, and Will Result in Data of Minimal Utility for Minnesotans

1. Issues with Draft Regulatory Text and Component-Level Reporting

The draft PFAS in Products: Reporting and Fees Rule proposes that PFAS must be reported at the component level for products.

If the product consists of multiple PFAS-containing components, the manufacturer must report each component under the product name provided in the brief description of the product.⁵

It additionally proposes that components and products can be aggregated together for reporting, but only if they meet very specific conditions.

The manufacturer may group similar components listed within a product if the components meet the following criteria:

- i. the PFAS chemical composition in the components are the same;
- ii. the PFAS chemicals in the components fall into the same reporting concentration ranges;
- iii. the PFAS chemicals in the components provide the same function in each product component; and
- iv. the components have the same basic form and function in the final product and only differ in size, color, or other superficial qualities that do not impact the composition of the intentionally added PFAS[.]⁶

Auto Innovators is concerned about how this will impact the automotive industry's reporting. As discussed above, each vehicle is estimated to have 1,500 or more components containing PFAS that could need to be individually reported and detailed as "components" of the products reported.⁷ Additionally, because of the strict criteria for aggregation, Auto Innovators expects that very few vehicle components will contain the exact same PFAS, in the exact same concentration ranges, providing the same function. Therefore, industry will not gain substantially from the ability to group components, and would be expected to report a lot of these components individually.

⁵ Proposed Minnesota Rules, part 7026.0030, subpart 1, item A.(1)(b).

⁶ Proposed Minnesota Rules, part 7026.0030, subpart 1, item A.(1)(1).

⁷ This estimate was developed from data available in IMDS and, as discussed above, that data is likely not as comprehensive as the proposed regulations would require.

As proposed, information gathering and reporting will be very burdensome for the automotive industry, and will inundate PCA's database, and Minnesotan consumers, with massive volumes of reports containing minimally useful data. Companies will have to dedicate a substantial amount of time to inputting data for all of those lines of information for each of those component parts. That volume of data and information input also has to be multiplied by each of the individual vehicle classes reported as a "product" by an OEM, multiplied by all of the different OEMs selling vehicles in Minnesota. As discussed above in our section on PFAS in vehicles, this could mean as many as 337,500 lines of data just from the OEMs, if not more.

This is also likely to lead to confusion for any Minnesotan trying to review the data. First, there is the risk of duplication of reporting—what if a very small component, like a gasket, is individually reported but then also potentially reported as part of its sub-assembly unit, like an engine? What if a supplier has already submitted information on that part? Additionally, OEMs will quite possibly report their components with some differences in labeling, naming, and parts/assembly division, based on the way they view and report those elements internally. That is likely to make it difficult for Minnesota consumers to accurately comprehend the amount of PFAS in their own vehicle and/or compare data on vehicles and does not align with the PCA's goals of consumer awareness and education.

Auto Innovators recommends that MPCA revise its proposed requirements for component reporting and expand its criteria for the grouping of products and product components, in order to better facilitate reporting by entities and provide more useful information to Minnesotans. In this vein, below Auto Innovators details its proposal for vehicle reporting that would rely on such revisions to the proposed reporting requirements.

2. Reporting the Function of the PFAS by Component Will Be Highly Burdensome

PCA proposes that in component-level reporting, OEMs will have to report "the function that each PFAS chemical provides to the product or its components[.]"⁸ Auto Innovators strongly prefers to report the function of PFAS with respect to the overall product, as reporting the purpose at the component level for as many as 30,000 individual parts will be highly burdensome. Information on the purpose of each PFAS is not provided in IMDS. For this reason, it is preferable to report on PFAS at the vehicle level. This would be further supported under our proposal for reporting, described below.

3. Auto Innovators Proposal for Vehicle Reporting

Each auto manufacturer has multiple vehicle models, and a single vehicle has tens of thousands of individual parts at the lowest component level built into sub-assemblies and assemblies. Reporting on each one of those individual components will not only overwhelm the data management system, it will also place an unreasonable burden on automobile manufacturers. All other sectors that provide complex durable goods to consumers will have the same issue—hundreds if not thousands of individual parts in the finished product. Investigating tens of thousands of parts in the automotive industry would be costly and would result in fragmented and duplicated information that may overwhelm the database while providing little value to Minnesota consumers, who are likely to be

⁸ Proposed Minnesota Rules, part 7026.0030, subpart 1, item D.

purchasing a whole vehicle (and concerned about the risks in that whole vehicle) as opposed to any individual component.

