STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0796

Minnesota Automobile Dealers Association,
Petitioner,

vs.

Minnesota Pollution Control Agency,
Respondent.

Filed January 30, 2023
Rule declared valid
Segal, Chief Judge

Minnesota Pollution Control Agency
File No. OAH 71-9003-36416

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Considered and decided by Segal, Chief Judge; Reyes, Judge; and Cleary, Judge.*

SYLLABUS

The Minnesota Pollution Control Agency (MPCA) did not improperly delegate its rulemaking authority to another state when it incorporated by reference California's motor-vehicle emission standards into Minn. R. 7023.0150-.0300 (2021).

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* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

OPINION

SEGAL, Chief Judge

This declaratory judgment action presents a challenge by petitioner Minnesota Automobile Dealers Association (MADA) to the validity of rules adopted by respondent MPCA that require automobile manufacturers to deliver for sale in Minnesota (1) only vehicles that meet specified air-pollutant emission standards and (2) a certain percentage of vehicles with ultra-low or zero tailpipe emissions. *See* Minn. R. 7023.0150-.0300 (the Clean Car Rule). The Clean Car Rule was adopted under the authority of Minn. Stat. § 116.07 (2022) and pursuant to the federal Clean Air Act (the CAA), codified at 42 U.S.C. §§ 7401-7671q (2018).

MADA argues that the Clean Car Rule is invalid because it violates article I of the Minnesota Constitution by improperly delegating the MPCA's rulemaking authority to California or, in the alternative, that Minn. Stat. § 116.07 violates article III of the Minnesota Constitution by improperly delegating legislative authority to the MPCA without adequate guidance. MADA also argues that the Clean Car Rule is invalid because the MPCA lacks statutory authority to establish a uniform statewide standard and that Minnesota does not qualify for the provision in the CAA that allows states to adopt California motor-vehicle emission standards set out in 42 U.S.C. § 7507 (the opt-in provision).

We conclude that the incorporation by reference of California's motor-vehicle emission standards into the Clean Car Rule did not violate the nondelegation doctrine. The fact that the Clean Car Rule incorporates specific California regulations "as amended" does

not alter this conclusion. The MPCA has represented, and we interpret, the "as amended" clause in the Clean Car Rule as incorporating only "minor housekeeping updates" and that, before a "major update" could be incorporated, the MPCA would need to initiate rulemaking. We also conclude that the MPCA acted within its statutory authority in adopting a uniform statewide motor-vehicle emission standard and that Minnesota is an eligible state to adopt the California standards. We thus determine that the Clean Car Rule is valid.

FACTS

The CAA vests exclusive authority in the federal government, specifically the Administrator of the Environmental Protection Agency (EPA), to establish "standard[s] relating to the control of emissions from new motor vehicles." 42 U.S.C. § 7543(a); *see* 42 U.S.C. § 7521 (setting forth administrator's authority); *Am. Auto. Mfrs. Ass'n v. Cahill*, 152 F.3d 196, 198 (2d Cir. 1998) (noting that states are generally preempted from establishing emission standards for new motor vehicles). The CAA, however, contains a waiver that allows California to impose its own, generally more stringent, emission standards on new motor vehicles sold in that state.[1] *See* 42 U.S.C. § 7543(b). The CAA

[1] California began regulating emissions from motor vehicles in the 1950s because of areas of severe air pollution in that state; this was well before the enactment of amendments to the CAA requiring national emission standards for new motor vehicles. *See Motor & Equip. Mfrs. Ass'n, Inc. v. E.P.A.*, 627 F.2d 1095, 1109 n.26 (D.C. Cir. 1979) (referring to early California emission provisions); Motor Vehicle Air Pollution Control Act of 1965, Pub. L. No. 89-272, § 202(a), 79 Stat. 992-93 (directing establishment of emission standards); Act effective Sept. 11, 1957, ch. 239, 1957 Cal. Stat. 895-96 (granting air pollution control board power to regulate motor-vehicle equipment to reduce "air contaminants").

