



March 15, 2021

Via E-filing

The Honorable Judge Jessica Palmer-Denig
Office of Administrative Hearings
600 North Robert Street
P.O. Box 64620
Saint Paul, MN 55164-0620

Re: In the Matter of Proposed Rules Adopting Vehicle Greenhouse Gas Emissions Standards-
Clean Cars Minnesota, Minnesota Rules, chapter 7023; Revisor's ID Number 04626
OAH Docket No. 71-9003-36416

Dear Judge Palmer-Denig:

I represent, along with my colleague Attorney James Dickey, also of the Upper Midwest Law Center ("UMLC"), the Center of the American Experiment ("CAE"), which wishes to offer additional comments in opposition to the proposed Clean Cars Minnesota rules at issue in this proceeding.

The enclosed comments on the substance of the rules are in addition to the prior comments on applicable law submitted to Your Honor through the OAH's e-comments website under my username ("Doug Seaton") on February 22, 2021, and also in addition to the comments and legal analysis I provided orally during the public hearing on February 22, 2021.

CAE's additional comments attached here focus on the economic and environmental impact of MPCA's proposed rules. They are authored by Isaac Orr of CAE. Mr. Orr's comments demonstrate that the proposed rules are not needed nor reasonable, and are not rationally related to the MPCA's objective. Minn. Stat. 14.15, Subd. 4; Minn. R. 1400.2240, Subp. 6; Minn. R. 1400.2100(B).

Mr. Orr's comments show the damage that the proposed rules will do to Minnesota and Minnesotans. Given the damage the MPCA's proposed rules will cause, the MPCA has failed to properly weigh the impact of the proposed rules on the establishment, maintenance, operation and expansion of business, commerce, trade, industry, and other economic factors which affect the proposed rule's feasibility and practicability. Minn. Stat. § 116.07, Subd. 6.

In addition, the MPCA has admitted in its Statement of Need and Reasonableness that California's regulatory agencies will have full control over the literal text of the rules in Minnesota:

The MPCA is proposing to adopt the LEV and ZEV standards “as amended.” Incorporation “as amended” means that any future amendments to the incorporated California regulations automatically become part of Minnesota rules.

SONAR, p. 41.

Given this admission, the proposed rules should also be disapproved pursuant to Minn. R. 1400.2100(F), which provides that the ALJ should disapprove rules which “improperly delegate[] the agency’s powers to another agency, person, or group.” Delegating the agency’s rulemaking to the regulatory agency of *another state* is an even more egregious violation of law than improper delegation to another Minnesota agency, and violates the cardinal principle of Minnesota’s statehood—the self-governance of Minnesota by Minnesotans. Minn. Const. art. I, § 1.

For the reasons set forth here, in Mr. Orr’s attached comments, and in my prior comments and oral testimony, I respectfully request that Your Honor disapprove the proposed rules pursuant to Minn. R. 1400.2100 and 1400.2240.

In addition to the foregoing analysis, the comments of Mr. Orr, and my prior comments, UMLC reserves the right, on CAE’s behalf, to submit further comments and replies to the comments of other parties through the close of the hearing record and rebuttal period, and to proceed with any applicable appeals.

Respectfully,



Douglas Seaton, Esq., President of UMLC
Attorney for Center of the American Experiment

cc: James V.F. Dickey, Esq. (UMLC)
John Hinderaker (CAE)
Isaac Orr (CAE)