

Minnesota Pollution Control Agency

REQUEST FOR COMMENTS

On Planned New Rules Governing Passenger Vehicle Greenhouse Gas Emissions, *Minnesota Rules*, chapter 7023; Revisor's ID Number 04626

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is requesting comments on possible new air rules, *Minnesota Rules*, chapter 7023. This rulemaking is referred to as the Clean Cars Minnesota Rule and is intended to reduce greenhouse gas (GHG) and other harmful air pollutant emissions from passenger vehicles by adopting the Low-Emission Vehicles (LEV) and Zero-Emission Vehicles (ZEV) standards adopted by the California Air Resources Board, as allowed under section 177 of the Clean Air Act (CAA). The MPCA requests comments on the proposed rules from affected or interested parties. See the [Comments](#) and [MPCA Contact Person](#) sections of this notice for information on how to submit comments.

This request for comments is the MPCA's legal notice of its intent to begin rulemaking. This is the first of several opportunities for public comment and input on this rulemaking. At this stage, we do not have a formal draft of the rule ready to propose; we want your feedback to inform us about the ideas described under the [Subject of Rules](#) section.

If you have other ideas related to this rulemaking that we need to consider, please submit them in writing. For example, because we recognize that costs to regulated parties can be a concern with rulemaking, if you have cost information or data related to this rulemaking that you wish to share with us to inform our decisions, please submit that information. Submitting your ideas and information at this early stage in rulemaking allows us more time to address issues that may come up, and helps to ensure informed decision-making on our part. If the proposed rules affect you in any way, the MPCA encourages you to participate in the rulemaking process.

View the [Alternative Format/Accommodation](#) and [MPCA Contact Person](#) sections of this notice for information on requesting this document in an alternative format.

Public meetings. The MPCA plans to hold public meetings to gather input on this proposed rule. Details about those meetings, including dates and locations, will be posted on the rulemaking page at <https://www.pca.state.mn.us/air/clean-cars-mn-rulemaking> as they are scheduled. To receive updates about the meetings, sign up to receive emails at https://public.govdelivery.com/accounts/MNPCA/subscriber/new?topic_id=MNPCA_375.

Subject of rules. The MPCA requests comments on its possible new rules governing emissions of GHGs and other air pollutants from passenger vehicles, called Clean Cars Minnesota. The MPCA is considering adopting rules that require vehicle manufacturers to deliver for sale in Minnesota vehicles that emit fewer GHGs and other air pollutants.

The main focus of the Clean Cars Minnesota rulemaking is to reduce GHG emissions from passenger vehicles. Minnesota statute 116.07 directs the MPCA to "adopt standards of air quality, including maximum allowable standards of emission of air contaminants from motor vehicles" and more broadly, standards "relevant to the prevention, abatement, or control of air pollution." GHGs are harmful air pollutants that contribute to global climate change. MPCA therefore has the authority under Minnesota statute to regulate emissions of GHGs from motor vehicles.

In addition, the Next Generation Energy Act (NGEA), Minnesota statute 216H.02, subd. 1 establishes a statewide goal "to reduce statewide greenhouse gas emissions across all sectors producing those emissions to a level at least 15 percent below 2005 levels by 2015, to a level at least 30 percent below 2005 levels by 2025, and to a level at least 80 percent below 2005 levels by 2050." Minnesota did

not meet its 2015 goal and is not on track to achieve the 2025 or 2050 goals. Transportation is the largest emitter of GHGs in Minnesota and passenger vehicles are the largest source of GHG emissions within that sector. State-level regulation is needed in order to achieve the necessary emission reductions in this sector. The Clean Cars Minnesota rulemaking will help get the state on track to achieve its statutory goals.

This rulemaking will reduce tailpipe emissions of not just GHGs, but also other harmful air pollutants, including fine particles and the pollutants that form ground-level ozone. MPCA and the Minnesota Department of Health recently released the “Life and Breath” report that showed that fine particles and ground-level ozone contributed to roughly 2,000-4,000 deaths in Minnesota in 2013 as well as hundreds of increased hospital visits. Reducing emissions of these pollutants is therefore important for protecting the health of Minnesotans. Reducing air pollution from vehicles is especially critical for addressing environmental justice. MPCA research shows that communities of color and lower-income communities are disproportionately exposed to pollution from vehicles because those communities are disproportionately located near busy roadways. Adopting this rule is necessary to help reduce exposures in these vulnerable and overburdened communities.