provides that new motor vehicles that comply with California's standards under the waiver shall be treated as compliant with the federal emission standards. *Id.* (b)(3). And, as relevant here, the CAA allows states with approved nonattainment "plan provisions" to choose to be governed by either the national emission standards set by the Administrator of the EPA or the California standards.[2] 42 U.S.C. § 7507. If a state elects to adopt the California standards, that state's standards must be "identical to the California standards for which a waiver has been granted [by the EPA] for such model year." *Id.*

The MPCA is tasked by statute with, among other things, adopting standards "relevant to the prevention, abatement, or control of air pollution," including air-quality standards relating to the "emission of air contaminants from motor vehicles." Minn. Stat. § 116.07, subds. 2(a), 4. In 2019, the MPCA initiated rulemaking proceedings to adopt the more stringent California standards for vehicle emissions pursuant to the CAA waiver provision, 42 U.S.C. § 7543(b). The MPCA explained in its statement of need and reasonableness for the Clean Car Rule (the SONAR) that the change was needed because

[2] A nonattainment area is defined under the CAA as "any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for [a] pollutant." 42 U.S.C. § 7407(d); *see also* 42 U.S.C. § 7501(2). The state in which the nonattainment area is located is responsible for submitting "[nonattainment] plan provisions [that] provide for the implementation of all reasonably available control measures as expeditiously as practicable . . . and shall provide for attainment of the national primary ambient air quality standards" within the Administrator's designated attainment date. 42 U.S.C. § 7502(a), (c). Part D of the CAA, 42 U.S.C. §§ 7501-7515, provides that when a designated area has attained the "national primary ambient air quality standard for [an] air pollutant" the state must submit a maintenance plan "for such air pollutant in the area concerned for at least 10 years after the redesignation" from nonattainment to attainment. 42 U.S.C. § 7505a(a). Both implementation and maintenance plans are subject to approval by the EPA administrator. 42 U.S.C. § 7410(k).

the federal government had provided notice that it would be weakening its air-pollutant emission standards for new motor vehicles.[3] The EPA adopted the weakened standards in 2020. 85 Fed. Reg. 24174 (Apr. 30, 2020).

The MPCA explained in the SONAR that, historically, the EPA "required increasingly stringent emission reductions" for vehicles but that the EPA's new rule "roll[ed] back the emission standards." The MPCA stated that "[o]ne of the purposes of the [MPCA's] proposed [Clean Car Rule was] to maintain the [former, more stringent EPA] emissions standard in Minnesota." The MPCA also pointed out that Minnesota had failed to meet its statutory goal for the reduction of greenhouse gases for 2015 and was "not on track to achieve the 2025 or 2050 goals."[4] The MPCA indicated that "[t]ransportation is the largest source of [greenhouse gas] emissions in Minnesota," and passenger cars, light-duty trucks, and medium-duty vehicles "are the largest source of [such] emissions within that sector." Finally, the MPCA stated that "the proposed rule is a necessary step toward achieving substantive emission reductions in Minnesota's transportation sector."

[3] A statement of need and reasonableness is a document that agencies are required to provide to the public as part of the rulemaking process. Minn. Stat. §§ 14.131, .23 (2022); *see* Minn. R. 1400.2070 (2021) (setting out additional guidance for statements of need and reasonableness).

[4] The statutory goals are set forth in Minn. Stat. § 216H.02, subd. 1 (2022).

Following the conclusion of the formal rulemaking process, the MPCA adopted the Clean Car Rule in July 2021. *See* 46 Minn. Reg. 66 (July 26, 2021). It applies to new motor vehicles beginning with the 2025 model year.[5] 46 Minn. Reg. 755 (Dec. 27, 2021). To ensure that Minnesota's standards are identical to the California standards as required by the CAA, the Clean Car Rule incorporates by reference the applicable sections of the California Code of Regulations, including both the air-pollutant emission standards (the low-emission vehicle (LEV) standards) and requirements for zero-emission vehicles (ZEVs). *See* Minn. R. 7023.0150.

