Judge Palmer-Denig, thank you for the opportunity to present to you on behalf of the Alliance for Automotive Innovation (“Auto Innovators”) and its member companies. I am here today to share our concerns with the Clean Cars rulemaking, as proposed by the Pollution Control Agency (“PCA”).

Auto Innovators represents automakers that produce and sell nearly 99% of new cars and trucks in the United States, as well as tier 1 suppliers, technology companies, and mobility companies. Our mission is to achieve cleaner, safer, and smarter personal transportation for our country.

To be clear, it is automakers that are directly impacted by the proposed adoption of the Clean Cars rule. Therefore, under this rule, our members will be required to commit significant resources, time and effort to ensure compliance.

We are committed to the goal of net zero carbon transportation, and zero emission vehicles are critical to this goal. With over $250 billion committed through 2023, the auto industry is accelerating its path to electrification in the U.S. and actively working to triple the number of battery, plug-in hybrid, and fuel cell electric vehicles offered by 2025. These efforts will bring more models, in more sizes, price points, utility, function, and generally more options to make sure there is an electric vehicle (“EV”) that fits every customer’s needs. This is essential to growing customer adoption. It is equally essential that Minnesota create the necessary foundation for long term success for EVs in the state.

**ZEV Mandate**

The Zero Emission Vehicle (“ZEV”) mandate of the Clean Cars rule is a flawed regulatory tool – it requires automakers to increase EVs offered for sale in the state, and it does nothing to generate customer demand. This is why Minnesota needs strong policy leadership and fast action to develop purchase incentives, significantly invest in electric charging and hydrogen fueling stations, educate and create awareness among citizens, and work with utilities and other stakeholders to make sure that customers can easily and cost-effectively “refuel” their EVs. We have yet to see legislation that demonstrates that the state is committed to increasing EVs in the same way the PCA is pushing them. Without such actions, sales are likely to remain relatively low, as is observed in other states that have adopted this mandate, and the citizens of Minnesota will continue to favor petroleum-fueled vehicles over plug-in and hydrogen fueled vehicles.
Today, approximately 3,000 EVs are sold in MN in a single year. Under the example provided by PCA, 17,000 vehicles will need to be sold in MY 2025 – not seven – and this represents a more than 450% increase in EV sales compared to today.

Prior to the rule being published and during the rule development process, we attempted to engage with the PCA and its leadership to inform, educate, and collaborate on the rules, because we have significant experience with them across the country. Specifically, early on in the process, we shared with the PCA proven enforcement flexibilities that will provide automakers with additional certainty, reduce the high costs associated with this regulation, and lead Minnesota to having more EVs than would otherwise be realized in the near term, absent strong market support signals that are proven to increase adoption.

As you can tell from the rule, the PCA has rejected our suggestions with nothing more than superficial treatment in its SONAR. This is but one of several examples, which demonstrates the significant legal and regulatory deficiencies with this rulemaking.

The PCA’s proposed ZEV rule has three major flaws:

1. It fails to follow the regulatory precedent set by other ZEV states, and with which we (and the states) have many years of experience, not just with the regulations, but also working with state legislatures to secure funding to build EV markets and support efforts to expand adoption even with the mandate in place;

2. It ignores the significant, practical and real challenges associated with aggressively increasing EV sales in Minnesota, and the cost of doing so without concurrent state investment in necessary supportive measures, like consumer purchase incentives and rapidly expanding home and public charging infrastructure networks; and

3. It takes an extremely myopic regulatory view, ignoring the fact that ZEV standards already continue beyond model year 2025 and will be updated in the coming year. As such, California has publicly announced plans for a new rule aimed at 100% EV sales by 2035. California’s planned new rule will be a huge undertaking, and we simply ask that Minnesota put itself on equal footing with other ZEV states as we enter the next phase.