The automotive industry, through Auto Innovators, has developed an alternative proposal for PFAS reporting that we believe will provide information that is useful to Minnesota consumers about PFAS present in various parts of the vehicle without placing unnecessarily burdensome obligations on reporting entities.

Auto Innovators believes that reporting the total amount of PFAS in a vehicle family (the product), plus the higher-level locations of those PFAS present in various parts of the vehicle, would be clearer for Minnesotans browsing the data than digging through thousands of lines of redundant small component parts reporting data.

Here is an image of what reporting would look like using our proposed template:

OEM #2, Vehicle #4 - Truck (ICE)		
PFAS Substance + Vehicle Location	PFAS Total (% of Vehicle Weight
PTFE (CAS# 9002-84-0)	357.2214332	0.014%
Body	100.6141809	0.004%
Chassis	188.6539344	0.007%
Electrical	1.375517334	0.00005%
Interior	1.806957768	0.00007%
Powertrain	64.75952085	0.003%
Unassigned	0.011322	0.0000004%
Polyvinylidene fluoride (CAS# 24937-79-9)	300.7629512	0.012%
Body	0.00079422	0.00000003%
Chassis	0.000046	0.000000002%
Electrical	300.759003	0.012%
Unassigned	0.003108	0.0000001%
Propene, 1,1,2,3,3,3-hexafluoro-, polymer with 1,1-difluoroethene (CAS# 9011-17-0)	80.11281319	0.003%
Body	0.204705882	0.00001%
Chassis	0.352891665	0.00001%
Powertrain	79.55521565	0.003%
Ethene, tetrafluoro-, homopolymer (CAS# 9002-84-0)	62.1533528	0.002%
Body	5.932395461	0.00023%
Chassis	9.370032304	0.00037%
Electrical	1.061819626	0.00004%
Interior	2.113240514	0.00008%
Powertrain	43.67586489	0.002%
1-Propene, 1,1,2,3,3,3-hexafluoro-, polymer with 1,1-difluoroethene ... (CAS# 25190-89-0)	29.55318309	0.001%
Body	0.11261904	0.000004%
Chassis	0.000833125	0.00000003%
Interior	0.011489362	0.0000005%
Powertrain	29.42824157	0.001%

This proposed reporting looks at a vehicle, looks at the various PFAS chemicals that are present in the vehicle, and then organizes them by larger comprehensible systems/areas: Body, Chassis, Electrical, Interior (which would likely be of particular interest for consumers), Powertrain, or Unassigned. This reporting also uses the classification breakdown that our IMDS reporting system has, so that data would be more comparable across automakers. In that way, a consumer can see

what PFAS chemicals are present in the interior of a vehicle they are considering without having to discern or aggregate all of the individual product components that might make up the interior passenger cabin.

We would be happy to discuss this reporting proposal with PCA in greater detail. But, as currently proposed, we do not have a clear indication that the PFAS in Products: Reporting and Fees Rule would allow reporting in this manner, for the reasons discussed above.

4. Combine Two Lowest Reporting Ranges for a Bottom Tier that Covers *De Minimis* Level

PCA proposed reporting ranges for the concentration of a PFAS in a product or component, a concept that Auto Innovators generally supports. Reporting the amount of PFAS within a range at the finished product level would simplify the information needed to fulfill the requirements of the law, as reporting at the vehicle level would give an excellent and understandable measure of each car's PFAS content. The PFAS in Products: Reporting and Fees Rule proposes that:

A manufacturer must report the concentration of PFAS chemicals as identified in subitem (1) or (2):

- (1) within the following ranges:
 - (a) practical detection limit to <100 parts per million (ppm);
 - (b) 100 ppm to <1,000 ppm (0.1 percent);
 - (c) 1,000 ppm to <10,000 ppm (one percent);
 - (d) 10,000 ppm to <150,000 ppm (15 percent);
 - (e) 150,000 ppm to <300,000 ppm (30 percent);
 - (f) 300,000 ppm to <600,000 ppm (60 percent);
 - (g) 600,000 ppm to <900,000 ppm (90 percent);
 - (h) 90 to 100 percent; or
 - (i) present but the amount or concentration range is unknown;⁹