The LEV standards, set out in Minn. R. 7023.0250, provide that new motor vehicles sold in Minnesota, with certain exceptions, must be "certified to the [California LEV air-pollutant emission standards]." Minn. R. 7023.0250, subp. 1. The ZEV standards, set out in Minn. R. 7023.0300, require that a "manufacturer's sales fleet of passenger cars and light-duty trucks . . . delivered for sale or lease in the state must contain at least the same applicable percentage of ZEVs required under California Code of Regulations, title 13, section 1962.2." Minn. R. 7023.0300, subp. 1.

The Clean Car Rule, however, did not just incorporate specific sections of the existing California regulations. The Clean Car Rule incorporates by reference those sections of the California regulations as they may be amended.[6] *See* Minn. R. 7023.0150,

[5] The CAA requires adoption of the standards "at least two years before the commencement of such model year." 42 U.S.C. § 7507.

[6] That subpart of the Clean Car Rule provides:

subp. 2. It also notes that the California "regulations are not subject to frequent change." *Id.* In the SONAR, the MPCA explained that incorporating identified California regulations "'as amended' improves administrative efficiency by reducing the need for rulemaking to maintain consistency with the California rules." The MPCA further observed in the SONAR that, "[h]istorically, California has made minor housekeeping updates to its rules every few years," but that when "California has conducted a major update . . . , such as making them more stringent for future model years, California has done so in new rule parts." The SONAR stated that, consequently, only "minor housekeeping updates" would be automatically adopted through the "as amended" clause in Minn. R. 7023.0150, subp. 2, not "major updates."

In June 2022, MADA petitioned this court for a declaratory judgment under Minn. Stat. § 14.44 (2022), arguing that the challenged rules are invalid based on MADA's claims that: (1) the Clean Car Rule constitutes an unconstitutional delegation of rulemaking or, in the alternative, results from an unconstitutional delegation of legislative authority; (2) Minn. Stat. § 116.07 does not allow the MPCA to adopt emission standards on a

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> California Code of Regulations, title 13, sections 1900, 1956.8(h) (medium-duty vehicle greenhouse gas emission standards only), 1961.2, 1961.3, 1962.2, 1962.3, 1965, 1968.2, 1976, 1978, 2035, 2037 to 2041, 2046, 2062, 2109, 2111 to 2121, 2122 to 2135, 2139, and 2141 to 2149, *as amended*, are incorporated by reference. The regulations are not subject to frequent change and are available online . . . .

Minn. R. 7023.0150, subp. 2 (emphasis added).

statewide basis; and (3) Minnesota does not meet the eligibility requirements under the CAA to adopt California's motor-vehicle emission standards.

In August 2022, the MPCA moved to dismiss MADA's action, arguing that MADA lacked standing and failed to state a claim. We denied the motion and now reach the merits.[7] *Minn. Auto. Dealers Ass'n v. Minn. Pollution Control Agency*, No. A22-0796 (Minn. App. Sept. 20, 2022) (order).

ISSUES

I. Does the Clean Car Rule involve an unconstitutional delegation of rulemaking or lawmaking authority because it incorporates by reference California's motor-vehicle emission standards "as amended"?

II. Does Minn. Stat. § 116.07 allow the MPCA to adopt rules establishing a uniform set of motor-vehicle emission standards with statewide application?

III. Does Minnesota qualify under the CAA to adopt California's motor-vehicle emission standards?

ANALYSIS

MADA's challenge is in the form of a pre-enforcement challenge to the validity of the Clean Car Rule. The scope of review on such a challenge is circumscribed by Minnesota's Administrative Procedure Act, Minn. Stat. §§ 14.001-.69 (2022). *See Coal. of Greater Minn. Cities v. Minn. Pollution Control Agency*, 765 N.W.2d 159, 164 (Minn.

[7] The MPCA continues to assert that MADA lacks standing because the alleged harm is too speculative. The issue of standing was decided when a special term panel of this court denied the MPCA's motion to dismiss on that ground. The MPCA's continued assertion of this issue is akin to a motion for reconsideration. Motions for reconsideration are not allowed under the civil appellate rules. *See State ex rel. Leino v. Roy*, 910 N.W.2d 477, 481 (Minn. App. 2018) (recognizing that Minn. R. Civ. App. P. 140.01 has been applied by this court "to foreclose reconsideration of an issue that a special term panel of this court decided prior to considering the merits of an appeal"). We thus decline to revisit this issue.