Our primary request, based on our experience in other states, like Colorado and as recently as last week with the Virginia legislature, is for the PCA to include a one-time set of banked proportional credits at the start of the program. What that means is that the value of each automaker’s starting bank of credits will be set proportionally – based on relative Minnesota sales volumes – to existing credit banks in California.

Since credit banks came into existence, every state that has adopted the ZEV mandate has taken action to ensure consistency with California’s regulation, as required by the Clean Air Act. These credit banks enable a supportive compliance mechanism as automakers work to develop ZEV market demand from scratch and help educate consumers on the benefits of ZEVs, while they struggle with lack of infrastructure and inconsistent incentives.
Further, in recognition of Minnesota’s goal to grow EV sales above business-as-usual and to make sure that any existing credit banks do not overwhelm the need to increase EV sales, we have offered a template based on Colorado’s adoption of ZEV. This template represents a collaborative approach between government and industry, and was the first time that industry did not oppose adoption of ZEV. This was truly a ground-breaking effort, and it demonstrated the good faith efforts of industry to align with a state’s goals for electrification. And, judging by Colorado’s recent ZEV sales, it appears successful. We attempted to do so here in Minnesota, but were rebuffed by the agency.

The Colorado approach provides two flexibilities to smooth implementation and prepare for the longer term shift to electrification:

1. The first provides the option to sell EVs, and bank credits from these sales, in the state earlier than the regulations can legally be implemented. In this way, automakers are encouraged, but not required, to put more EVs into the market sooner than otherwise might occur – PCA has appropriately proposed this same flexibility; and

2. The second adopts the one-time credit banks, in amounts proportional to those in California, and it places a restriction, in the form of a cap, on the ability to use those credits in the early implementation years. The level of the cap is tailored to whether an automaker selects to earn early action credits. The cap ensures that automakers increase sales by restricting use of those credit banks. After 2025, Colorado’s restrictions are lifted, in recognition that once EV sales are growing, sales are unlikely to be pulled back. This also leaves the state in a similar place to California in the event the next iteration of California’s rules requires much more significant EV volumes and quickly deplete credit banks.

We presented the Colorado approach to the PCA as the most recent regulatory process at the time and as a successful outcome. Colorado, even before adopting ZEV, ranks as a top EV state. In 2019, three percent of the new vehicles sold in Colorado were EVs; in sharp contrast, Minnesota sales were less than half of a Colorado’s – at only 1.3%.

Colorado also continues to have one of the highest in the nation EV purchase incentives and has a $110 million electrification plan. Minnesota has neither of these.

The Colorado approach aimed to balance more EV adoption with market and regulatory uncertainty. Minnesota’s EV market offers far more challenges and uncertainty because of its starting place. Thus, Colorado offers an excellent starting point for discussion for a state, like Minnesota, that lags in EV market support, and as a result, lags in EV sales, too.

Moreover, in the past few weeks, Auto Innovators worked with environmental organizations in Virginia to agree on legislation that adopts ZEV and that includes proportional credits with a restrictive cap on those credits; Virginia’s program will start in model year 2025 just like Minnesota intends. However, given the timing demands of a legislative process, Virginia’s deal unfortunately did not include an option with early action credits in the end.
For reference, Virginia’s EV market share is just under two percent (1.7%) compared to Minnesota’s 1.3% sales rate. This Virginia collaboration came from the shared goal of increasing EVs, agreement to ensure Virginia’s program would not be more, or less, stringent than California’s, and in recognition of the regulatory challenge in the years ahead. At the same time, we are working this same group and the legislature to initiate a purchase rebate program and plan to jointly support legislative action next year that will expand EV charging. Auto Innovators is pleased to have found a workable solution in Virginia. It is important to note, however, that different approaches for Colorado, Virginia, and now Minnesota complicate compliance, require increased resources to manage, and provide a distraction from the overall goal – to get more EVs on the road.