Auto Innovators recommends that PCA combine the reporting ranges currently listed as (1)(a) practical detection limit to <100 parts per million (ppm) and (b) 100 ppm to <1,000 ppm (0.1 percent) to a range that just covers from the practical detection limit to <1,000 ppm (0.1 percent). We recommend this because in a number of other chemical regulations, there is a *de minimis* value of 0.1 percent,¹⁰ and so it makes more sense to have the range spread from the practical detection limit to that point. Notably, the automotive IMDS system utilizes a 0.1 percent *de minimis* threshold for most of the chemicals that it tracks, and information existing in the system may not be updated simply because a new chemical regulation comes into effect with a different threshold.

⁹ Proposed Minnesota Rules, part 7026.0030, subpart 1, item C.

¹⁰ For example, the European Union's European Chemicals Agency (ECHA) maintains a list of substances of very high concern (SVHCs), and if an article contains an SVHC above a *de minimis* concentration value of 0.1%, notification to ECHA is required. <https://echa.europa.eu/substances-of-very-high-concern-identification-explained>.

Combining reporting ranges would also bring Minnesota’s concentration ranges closer to the ranges that EPA plans to utilize for reporting.¹¹ Those are:

TABLE 6 TO PARAGRAPH (c)(8)—
CODES FOR REPORTING MAXIMUM
CONCENTRATION OF CHEMICAL SUB-
STANCE

Code	Concentration range (% weight)
M1	Less than 1% by weight.
M2	At least 1 but less than 30% by weight.
M3	At least 30 but less than 60% by weight.
M4	At least 60 but less than 90% by weight.
M5	At least 90% by weight.

5. Total Fluorine Analysis

Beyond those reporting ranges, PCA also proposes to allow reporting of the total organic fluorine (TOF): “(2) the total organic fluorine, determined using commercially available analytical methods, if the amount of each PFAS is not known within applicable due diligence standards under part 7026.0080[.]”¹² Auto Innovators’ experience is that scientific testing to determine the amount of PFAS in a hard consumer product, especially one like a vehicle, is difficult at best.¹³ That being said, the automotive industry has expressed support for ASTM International Standard F3700-25, Standard Guide for Selecting and Applying Analytical Methods to Evaluate PFAS in Consumer and Related Products.¹⁴ F3700-25 “provides an overview of analytical methods, techniques, and procedures that may be used when determining the presence of PFAS in consumer and related products [, but] does not specify which analytical methods, sample preparation techniques, or procedures apply to any given product.” It may be worth PCA review.

C. *The Due Diligence Standard of “Until All Required Information is Known” is Burdensome and Does Not Comport with Reporting Deadlines*

The draft PFAS in Products: Reporting and Fees Rule proposes regarding supply chain information requests that “[a] manufacturer or group of manufacturers must request detailed disclosure of information required in part 7026.0030 from their supply chain until all required information is

¹¹ 88 Fed. Reg. 70,516, 70,553 (Oct. 11, 2023).

¹² Proposed Minnesota Rules, part 7026.0030, subpart 1, item C(2).

¹³ See also the Government Accountability Office’s analysis of this issue at GAO. 2022. Technology Assessment. Persistent Chemicals. Technologies for PFAS Assessment, Detection, and Treatment. GAO-22-105088, <https://www.gao.gov/products/gao-22-105088>.

¹⁴ <https://store.astm.org/f3700-25.html>.

known.”¹⁵ Auto Innovators finds this to be an impracticable and unreasonable due diligence threshold and recommends that PCA reconsider. PCA explains this choice in the SONAR:

Subpart 1 is proposed to make clear that a manufacturer must assume responsibility for reporting unless notification has been received from a manufacturer in the supply chain in accordance with part 7026.0020, subpart 2, confirming that the reporting requirements have been fulfilled.... By ensuring that manufacturers trace PFAS usage through multiple tiers of manufacturers in the supply chain, the MPCA can gather comprehensive and accurate data on PFAS in products, thereby preventing gaps in reporting that could undermine the rule’s effectiveness. This thorough approach ensures that all relevant PFAS data is captured, regardless of where in the supply chain the chemicals were introduced, promoting transparency and accountability across the entire manufacturing process. It also helps mitigate the risk of non-compliance, ensuring that no stage of the production process is overlooked and that the ultimate responsibility for accurate reporting is fulfilled.¹⁶

Manufacturers of products subject to the notification requirement should be able to rely solely on documents or information provided by suppliers and the supply chain to determine whether such products or product components contain intentionally added PFAS. If a supplier informs the manufacturer that the components they purchase that are incorporated into their end products do not contain PFAS, a manufacturer should be able to rely on that information in the absence of contrary evidence. The notification requirement should make clear that a manufacturer’s inquiry regarding PFAS content with respect to any supplier ends with the existing information provided to a manufacturer by that supplier.