App. 2009) (noting that "[t]he standard of review is more restricted than in an appeal from a contested enforcement proceeding in which the validity of the rule as applied to a particular party is adjudicated"), *rev. denied* (Minn. Aug. 11, 2009). As set out in the administrative procedure act, appellate courts are limited in pre-enforcement challenges to determining whether the rule "violates constitutional provisions or exceeds the statutory authority of the agency or was adopted without compliance with statutory rulemaking procedures." Minn. Stat. § 14.45; *see also Save Mille Lacs Sportsfishing, Inc. v. Minn. Dep't of Nat. Res.*, 859 N.W.2d 845, 850 (Minn. App. 2015). MADA does not challenge the statutory rulemaking process; our review is thus limited to determining the constitutionality of the rule and whether the MPCA exceeded its statutory authority.

I. The MPCA acted within its authority when it incorporated California's motor-vehicle emission standards into the Clean Car Rule, and the "as amended" clause in the rule does not violate the nondelegation doctrine.

MADA argues that the Clean Car Rule violates article I of the Minnesota Constitution by improperly delegating to a California agency the rulemaking authority of the MPCA. Article I provides that the "[g]overnment is instituted for the security, benefit and protection of the people" of Minnesota. Minn. Const. art. I, § 1. MADA further argues that, if we conclude that the MPCA did not improperly delegate its rulemaking authority, then the legislature violated the separation of powers requirements of article III of the Minnesota Constitution by improperly delegating its lawmaking authority to an executive agency without adequate guidance. *See* Minn. Const. art. III, § 1 (dividing the powers of government into three branches: legislative, executive, and judicial).

In our analysis of these issues, we first provide a brief overview of the nondelegation doctrine and address the scope of the MPCA's authority to incorporate California regulations by reference. We then address MADA's challenge to the "as amended" clause of the Clean Car Rule. This requires us to interpret the scope of the "as amended" clause. In the final step of the analysis, we assess whether the Clean Car Rule as interpreted violates the nondelegation doctrine.

Under Minnesota precedent, the legislature is accorded significant latitude to delegate regulatory authority to state administrative agencies. The Minnesota Supreme Court has instructed that the legislature's power to delegate is not violated so long as "the law furnishes a reasonably clear policy or standard of action which controls and guides the administrative officers in ascertaining the operative facts to which the law applies." *Lee v. Delmont*, 36 N.W.2d 530, 538 (Minn. 1949); *see Vicker v. Starkey*, 122 N.W.2d 169, 173 (Minn. 1963) (stating that "[i]t is well settled that the legislature has the power to delegate to an administrative agency the right to promulgate such reasonable rules and regulations as may be necessary to accomplish the purposes for which the agency is created"). The court has also repeatedly confirmed that, while the legislature must provide a "reasonably clear policy" to guide the administrative agencies, that policy "may be laid down in very broad and general terms." *Lee*, 36 N.W.2d at 538-39; *see Minn. Energy & Econ. Dev. Auth. v. Printy*, 351 N.W.2d 319, 350 (Minn. 1984) (noting that "Minnesota decisions since *Lee* have consistently followed the principle that adequate statutory standards may be laid down in broad and general terms").

Applying these principles to this case, the MPCA's regulatory authority over motor-vehicle emissions is contained in chapter 116 of the Minnesota Statutes. Minn. Stat. §§ 116.01-.994 (2022). That chapter creates the MPCA and grants the agency broad authority to prevent pollution and manage Minnesota's air quality, in addition to protecting water and land resources. *See* Minn. Stat. § 116.01 (stating policy goal of achieving a reasonable degree of air purity). The MPCA's authority to adopt motor-vehicle emission standards is set out in section 116.07. It authorizes the MPCA to adopt air-quality standards, "including maximum allowable standards of emission of air contaminants from motor vehicles." Minn. Stat. § 116.07, subd. 2(a). The section also authorizes the MPCA to adopt rules and standards to prevent, abate, or control air pollution. *Id.*, subds. 2(a), 4.

