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Burnsville, MN 55337

March 15, 2021

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

RE: Proposed Rules Adopting Vehicle Greenhouse Gas Emissions Standards—Clean Cars Minnesota,  
Minnesota Rules, chapter 7023; Revisor's ID Number 04626

Dear Judge Palmer-Denig:

The Minnesota Corn Growers Association (MCGA) appreciates the opportunity to submit the following written comments with respect to the Clean Cars Minnesota rules that were published by the Minnesota Pollution Control Agency (MPCA). MCGA represents nearly 6,500 dues-paying corn farmer members and the 24,000 Minnesota corn farmers who contribute to the corn checkoff program.

As stated in the Statement of Need and Reasonableness (SONAR), the primary need for adoption of these rules is to address greenhouse gas emission (GHG) reductions in the transportation sector, which is now the largest GHG emitting sector in Minnesota. MCGA has been a leading advocate for state and federal biofuels policy to expand the use of clean burning ethanol in passenger vehicles to help reduce greenhouse gas emissions and particulate emissions in transportation. MCGA policy supports our contention that ethanol, and other biofuels, offer a superior alternative to reducing the carbon intensity of transportation.

Although the California Low Emission Vehicle (LEV) and Zero Vehicle Emission (ZEV) standards are fuel neutral, MCGA members are concerned about the long-term impacts on biofuel production and use in Minnesota given other current policies in California that limit the sale and use of ethanol. MCGA is also concerned with the manner in which emission reductions in vehicle tailpipes will be evaluated in future versions of the standards. Additionally, since the proposed rule was first announced, auto manufacturers have made commitments to phase out the internal combustion engines and only manufacture electric vehicles. In order for Minnesota to maintain our leadership in biofuels policy, production and use, the state must enact supportive policies and programs that would be complementary to Clean Cars Standards if they are to be enacted. A broad set of policies and programs to address transportation sector GHG reduction will serve the state better in the long-term.

Since MPCA first announced their intention to begin the process of adopting the Clean Car rules, MCGA has been engaged in the process with the goal of better understanding these standards and their potential impact to both agriculture and Minnesota's robust biofuels sector. In December 2019, MCGA submitted comments to the Office of Administrative Hearings on Planned New Rules Governing Passenger Vehicle

Greenhouse Gas Emissions. In those comments, MCGA urged the MPCA to consider the impact on Minnesota's ethanol production and use in the costs and benefits analysis as a part of proposed rulemaking. MCGA consistently communicated the concerns we hear from our corn farmer membership.

MCGA is disappointed that the SONAR only makes two references to potential impacts on biofuels. First on page 64 of the SONAR where it states that "the rule does not regulate biofuels or alter any existing biofuels blending requirement or other regulations" and acknowledges "the biofuels industry may experience a cost associated with the proposed rule due to a reduction in per-vehicle demand for liquid fuels into which biofuels such as ethanol and biodiesel are blended." The SONAR does not attempt to further characterize those potential impacts on biofuels.

The second reference to biofuel impacts is on page 76 of the SONAR where MPCA acknowledges they "do not have sufficient data about the revenue the biofuels industry and its sub-sectors make from gallons of blended gasoline and diesel liquid fuels sold in Minnesota to make any quantitative estimate of the potential impact of the that industry." On page 65 of the SONAR, MPCA does estimate that implementation of the LEV standard over the MY 2025-2034 timeframe would result in a reduction of approximately 700 million gallons of gasoline purchased. The ZEV standard would offer more electric vehicle models for sale in Minnesota and every electric vehicle on the road represents lost liquid fuel demand, including biofuels. Consequently, impacts to the Minnesota biofuels sector could be grossly underestimated by MPCA. Further, as referenced earlier in our comments, recent announcements from auto manufacturers to only offer for sale fully electric vehicles to consumers, would have additional long-term impacts on Minnesota biofuels.

Given the potential impact to biofuels in Minnesota and MPCA's own acknowledgement in the SONAR on page 76 that there are "many other factors that affect biofuel demand in Minnesota, including blending requirements and efforts to support the biofuels industry such as the Governor's Council on Biofuels<sup>1</sup>," MCGA again urges the state to enact supportive policies and programs that would be complementary to Clean Cars Standards if they are to be enacted. ***A broad set of policies and programs to address transportation sector GHG reductions will serve the state better in the long-term.***

MCGA policy supports vehicle regulations for air quality and emissions that fairly account for renewable fuel benefits. Given the information presented in the SONAR, it is uncertain at this time if these proposed rules will fairly attribute reductions in GHG emissions from biofuels. Current research has shown that corn ethanol currently produced in Minnesota can reduce emissions by 46 percent compared to gasoline<sup>2</sup>. Further, MCGA policy opposes the MPCA rulemaking process to enact CA vehicle emissions standards and *any rule or law* that requires Minnesota to follow another state's regulations on vehicle emissions and sales.