It would be unreasonable for the PFAS in Products: Reporting and Fees Rule to require manufacturers to mount a burdensome due diligence effort essentially to prove what they already believe, namely the absence of PFAS in parts and components that go into their end products. Most manufacturers have had little or no reason to collect information from their foreign suppliers about the presence of PFAS in the components they use. End product manufacturers typically have complex global supply chains, and each end product can have thousands of individual parts and components sourced from a variety of suppliers. For example, a side mirror alone can contain over 30 individual parts.

The approach proposed by PCA is clear overreach. Amara’s Law does not authorize investigation of a manufacturer’s supply chain. PCA should not use a reporting requirement for products to get data that is beyond the scope of the statute and to force manufacturers to investigate the entire global supply chain. As previously explained, many suppliers may be outside of the scope of Amara’s Law and may not be legally obligated to report their information to PCA.

As discussed above, both our products and our supply chain are highly complex. The automotive industry will struggle to get information “until it is known,” and we expect that to get information potentially 10 tiers down through the supply chain will take several months at best. That due diligence standard does not comport with the reporting deadline of January 1, 2026—less than eight

¹⁵ Proposed Minnesota Rules, part 7026.0080, subpart 2 (emphasis added).

¹⁶ SONAR at 37.

months from now. Additionally, the requirement to keep pursuing information “until it is known” will mean substantial expenditures of reporting company staff time and resources; if OEMs cannot determine the information or the supply chain will not provide it in that time, then presumably OEMs would not be permitted to sell vehicles, which would be an unreasonable outcome.

We recommend that PCA adopt the due diligence threshold that EPA set for its similar Toxic Substances Control Act Section 8(a)(7) PFAS reporting rule, where EPA acknowledged the complexity and burden required by gathering such data. That requirement is for obligated entities to report required information “to the extent known to or reasonably ascertainable by them[.]”¹⁷ In turn, “known to or reasonably ascertainable by” is defined as “all information in a person’s possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know.”¹⁸ This requirement is more tempered and does not require reporters to search to the ends of the earth to find information, as is currently the case under this draft. Even EPA itself recognized that “it may not be within the scope of ‘reasonably ascertainable’ to survey all articles and products, especially for article importers.”¹⁹ EPA also notes that “if particular information cannot be derived or reasonably estimated without conducting further customer surveys (i.e., without sending a comprehensive set of identical questions to multiple customers), it would not be ‘reasonably ascertainable’ to the submitter. Thus, there is not a need to conduct new surveys for purposes of this rule.”²⁰ This makes clear how much more burdensome Minnesota’s standard is beyond what the EPA found in 2023 to be an appropriate level of due diligence. PCA already referenced the TSCA 8(a)(7) rule when proposing a definition for the term “publicly available” as stated in the SONAR.

Maine, the only other state with a PFAS reporting requirement that comes close to being as extensive as the one proposed by Minnesota, also uses EPA’s “known to or reasonably ascertainable by” standard.²¹

D. *The Requirements Regarding Updated Filings are Unrealistic*

The draft PFAS in Products: Reporting and Fees Rule proposes that:

By February 1 each year, a manufacturer or group of manufacturers must submit an update to the report submitted under part 7026.0030 if during the previous 12 months:

- (1) a significant change was made to a product;
- (2) new product information was provided to a manufacturer; or
- (3) a new product was sold, offered for sale, or distributed in or into the state.²²

In turn, the draft rule defines a “significant change” as:

¹⁷ 40 C.F.R. § 705.15.

¹⁸ 40 C.F.R. § 705.3.

¹⁹ 88 Fed. Reg. 70,516, 70,538 (Oct. 11, 2023).

²⁰ 88 Fed. Reg. at 70,521.