In addition, Congress effectively mandated in the CAA that states either adopt the EPA's national motor-vehicle emission standards or the California standards. *See* 42 U.S.C. § 7507. The MPCA elected to adopt the California standards in the Clean Car Rule. Instead of repeating the California standards word for word in the Clean Car Rule, however, the MPCA incorporated specific regulations by reference. The MPCA's authority to incorporate provisions by reference is expressly sanctioned in section 14.07 of the Minnesota Administrative Procedure Act, which allows agencies to incorporate provisions by reference into agency rules as long as the incorporated provisions are "conveniently available to the public." Minn. Stat. § 14.07, subd. 4(a). The MPCA was thus well within its authority when it incorporated by reference the existing California regulations into the Clean Car Rule.

We turn next to the question of whether the MPCA acted within its proper authority when it incorporated by reference not just the existing California regulations, but those regulations "as amended."[8] Minn. R. 7023.0150, subp. 2. MADA argues that the "as amended" clause opens up the rule to automatic adoption of all future California amendments no matter how substantial or draconian those amendments might be. MADA maintains that the clause thus results in an unconstitutional delegation of either rulemaking or lawmaking authority.

The MPCA suggests that the "as amended" clause has a narrower scope. In the SONAR, the MPCA acknowledged that the "as amended" clause "means that any future amendments to the incorporated California regulations automatically become part of Minnesota rules." The MPCA explained, however, that, "[h]istorically, California has made minor housekeeping updates to its rules every few years," but when "California has conducted a major update to the rules, such as making them more stringent for future model years, California has done so in new rule parts." The MPCA stated that, consequently, such "major updates would not be adopted automatically into Minnesota's rules." The

[8] The MPCA argues, as a threshold issue, that MADA's challenge to the "as amended" clause in the Clean Car Rule is not yet ripe because no amendments have yet been made by California to its motor-vehicle emission standards. At oral argument, however, the MPCA acknowledged that California has already indicated an intent to amend its standards. Thus, even assuming that the issue may not yet be ripe, we choose to address the merits of the issue for reasons of judicial economy. *See Midway Nat'l Bank v. Est. of Bollmeier*, 504 N.W.2d 59, 64 (Minn. App. 1993) (addressing issue to serve interest of judicial economy). In this regard, we also note that the administrative procedure act allows pre-enforcement challenges to the validity of a rule "when it appears that the rule, or its threatened application, interferes with or impairs, or threatens to interfere with or impair the legal rights or privileges of the petitioner." Minn. Stat. § 14.44.

MPCA further represented that the "decision to incorporate [a major] update[] or revert back to the backstop federal standards would still need to be considered on a case-by-case basis through Minnesota state rulemaking."

MADA and the MPCA thus offer two different interpretations of the "as amended" clause. MADA accords the phrase a broad interpretation that future amendments, no matter how dramatic or far-reaching in scope, would automatically be incorporated into the Clean Car Rule. The MPCA maintains that the "as amended" clause has a more limited and practical scope, allowing the Clean Car Rule to remain identical to the California standards, as the CAA requires, without instituting laborious rulemaking procedures for "minor housekeeping updates" to existing regulations.[9] Because we agree that the "as amended" clause could result in an improper delegation if read too broadly, we must determine which interpretation is correct.

"When interpreting statutes and regulations, we apply our familiar rules." *In re Reissuance of an NPDES/SDS Permit to U.S. Steel Corp.*, 954 N.W.2d 572, 576 (Minn. 2021). Our first task under those rules is to determine if there is an ambiguity. *State v. Thonesavanh*, 904 N.W.2d 432, 435 (Minn. 2017). A provision is ambiguous if it is subject to more than one reasonable interpretation. *Id.* Because we are presented here with two reasonable interpretations of the scope of the "as amended" clause, we conclude that the phrase is ambiguous.

[9] In this regard, the MPCA notes in its brief that there are numerous references in state regulations to external standards that are subject to change, such as the fire code that incorporates portions of the international fire code, "as amended," Minn. R. 7511.1031.2.1, .1103.4.1, .6101.1 (2021).