MCGA policy, which is set by our members through a grassroots policy development process, is clear on our concerns with the proposed rules and has a preference for ethanol and other biofuels to reduce the

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<sup>1</sup> Governor's Council on Biofuels final report, [https://www.mda.state.mn.us/sites/default/files/docs/2020-11/GovernorsCouncilBiofuelsReport\\_ExecOrder19-35.pdf](https://www.mda.state.mn.us/sites/default/files/docs/2020-11/GovernorsCouncilBiofuelsReport_ExecOrder19-35.pdf)

<sup>2</sup> Environmental Research Letters, *Carbon intensity of corn ethanol in the United States: state of the science*. March 2021. <https://iopscience.iop.org/article/10.1088/1748-9326/abde08>

carbon intensity of transportation. However, we do offer a few specific comments on the rule as proposed with the intent of helping to ensure ethanol and other biofuels can remain a key component of Minnesota's strategy to reduce GHG emissions in the transportation sector.

Proposed rule needs additional clarity on incorporation by reference as amended

The MPCA is proposing to "incorporate by reference" California Code of Regulations, title 13 and specific sections of the California code pertaining to these rules, 7023.0150, subp.2. In the SONAR, MPCA asserts that the reasonableness of incorporation by reference "is the most effective way to meet the identity requirements of section 177 of the CAA by ensuring that minor changes California may make to its standards are incorporated into state rules." (SONAR, pg. 40). Further, MPCA argues that California has historically made minor housekeeping updates to rules, but handled major revisions by proposing a new rule. We have concerns about automatic updates to Minnesota rules without a trigger mechanism that would at least necessitate review of amendments before incorporation.

MCGA urges the MPCA to consider criteria or a trigger that could be added to the proposed rule that would result in thorough review of proposed amendments from California before automatically being updated in Minnesota rules for vehicle efficiency standards. At a minimum, the proposed rule should define technical amendments made by California to be automatically incorporated by reference. This would ensure there would be additional time for public review and comment if California were to propose a technical amendment that exceeded the definition of technical by the MPCA. MCGA urges careful consideration of a proposed revision adding criteria or a definition of technical amendment that would avoid the Minnesota vehicle emission rule incorporating major amendments by reference if California deviates from past process in only making minor amendments.

Future uncertainty due to potential revision to vehicle efficiency rules at Federal level

In the SONAR, one of the areas outlined in the *statement of general need* is to avoid backsliding. The MPCA sites the change at the federal level in vehicle emission and efficiency standards through the SAFE rule, which reduced the GHG emissions standards for light-duty and medium-duty vehicles.<sup>3</sup> However, the Biden administration has already ordered the Environmental Protection Agency to consider proposing to suspend, revise or rescind the SAFE rule.<sup>4</sup> MCGA will be advocating at the federal level with our partners that biofuels and clean burning ethanol are recognized in federal standards for providing air emission benefits and carbon reduction. Potential changes at the federal level create a level of uncertainty at the state level if Minnesota will continue to adopt California standards or follow a new federal rule, once proposed and finalized.

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<sup>3</sup> The Safer Affordable Fuel Efficiency (SAFE) Vehicles Final Rule for Model Years 2021-2026, <https://www.epa.gov/regulations-emissions-vehicles-and-engines/safer-affordable-fuel-efficient-safe-vehicles-final-rule>

<sup>4</sup> White House. *Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*. January 20, 2021. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-protecting-public-health-and-environment-and-restoring-science-to-tackle-climate-crisis/>

Minnesota corn farmers have been strong advocates for biofuels because of the multiple benefits they provide. Biofuel production facilities in greater Minnesota support good paying jobs, support the local tax base and add value to agricultural crops, including corn. When biofuels are used in passenger vehicles, they improve air quality through lower emissions and provide an octane boost at a lower price for consumers. MCGA strongly asserts that homegrown biofuels can immediately impact Minnesota efforts to reduce carbon emissions in the transportation sector. Increasing the amount of ethanol in Minnesota gasoline from 10 to 15 percent would have immediate benefits. Research shows this action alone could reduce carbon emissions annually by 332,000 tons, the equivalent of removing 72,600 vehicles from the road.<sup>5</sup> This action is consistent with recommendations from the Governor’s Council on Biofuels<sup>6</sup> and the Minnesota Department of Transportation’s analysis on transportation decarbonization.<sup>7</sup>

As the rulemaking process continues, we urge the MPCA and other state agencies to look for policy and program opportunities that utilize the environmental and economic benefits Minnesota’s biofuel sector provides for Minnesotans. Thank you for the opportunity to submit comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Waibel', with a large, sweeping flourish at the end.

Tim Waibel  
President  
Minnesota Corn Growers Association

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<sup>5</sup> Air Improvement Resource, Inc. *GHG Benefits of 15% Ethanol (E15) Use in the United States*. November 30, 2020. <http://www.airimprovement.com/reports/national-e15-analysis-final.pdf>

<sup>6</sup> Minnesota Department of Agriculture. *Report in fulfillment of Executive Order 19-35 establishing Governor’s Council on Biofuels*. November 2, 2020. [https://www.mda.state.mn.us/sites/default/files/docs/2020-11/GovernorsCouncilBiofuelsReport\\_ExecOrder19-35.pdf](https://www.mda.state.mn.us/sites/default/files/docs/2020-11/GovernorsCouncilBiofuelsReport_ExecOrder19-35.pdf)

<sup>7</sup> Minnesota Department of Transportation. *Pathways to Decarbonizing Transportation in Minnesota*. August 2019. <https://www.dot.state.mn.us/sustainability/docs/pathways-report-2019.pdf>