²¹ See 06-096 C.M.R. ch. 90, § 3(A) (2025), *available at* <https://www.maine.gov/sos/sites/maine.gov.sos/files/inline-files/096c090.docx>.

²² Proposed Minnesota Rules, part 7026.0040, subpart 1, item A.

[A] change in the composition of a product that results in the addition of a specific PFAS not previously reported in a product or component or a measurable change in the amount of a specific PFAS from the initial amount reported that would move the product into a different concentration range listed under part 7026.0030, subpart 1, item C.²³

For the automotive industry, the combination of these two provisions is likely to mean that auto manufacturers would be resubmitting vehicle PFAS information every year, which would essentially be the same information. Auto manufacturers release new model years of several vehicles every year, but more times than not those new models involve only minor changes, possibly the substitution or adjustment of a few parts, and no major redesigns. However, when a “significant change” can include the addition of a specific PFAS not previously reported in a component or a measurable change in the amount that would move the product into a different concentration range, that threshold is likely to be triggered and would result in reporting all vehicle data every year. In addition, the terms “new product information” and “new product” are not defined—would new product information include a company name change or new address? Auto Innovators recommends that PCA consider a less strict and more straightforward threshold for updated reporting.

E. Provisions on Reporting on Behalf of Other Manufacturers Raise Additional Considerations

The draft PFAS in Products: Reporting and Fees Rule lays out provisions for reporting on behalf of other manufacturers, which raise several additional considerations for the automotive industry.

The automotive industry has over 3,500 tier 1 suppliers, and this figure does not include the further tiers 2 to roughly 10 of upstream suppliers. Auto Innovators believes that working out reporting on behalf of other manufacturers in the automotive supply chain within the next eight months before the reporting deadline at the start of 2026 will be incredibly difficult and unreasonable to establish and manage.

It also isn't clear how Minnesota will keep track of which suppliers have reported and what data they have received. Similarly, Auto Innovators has concerns about how Minnesota will keep track of the fees paid and which reports they are intended to cover. This greatly increases the possibility of PCA receiving many redundant component reports.

Finally, the automotive industry's issues regarding the reporting of spare parts, covered below, raise questions about whether manufacturers of those parts will be required to report. If spare parts are addressed as Auto Innovators proposes below, it would resolve the issue of reporting on behalf of other manufacturers with respect to those parts.

III. Additional Concerns

Auto Innovators wishes to address a number of additional concerns regarding the PFAS in Products: Reporting and Fees Rule that don't relate directly to the actual proposed text.

²³ Proposed Minnesota Rules, part 7026.0010, subpart 18.

A. *How to Address Spare and Replacement Parts*

As discussed above, the automotive industry sells substantial volumes of spare parts in order to keep vehicles safely functioning, often parts that were manufactured at the same time as the vehicle and have been held in storage until they are needed in the market. It is also noteworthy that those parts have little purpose unless they are installed in the vehicles they are intended to service. Whether and how to consider those parts with respect to reporting is a critical question for the automotive industry, and Auto Innovators makes the following recommendations.

As mentioned above, Auto Innovators expects that there could be as many as 8 million service and replacements parts available in the market for vehicles that may contain PFAS. Therefore, Auto Innovators suggests interpretations below that seek to limit the reporting burden for the automotive industry regarding these spare and replacement parts while ensuring that needed information on PFAS in vehicles is available. Finally, if spare and replacement parts are required to be separately reported as products, Auto Innovators will need guidance on what numeric product codes would be required.

1. Spare and Replacement Parts for Reported New Production Vehicles

One class of spare and replacement parts that PCA should consider are those for new production vehicles that will be reported as products under this program. Because PCA is requiring reporting at the component level, Auto Innovators recommends that spare and replacement parts for vehicles be considered reported through the vehicle report. This is sensible because that PFAS content is factored into the whole vehicle and component reporting, and because those spare and replacement parts will be intended to take the place of a part that has already been factored into reporting.

In fact, PCA appears to have already agreed to this approach. In the Questions and Answers document PCA released in conjunction with its July 18, 2024 webinar on rulemaking toward the implementation of Amara's Law,²⁴ PCA included the following question: "Do service parts need to be reported separately if they contain intentionally added PFAS and are already reported as a component of a finished product SKU?" PCA answered that "If service parts contain intentionally added PFAS and are already reported as part of a finished product SKU, separate reporting for the service parts is generally not required. The key point is that the PFAS content in the service parts is included in the overall reporting of the finished product." Auto Innovators hopes PCA retains this finding.