When faced with an ambiguity in the interpretation of a regulation, we "may resort to the canons of statutory construction" and "will defer to the agency's interpretation and will generally uphold that interpretation if it is reasonable." *Reissuance of an NPDES/SDS Permit*, 954 N.W.2d at 576 (quotation omitted). Here, the MPCA represented in the SONAR that, historically, California has only made "minor housekeeping updates" when amending existing "rule parts" and that any "major updates" are made in "new rule parts"—i.e., in differently numbered regulations than the regulations incorporated by reference in the Clean Car Rule—and thus would not be subject to automatic adoption by reason of the "as amended" clause. The MPCA represented in the SONAR that any such "major updates" would "need to be considered on a case-by-case basis through Minnesota state rulemaking."

Given the framework of this case, we defer to the MPCA's description of the scope of the "as amended" clause as set out in the SONAR. We thus interpret the "as amended" clause more narrowly than MADA suggests. Under our interpretation, regardless of whether California were to break with its history and adopt a "major update" in the existing sections of their regulations instead of a new rule part, a "major update" would not be automatically incorporated into the Clean Car Rule. In the event of a "major update," the MPCA would be required to initiate a rulemaking process to decide whether to adopt the new California standards or "revert back to the backstop federal standards" under the CAA.[10]

[10] We refrain in this pre-enforcement challenge from delineating the specific parameters of what would constitute a "major update" that would require the MPCA to engage in

Having interpreted the "as amended" clause, we now turn to the question of whether the "as amended" clause results in an improper delegation of the MPCA's rulemaking authority. In this step of our analysis, we are guided by the Minnesota Supreme Court's decision in *Printy*, in which the court upheld an "as amended" clause under an analogous circumstance. *Printy*, 351 N.W.2d at 352. *Printy* involved a Minnesota statute that created a small business loan program. *Id.* at 351. In defining which businesses would qualify as "small businesses" eligible to apply for the loans, the statute "incorporate[d] by reference the definition of small business contained in regulations of the United States small business administration, 'as amended from time to time.'" *Id.* The supreme court determined that this was not an improper delegation of legislative power to the federal government because "[t]he ultimate determination as to whether to grant a . . . loan rests with [the state agency] and not with the federal [small business administration]." *Id.* at 352. The court reasoned that "[t]he definition of eligible small business merely specifies what 'size standards' a business must meet in order to be eligible for a loan" and that, "[i]n referencing federal regulations, the Legislature has adopted a generally accepted size standard to broadly define the category of eligible loan applicants." *Id.*

The court upheld the "as amended" clause in *Printy* based in part on its conclusion that the clause was justified by the nature of the government program, noting that "there [were] good reasons to coordinate federal and state eligibility requirements." *Id.* Applying

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rulemaking prior to adoption. *See Save Mille Lacs Sportsfishing, Inc.*, 859 N.W.2d at 849 (stating that "the broad and far-reaching scrutiny of a rule or regulation, based upon hypothetical facts, is a premature exercise of the judiciary" (quotation omitted)).

that logic here, there are even stronger reasons to use an "as amended" clause in this case than in *Printy* because the opt-in provision of the CAA requires Minnesota not just to coordinate, but to maintain *identical* motor-vehicle emission standards. 42 U.S.C. § 7507.

MADA cites *Wallace v. Commissioner of Taxation*, 184 N.W.2d 588 (Minn. 1971), in support of its argument. In *Wallace*, the supreme court held that the state legislature could not delegate its legislative powers "to any outside agency, including the Congress of the United States." 184 N.W.2d at 589. MADA contends that, if the state legislature lacks authority to delegate its lawmaking powers to the United States Congress, then the MPCA surely lacks authority to incorporate by reference future California amendments.