Remarkably, the PCA failed to evaluate caps on proportional credits in its Statement of Need and Reasonableness (“SONAR”). Therefore, the PCA’s analysis leaves out a critical element of the approach we offered that would address concerns about near-term requirements, while also addressing industry’s uncertainty about how Minnesota’s EV market will grow from well below the national average absent purchase incentives and significant infrastructure investment.

The PCA instead selected a novel one-time addition of credits equal to one year’s worth of requirements for all automakers, providing equal footing for all automakers, rather than equal footing for the state compared to other ZEV states. Our understanding is that the PCA rejected capped proportional credits in favor of its proposed approach because it cannot assess regulations that do not exist beyond 2025. Respectfully, the PCA’s rationale makes no sense.

Indeed, California’s regulations continue indefinitely beyond 2025 at the same level as the model year 2025 standards, and California has already clearly articulated intent to adopt regulations that will push EV sales to 100% by 2035. Unless the PCA agrees to include an approach similar to Colorado’s or Virginia’s, we respectfully urge the PCA to defer the Clean Cars rule for one year and instead revisit and re-propose the rulemaking to provide the correct and appropriate enforcement flexibilities aligned with regulations that California is expected to adopt next year – to ensure Minnesota’s program is neither more or less stringent than California’s. Adopting the most expensive regulatory program, with only a one-year view, is simply bad public policy.

We appreciate that the PCA has assessed tools to assist with compliance, and has proposed early action credits as part of its proposal. We remain concerned, however, that the PCA has rejected the inclusion of one-time proportional credits, with an associated cap on usage – as Colorado and Virginia are doing. In addition to the precedent in other states, proportional credits will allow Minnesota to manage uncertainty about how quickly California’s regulations increase beyond 2025, and how quickly Minnesota can secure real and substantial state funding to increase EV demand.

LEV Criteria and GHG Emission Standards
Regarding other portions of the rule, the Clean Cars proposal also includes Low Emission Vehicle ("LEV") criteria and greenhouse gas ("GHG") emissions standards.

The LEV criteria emissions standards are the same as the federal standards, which means they provide no additional NMOG or NOx benefits. These vehicles are already sold in Minnesota, and the state benefits regardless of whether these standards are adopted.

This, however, is not the same with the LEV GHG standards. While we understand Minnesota’s climate goals and opposition to the previous Administration’s approach, we cannot underscore enough that a federal approach to GHG standards is the most efficient and cost-effective method to further reductions. That is one of the reasons that Auto Innovators is committed to working with the Biden administration on an accelerated and inclusive path for reducing GHG emissions.

The California GHG standards raise concerns about cost and feasibility, because the assumptions used in setting them have changed drastically. For instance, consumer purchasing preferences have shifted more to trucks and SUVs, and outside of California, far less to advanced technologies, than what was anticipated. Plus, gasoline prices remain low, and vehicle affordability is a real concern as average transaction prices reach an all-time high of over $40,000. These are significant impacts that must be considered – they do not, however, deter from our members’ goals of reducing GHG and increasing electrification.

It is our hope that we can find a resolution that works for the nation, that increases environmental benefits, and that states like California, Minnesota, etc. work with us to find an answer.

In closing, Auto Innovators opposes Minnesota’s adoption of ZEV, as proposed. These rules fail to adequately address industry’s concerns, which are firmly rooted in our years of experience, and will place an undue burden on automakers to increase EVs in Minnesota without the necessary market conditions in place for success. We highly recommend that Minnesota follow Colorado’s and Virginia’s leads and put in place a ZEV mandate that manages near term goals to expand EV sales, while also being well prepared for the next iteration of ZEV that will undoubtably follow a path to near full electrification in the next decade.

Alternatively, Minnesota can pause all action on these rules – wait to see what California does and whether a strong and robust federal policy is put in place to reduce greenhouse gases and meets Minnesota’s needs. In this way, we can all be better informed in determining whether such regulations are necessary, and whether the entire state of Minnesota is truly prepared to go “all-in” in preparing for electrification.

Thank you, and I am happy to answer any questions.