Auto Innovators makes one final note that OEMs may deliver cars for sale to dealers in Minnesota, and those dealers may install additional parts to make the vehicles attractive for sale or because they were requested by the customer. OEMs should not be responsible for reporting those components because they were not installed by the OEM.

2. Spare and Replacement Parts for Legacy Vehicles

A second class of spare and replacement parts that PCA should consider are those for legacy vehicles—vehicles that have already been sold into the state and are not currently being sold as new

²⁴ <https://www.pca.state.mn.us/sites/default/files/c-pfas-rule1-00.pdf>.

complete vehicles. Those complete vehicles that are already in-use should be considered “used products” consistent with the law and draft regulation. Auto Innovators recommends that spare and replacement parts for legacy vehicles be considered component parts of “used products,” and thus considered not subject to reporting requirements. It would be prohibitive for the automotive industry to determine the PFAS content of these parts, which may have been developed and manufactured years ago, to meet newly introduced regulatory requirements. If the automotive industry was required to report these parts, the estimate of 337,500 lines of data from OEMs would exponentially increase.

B. Automotive Model Years and Vehicles for Sale

Autos as a product have several peculiarities that create some confusion for PFAS reporting. For the majority of calendar year 2025, the United States will be in model years (MY) 2025 and 2026 and will at various times in the year be selling vehicles from both MYs as new to consumers. If vehicles are placed in Minnesota prior to January 1, 2026, such as being sent to a dealer, but could be sold to a customer after that date, are they subject to reporting? If so, how far back in time would OEMs have to report on vehicles previously placed in the state but sold after the January 1, 2026 reporting deadline? Additionally, as discussed above, it is unclear whether new model years of a product constitute a new product for reporting purposes.

Auto Innovators suggests that for the automotive industry, we instead report annually by model year the vehicles for sale in Minnesota. This would greatly simplify and clarify obligations for our industry.

C. The PCA Underestimates Costs

In the SONAR, PCA states that “[m]anufacturers are anticipated to bear minimal costs to comply with the reporting rule.”²⁵ Auto Innovators disagrees with this characterization, and expects that the costs manufacturers will have to undertake will be substantial, as already somewhat described above.

To conclude that manufacturers will have minimal costs while the state estimates its own implementation cost to be just over \$6 million is disingenuous.²⁶ Companies with compliance obligations will have multiple staff members, for example both technical and legal staff, reviewing the PCA’s final rule and associated documentation in order to best understand the regulatory requirements and the agency’s expectations for compliance. Just as PCA will have to build data systems to collect data, manufacturers will need to build IT systems to collect and report the extensive data required. Previous surveys of our membership have anticipated that OEMs may spend about 30 hours on rule familiarization, and suppliers may spend closer to 80 hours on the same. For EPA’s TSCA 8(a)(7) PFAS reporting rule, Auto Innovators estimated that OEMs may spend around 50 hours searching the IMDS system to obtain information on the presence of PFAS in products.²⁷ We also anticipated that OEMs could spend around 120 hours to search production, service parts, and purchasing records in order to identify suppliers they would need to contact in order to obtain PFAS content information. Auto Innovators expects that further follow-up with all of

²⁵ SONAR at 42.

²⁶ SONAR at 42.

²⁷ Our previous assessment of compliance costs for EPA’s TSCA 8(a)(7) PFAS reporting rule can be found in our July 2021 comments, available at <https://www.regulations.gov/comment/EPA-HQ-OPPT-2020-0549-0030>.

the suppliers for a product like a vehicle could be as many as a few thousand hours. From just this information it is clear that the burden to reporters should not be expected to be “minimal.” It is difficult to more exactly pinpoint expected costs for the industry without more substantive details about how reporting will actually take place and what the system will look like.

PCA should look at cost estimates for similar regulatory efforts to better inform its own cost estimate for the proposed PFAS in Products: Reporting and Fees Rule. For example, PCA should consider the estimates of the reporting burden developed by the EPA for its TSCA 8(a)(7) rule which, although low, recognizes that there are substantial costs for industry to collect and report data. Auto Innovators expects that the process for compliance with Amara’s Law will be very similar to the process for compliance with the TSCA 8(a)(7) rule. PCA should also review comments in that docket and revise its costs.²⁸

D. The Timelines for Finalization of a Rule, A Reporting System, and Submission

Auto Innovators is concerned that the timeline that PCA is anticipating, with a final rule issued a few months from now and a reporting system available late in 2025, does not allow obligated entities to sufficiently prepare to make all reports as required by January 1, 2026. At a minimum, the reporting deadline should be delayed until PCA has successfully beta tested the reporting system.