But the supreme court distinguished the *Wallace* decision in *Printy* and at least one other case, noting that *Wallace* was based in part on the express constitutional provision that the power to tax "shall never be surrendered, suspended or contracted away." *Printy,* 351 N.W.2d at 351 (quoting Minn. Const. art. X, § 1); *see Minn. Recipients All. v. Noot*, 313 N.W.2d 584, 586 (Minn. 1981). The court also distinguished *Wallace* on the grounds that "the *Wallace* case itself notes an exception to its rule for statutes which are auxiliary in nature and seek to achieve uniformity in implementation of national programs and policies." *Printy*, 351 N.W.2d at 352 (quotation omitted); *see Minn. Recipients All.*, 313 N.W.2d at 586-87. The *Wallace* holding is thus more limited than MADA suggests and is not inconsistent with our holding in this case. We therefore conclude that the MPCA did not improperly delegate its rulemaking authority in adopting the Clean Car Rule.

Finally, we turn to MADA's alternative argument that the legislature violated the nondelegation doctrine by failing to provide adequate guidance to the MPCA. In making

this argument, MADA identifies no specific gaps in the applicable sections of chapter 116. Instead, MADA appears to simply argue that chapter 116 must be deficient if the "as amended" clause of the Clean Car Rule is determined to be valid. But as the MPCA has represented and we have concluded, the "as amended" clause does not allow the automatic incorporation of "major updates" into the Clean Car Rule. And, as we note above, legislative guidance to administrative agencies "may be laid down in very broad and general terms," a standard that is satisfied by the applicable sections of chapter 116. *Lee*, 36 N.W.2d at 538-39. We thus reject MADA's alternative argument and discern no improper delegation by the legislature to the MPCA.

II. Section 116.07 does not prohibit the MPCA from adopting uniform statewide motor-vehicle emission standards.

MADA next argues that Minn. Stat. § 116.07 does not allow the MPCA to adopt motor-vehicle emission standards having statewide application. That section provides that the MPCA "shall . . . adopt standards of air quality, including maximum allowable standards of emission of air contaminants from motor vehicles, recognizing that due to variable factors, *no single standard of purity of air is applicable to all areas of the state*." Minn. Stat. § 116.07, subd. 2 (emphasis added). MADA argues that the Clean Car Rule violated this provision by establishing a uniform statewide standard.

Our goal in interpreting a statute is to give effect to the legislature's intent. *Christianson v. Henke*, 831 N.W.2d 532, 536 (Minn. 2013). As we note above, the first task in statutory interpretation is to determine whether a statute's language is ambiguous. *Id.* MADA makes no argument here that the italicized phrase in the above quoted language

in Minn. Stat. § 116.07, subd. 2, is ambiguous and we agree. We thus apply the plain language of the statute. *Id.*

Here, the plain language of section 116.07 as a whole leads us to the conclusion that the MPCA acted consistently with the statute in developing a statewide standard. In fact, subdivision 4 of section 116.07 specifically allows the MPCA to adopt air-quality standards having statewide effect. That subdivision provides that rules or standards adopted by the MPCA "may be of *general application throughout the state*" and that such

> rules or standards may relate to sources or emissions of air contamination or air pollution, to the quality or composition of such emissions, or to the quality of or composition of the ambient air or outdoor atmosphere or to any other matter relevant to the prevention, abatement, or control of air pollution.

Minn. Stat. § 116.07, subd. 4(a) (emphasis added). In furtherance of this section of the statute, the MPCA has adopted numerous statewide air-quality standards specifying maximum allowable quantities for air contaminants. *See, e.g.*, Minn. R. 7009.0080 (2021).

In addition, subdivision 2 only requires the MPCA to "*recogniz[e]*" that "no single standard of purity of air" applies to "all areas of the state." Minn. Stat. § 116.07, subd. 2 (emphasis added). It does not prohibit a statewide motor-vehicle emission standard. The remaining language in section 116.07, subdivision 2, uses similar wording, requiring the MPCA to

> give *due recognition* to the fact that the quantity or characteristics of air contaminants . . . , which may cause air pollution in one area of the state, may cause less or not cause any air pollution in another area of the state, and [the MPCA] shall *take into consideration* in this connection such factors, . . . that a standard of air quality which may be proper as to an

> essentially residential area of the state, may not be proper as to a highly developed industrial area of the state.