Under the CAA, the responsibility to regulate emissions from vehicles is given to the federal government. However, section 209 of the CAA also allows California to develop its own, more stringent, vehicle emissions standards, and section 177 of the CAA allows other states to adopt California’s standards. States can only adopt California’s standards if they do so exactly and avoid creating any requirements different from those established by California. Any final rule in Minnesota would need to be made contingent on restoration of the state’s ability to adopt these measures, including the existence of operative waiver authority under Sections 209(b) and 177 of the Clean Air Act.

The Clean Cars Minnesota rulemaking has two parts: the LEV standard and the ZEV standard. The LEV standard would require automobile manufacturers to deliver for sale in Minnesota only vehicles that meet the more stringent GHG and other air pollutant emissions standards established by California. The LEV standard applies to emissions of GHGs and other air pollutants for all passenger vehicles and gets more stringent every year. The LEV standard does not establish any requirements directly for vehicle owners and does not require a personal vehicle inspection program.

The ZEV standard would require automobile manufacturers to deliver for sale in Minnesota a certain number of vehicles with ultra-low or zero tailpipe emissions each year, including battery electric vehicles (EVs), plug-in hybrid electric vehicles (PHEVs), and hydrogen-fueled vehicles. These vehicles are collectively considered “zero emission vehicles” (ZEVs). Manufacturers are given ZEV credit quotas based on their average annual sales (i.e., big manufacturers must earn more credits annually than smaller ones), and the quotas get more stringent every year. Manufacturers generate different numbers of credits for delivering different types of vehicles for sale, based on vehicle technology and maximum range per charge. For instance, long-range full battery EVs receive the most credits while PHEVs with short electric ranges receive the least. Manufacturers can bank credits to meet requirements in future years and are able to buy and sell them from other manufacturers. The ZEV standard would result in additional ZEVs sold in Minnesota, but does not require any individual to purchase a ZEV.

The MPCA may adopt the LEV standard, the ZEV standard, both, or neither. Since the CAA requires states wishing to adopt California’s standards to do so exactly, however, Minnesota has no flexibility within the rules to adopt Minnesota-specific changes. The one area where Minnesota does have some limited flexibility is in how the state establishes initial ZEV credit banks for manufacturers.

The MPCA has developed proposed concepts for adopting the LEV and ZEV standards. More information about these concepts and specific questions posed by the agency are provided on the rulemaking webpage at <https://www.pca.state.mn.us/air/clean-cars-mn-rulemaking>.

Parties affected. This new rule would regulate automobile manufacturers and potentially dealerships.

The Clean Cars Minnesota rule would reduce GHG emissions that contribute to global climate change. Climate change impacts all Minnesotans and people around the world. It first and especially affects communities that are already overburdened with pollution and other stressors. Adopting this rule will not in itself halt climate change, but it is an important part of reducing Minnesota's contribution to this global problem.

The rule does not require any action from the general public; Minnesotans will continue to be able to purchase the vehicle types that best suit their needs and preferences. Clean Cars Minnesota will result in more options for cleaner vehicles in Minnesota. Adopting the LEV standard would ensure that Minnesotans have access to the cleanest vehicles across all passenger vehicle types. Studies conducted in other states indicate that the GHG emissions standards have led to saving money on gasoline and diesel fuel. Adopting the ZEV standard does not require any individual to purchase an EV. However, it would bring more EV options to the state, which means that Minnesotans who wish to purchase an EV will be able to do so more easily and will be better able to find an EV that suits their needs. Increasing the supply of EVs in the market may also help lead to more used EVs available in Minnesota, further increasing EV options for consumers, particularly people who are interested in used vehicles.