Auto Innovators estimates that it will take our industry at least 6 months to a year to collect available data on PFAS in production vehicles and spare parts. We also estimate that it will take an additional 6 or more months to get PFAS data on OEM-branded items that are not manufactured by the OEM, such as jackets, travel mugs, or other merchandise products.

1. Little Information is Currently Available on How to Report

Although the draft PFAS in Products: Reporting and Fees Rule gives an indication about what will be required from reporting, it gives little direction about *how* manufacturers will be required to report, and an understanding of this is truly critical for regulated entities to understand the actions required and to comprehend the resources that will be needed to execute those tasks. Auto Innovators believes these issues have implications for the reporting on behalf of other manufacturers concept as well. Auto Innovators would prefer to share information with PCA via an Excel file upload, which we believe will be the least burdensome for industry. However, we do understand that PCA is in the process of developing an online reporting system. Auto Innovators is interested in information on the reporting system as soon as it is available. Furthermore, Auto Innovators volunteers to help PCA beta test the reporting system and help provide feedback as complex durable goods manufacturers. Auto Innovators expects that the automotive industry will be one of the largest submitting industries with potentially very high volumes of data, and we believe our input will be critical. We agreed to help EPA beta test their TSCA 8(a)(7) reporting system as well, until that beta testing period was recently canceled by the agency.

²⁸ See 86 Fed. Reg. 14,904 (March 19, 2021); and Comment submitted by Alliance for Automotive Innovation, EPA-HQ-OPPT-2020-0616-0007, <https://www.regulations.gov/comment/EPA-HQ-OPPT-2020-0616-0007>.

2. Extensions of the Reporting Deadline

We note that both under the law²⁹ and under the draft PFAS in Products: Reporting and Fees Rule,³⁰ PCA has the authority to extend the deadline for the submission of information if the commissioner determines that more time is needed for compliance. Auto Innovators recommends that PCA begin work on an extension of the deadline, given the timelines discussed above. The sooner that an extension can be confirmed for reporting entities, the more time it gives for planning and inventory management. There is precedent for extensions in other states; Maine, for example, granted waivers of the reporting requirements as it continued to work through implementation issues in its program. Auto Innovators notes that manufacturers can also request extensions, but those provisions operate with application and approval timelines and appear to only effectively last for 90 days.³¹ Action on the initiative of PCA itself instead is highly preferable. Auto Innovators recommends that PCA delay the reporting deadline until at least 6 months after the completion of beta testing of the data collection system.

E. MPCA's Goal of a Public Database

Auto Innovators understands that part of PCA's goal with respect to PFAS reporting is to develop a public database on PFAS in products that can be used by Minnesota consumers. However, as mentioned above, PCA must be very thoughtful in developing its standards for reporting to ensure the data populated is legible and useful for consumers. As discussed above, we think reporting at a low component level will create confusion, and that consumers would best benefit from a higher-level overview of the presence of PFAS in automotive systems and areas. Auto companies' major product is a complete vehicle, not the litany of parts it contains.

In addition, in creating a public database, PCA must be mindful of protecting confidential business information (CBI). Reporters may have contractual agreements with their suppliers to keep certain information confidential. PCA needs to provide additional information on how to submit CBI claims for data, and information on how the database manager will also dedicate themselves to maintaining the CBI status of that data.

F. The Messages the SONAR is Communicating on PFAS

Auto Innovators has concerns about the way the SONAR communicates about PFAS. PCA notes that "[m]any PFAS have been proven to be toxic, associated with adverse health outcomes such as altered immune and thyroid function, liver disease, kidney disease, adverse reproductive and developmental outcomes, and cancer[.]"³² but Amara's Law's broad scope covers many more PFAS chemicals that do not have scientific evidence regarding the risks and harms of those substances.

²⁹ "The commissioner may extend the deadline for submission by a manufacturer of the information required under subdivision 2 if the commissioner determines that more time is needed by the manufacturer to comply with the submission requirement." Minn. Stat. Ann. § 116.943 subd. 3(d).