(Emphasis added.) Thus, the plain meaning of the provision is that the MPCA is required to "recognize" and "consider" regional variations in air quality, but that the MPCA is nonetheless permitted to establish statewide standards.

Finally, this interpretation also serves logic because the Clean Car Rule regulates air emissions for new vehicles to be sold in the state and motor vehicles are, at the risk of overstating the obvious, mobile.

III. Minnesota has an approved plan provision under Part D of the CAA and is thus eligible under the opt-in provision of the CAA to adopt California's motor-vehicle emission standards.

MADA's final argument is that Minnesota must follow the federal emission standards because it does not qualify under the opt-in provision of the CAA, 42 U.S.C. § 7507, to adopt California's standards.

The opt-in provision allows states to adopt California's standards if certain requirements are met. *See* 42 U.S.C. §§ 7507, 7543(a)-(b). Among the requirements, a state must have "plan provisions" approved by the EPA "under this part." 42 U.S.C. § 7507. The parties do not dispute that the phrase "this part" in the opt-in provision refers to Part D of the CAA. 42 U.S.C. §§ 7501-7515.

Part D of the CAA concerns plan requirements for "nonattainment areas," which means, in reference to air pollution, "an area which is designated 'nonattainment' with respect to that pollutant within the meaning of section 7407(d) of this title." 42 U.S.C. § 7501(2). Section 7407(d), in turn, concerns the designation of areas as "attainment,"

"nonattainment," or "unclassifiable" depending on their compliance with the relevant national air-quality standards. 42 U.S.C. § 7407(d). Areas designated as nonattainment are those that exceed the standard or that "contribute[] to ambient air quality in a nearby area" that exceeds the standard. *Id.* (d)(1)(A)(i).

MADA concedes that there is a designated nonattainment area in Eagan for lead emissions and that Minnesota has a nonattainment plan provision approved by the EPA to address those emissions. MADA contends, however, that the plan does not satisfy the section 7507 requirement because lead emissions were brought into attainment in Eagan in 2015.[11] MADA maintains that the only reason that a plan provision is still in place is because the MPCA "has failed to apply for redesignation." MADA argues that "[t]he MPCA cannot fail to act and then claim refuge in the situation it has manufactured by omission." This argument by MADA, however, is beyond the limited scope of review under section 14.45 of the Minnesota Administrative Procedure Act. *See Save Mille Lacs Sportsfishing, Inc.*, 859 N.W.2d at 850. Because Minnesota has a nonattainment plan provision under Part D of the CAA, MADA's argument is unavailing.[12]

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[11] MADA also argues, without citation, that lead does not have a national air-quality standard "associated with it," which, according to MADA, means the lead nonattainment plan has "even less relevance to regulating air quality." It appears that MADA is mistaken in this regard. *See* 81 Fed. Reg. 71906 (Oct. 18, 2016) (retaining existing national ambient air-quality standards for lead). And, regardless, it would not alter the fact that Minnesota has "plan provisions" approved under "Part D" and thus satisfies that requirement to be eligible to adopt the California standards under section 7507 of the CAA.

[12] The MPCA notes that, in addition to the approved plan provision for the Eagan nonattainment area, Minnesota has several approved maintenance plan provisions aside from the Eagan nonattainment area. *See* 40 C.F.R. § 52.1237 (2020) (setting out approval of Minnesota's maintenance plans). The MPCA maintains that these approved

DECISION

The inclusion of the "as amended" clause in Minn. R. 7023.0150, subp. 2, does not violate the nondelegation doctrine. We also hold that the MPCA has the statutory authority to adopt a statewide motor-vehicle emission rule and Minnesota is an eligible state under the CAA to adopt California's motor-vehicle emission standards. We therefore conclude that the Clean Car Rule is valid.

Rule declared valid.

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maintenance plans also satisfy the "plan provision" requirement for eligibility to adopt the California standards under 42 U.S.C. § 7507. The MPCA argues that this is because maintenance plans are also included in Part D of the CAA, 42. U.S.C. 7505a. We need not address this argument, however, because we conclude that the Eagan nonattainment area plan provision satisfies the CAA's eligibility requirement.