The rule will also reduce emissions of air pollutants that are directly harmful to human health. Therefore, the rule will benefit air quality across the state and especially for people who live close to busy roadways. Busy roadways disproportionately pass through and near communities of color and lower income and MPCA research indicates that these communities are disproportionately exposed to vehicle pollution. This rule is therefore especially important in addressing environmental justice and reducing air pollution burdens in these communities.

Comments. Interested people or groups may submit comments or information on these possible rules in writing until **4:30 p.m. on December 6, 2019**. During the public comment period associated with this request for comments, submit written comments to:

1) the Office of Administrative Hearings (OAH) Rulemaking eComments website at <https://minnesotaoah.granicusideas.com/discussions>; or

2) OAH Legal Assistant Sheena Denny, OAH, 600 North Robert Street, P.O. Box 64620, St. Paul, Minnesota 55164-0620, telephone 651-361-7881, fax 651-539-0310, or sheena.denny@state.mn.us.

You may view frequently asked questions about the OAH Rulemaking eComments website at https://mn.gov/oah/assets/ecommments-faq_tcm19-82012.pdf. Any questions about submitting comments via the Rulemaking eComments website should be directed to the OAH at 651-361-7900.

Comments received are public and will be available for review at the OAH Rulemaking eComments website at <https://minnesotaoah.granicusideas.com/discussions> and at the OAH at the address listed above.

The MPCA will not publish a notice of intent to adopt the rules until more than 60 days have elapsed from the date of this request for comments. The MPCA does not plan to appoint an advisory committee to comment on the possible rules

The MPCA does not anticipate that the new rule will require a local government to adopt or amend an ordinance or other regulation under *Minnesota Statutes*, section 14.128. Local governments may submit written information to the contrary.

The MPCA requests any information pertaining to the cumulative effect of the rule amendments with other federal and state regulations related to the specific purpose of the rule. *Cumulative effect*

means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules.

NOTE: While the MPCA will take all comments received in response to this notice into consideration, they will be not necessarily be included in the formal rulemaking record that the agency submits to the Administrative Law Judge (ALJ) if and when a proceeding to adopt rules is started. The MPCA is required to submit to the ALJ only the written comments received in response to the draft rules after they are proposed in a Notice of Hearing or a Notice of Intent to Adopt Rules. If you submit comments during the development of the rules and want to ensure that the ALJ reviews your comments, you should resubmit them after the rules are formally proposed in a Notice of Hearing or Notice of Intent.

Rules drafts. Although the MPCA has not yet drafted specific rule language for the potential Clean Cars Minnesota rulemaking, the CAA requires that the standards be identical to those adopted in California. More information on the required rule language can be found on the rulemaking webpage: <https://www.pca.state.mn.us/air/clean-cars-mn-rulemaking>. Parties interested in being notified when a draft of the rules is available and of other activities relating to this rulemaking are encouraged to sign up for relevant emails at https://public.govdelivery.com/accounts/MNPCA/subscriber/new?topic_id=MNPCA_375.

MPCA contact person. The contact person for questions about this rulemaking is Katie Izzo at the MPCA, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194; telephone 651-757-2595; email cleancarsmn.pca@state.mn.us. You may also call the MPCA at 651-296-6300 or 1-800-657-3864; use your preferred relay service.

1. During the public comment period associated with this request for comments:
 - a) Submit all comments in response to this notice as described under [Comments](#).
 - b) Submit any clarification questions or requests for more information to the MPCA contact person listed above.
2. After the public comment period closes, route communications to the following staff:
 - a) Rulemaking process: Katie Izzo at 651-757-2595 and cleancarsmn.pca@state.mn.us
 - b) Technical subject matter: Amanda Jarrett Smith at 651-757-2486 and cleancarsmn.pca@state.mn.us

Alternative format/accommodation. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the [MPCA contact person](#).

Statutory authority. *Minnesota Statutes*, section 116.07, authorizes the MPCA to adopt rules for the prevention, abatement, and control of air pollution. Section 177 of the CAA allows states to adopt California's vehicle emissions standards.



Laura Bishop, Commissioner
Minnesota Pollution Control Agency
09/30/2019
Date