³⁰ "The commissioner must extend the deadline for submitting information under part 7026.0030 if the commissioner determines that more time is justified by the manufacturer or group of manufacturers to comply with the reporting requirements." Proposed Minnesota Rules, part 7026.0060, subpart 1.

³¹ Proposed Minnesota Rules, part 7026.0060, subparts 2-3.

³² SONAR at 8.

Additionally, the SONAR discusses a broad brush illustration of potential pollution risks from cradle to grave of products, but it should be noted for consumers that this high-level explanation misses the actual risks and realities for various products. For example, the end-of-life management of vehicles as a product is much different from many other products, as there is a vibrant parts recovery and resale market, and around 86% of a vehicle is recycled or reused at end-of-life.

G. Exempt Packaging Reporting – We Do Not Collect This Information

Auto Innovators argues that packaging reporting should not be required as part of this program, because companies do not collect this information and have it readily available in our IMDS tracking system.

H. Fees Appear Disproportional to Amount of Funding Needed for PFAS Program

Auto Innovators questions whether the fees charged for reporting, when the scope of reporting is considered, are well-tailored to the amount of funding needed by PCA to administer the PFAS program. Although the fees per report appear generally reasonable for manufacturers, Auto Innovators notes that suppliers throughout the supply chain are also obligated to ensure they are covered by reporting, since business-to-business transactions are in scope, which really multiplies the number of fees collected. There are potentially hundreds of suppliers that sell to one OEM, multiplied by all of the different OEMs selling vehicles into Minnesota, and the supplier obligations with respect to fees could be substantial—which OEMs cannot be responsible for. PCA should consider this when it comes to fee payment obligations, and ensure that their fee collection structure is tailored toward meeting the financial needs of the reporting program.

I. Upcoming Currently Avoidable Use Rulemaking

Auto Innovators is also interested in further information on PCA's upcoming currently unavoidable use rulemaking, as members of the automotive industry will be applying for currently unavoidable use status for PFAS used in vehicles. We hope that PCA will be issuing that rulemaking soon, as the sooner that it is finalized and the automotive industry can apply for a currently unavoidable use finding, the sooner it will provide certainty for the automotive industry, which could use this sort of information given its long development and production timelines.

Auto Innovators wonders whether reporting is required if a manufacturer receives a currently unavoidable use exemption grant, and whether the answer to that question changes after 2032 when the complete phase-out takes effect. We recommend that manufacturers that receive a currently unavoidable use exemption should not be required to report, as this will lessen the reporting burden on those uses.

J. Corporate Structures and Reporting

In the draft PFAS in Products: Reporting and Fees Rule, PCA provides little guidance regarding who the reporting entity should be in situations where corporate structures are complex, for example automakers who may have one corporate headquarters entity in their home global region but may have U.S. subsidiaries or affiliates for the United States. EPA, on the other hand, did provide such guidance for TSCA 8(a)(7) PFAS reporting. Absent further guidance from PCA, Auto Innovators'

understanding is that PCA does not have a position on which entity relative to a company's corporate structure submits the reporting.

K. Limiting Innovation

The draft PFAS in Products: Reporting and Fees Rule's requirements are so complex they will stop or delay implementation of new vehicle technologies. Extensive reporting for emerging technologies (e.g., safety, fuel efficiency, batteries, or hydrogen fuel cells) will stifle entry to market and application of those technologies at a time when the industry is working to further reduce emissions. The reporting system must be available and easy to use if technology developers will be required to make notification prior to selling new products and related components in the state.

Conclusion

Thank you for your consideration of our comments. Depending on how they are designed, the PFAS reporting requirements under the PFAS in Products: Reporting and Fees Rule in combination with the actual data reporting system have the potential to place highly substantial burdens upon the automotive industry. If that burden is too great, some automakers may choose to leave the state altogether instead of expending resources to comply with the requirements. It should additionally be noted that any such decision by automakers could possibly come under consideration in the fall of 2025 in order to give companies sufficient time and opportunity to halt necessary processes before January 1, 2026. This further element should be considered as PCA continues its work and develops its timelines for operation of the PFAS reporting program.

Please feel free to reach out to me if you need any further information or would like additional discussion.

Sincerely,



Catherine Palin
Alliance for Automotive Innovation