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**Secretary's Order No.: 2023-A-0028**

**RE: Approving Final Regulations to Amend 7 DE Admin. Code 1140 – Delaware's Low-Emission Vehicle Program**

**Date of Issuance: November 15, 2023**  
**Effective Date of the Amendment: December 11, 2023**

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC"), pursuant to 7 *Del.C.* §§6006 and 6010, and all other relevant statutory authority, the following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced promulgation.

**Background, Procedural History and Findings of Fact**

This Order relates to the proposed regulation amendments ("Amendments") to 7 DE Admin. Code 1140 - *Delaware's Low Emission Vehicle Program* ("Regulation"). The Department is proposing to amend the Regulation by updating the adoption by reference of California's Advanced Clean Car II ("ACC II") program as amended on August 25, 2022, and finalized on November 30, 2022, by the California Air Resource Board ("CARB"). The Advanced Clean Car program is comprised of three elements – (1) low-emission vehicle standards; (2) greenhouse gas emission standards; and (3) zero emission standards for new vehicles weighing up to 14,000 pounds gross vehicle weight. The adoption of the ACC II regulations seeks to reduce criteria pollutant and greenhouse gas emissions from new light- and medium-duty vehicles beginning with model year 2027 and to add new requirements for zero-emission vehicles.

The Clean Air Act ("CAA") authorized the U.S. Environmental Protection Agency ("EPA") to establish the National Ambient Air Quality Standards ("NAAQS") for criteria pollutants shown to threaten human health, welfare, and the environment. The criteria pollutants include sulfur dioxide (SO<sub>2</sub>), oxides of nitrogen (NO<sub>x</sub>), carbon monoxide (CO), ozone (O<sub>3</sub>), lead (Pb), particulate matter less than 10 microns in diameter (PM<sub>10</sub>), and particulate matter less than 2.5 microns in diameter (PM<sub>2.5</sub>).

The EPA establishes air quality standards for the criteria pollutants and uses measurement of the pollutants from the ambient air monitoring network to determine how high the pollution is in an area. Delaware has monitoring stations throughout the state to measure air pollution concentrations of criteria pollutants. Many of the monitoring stations are concentrated in the northern urban/industrial areas, such as New Castle County, that have the highest population and number of pollutant sources. When levels of criteria pollutants are measured above the levels of the NAAQS, the EPA designates the area as nonattainment for the criteria pollutant.

Today, the largest source of pollution emissions in Delaware is from the transportation sector. These include the criteria pollutants, particulate matter, volatile organic compounds (VOCs), CO, NO<sub>x</sub>, and greenhouse gas (GHG) emissions. When NO<sub>x</sub> emissions from a vehicle are combined with VOCs and sunlight/heat, it produces ground-level ozone. Ground-level ozone ultimately affects public health, especially the elderly and children with underlying health conditions.

Vehicle emissions contribute 30% of greenhouse gas emissions compared to other sectors such as industrial, residential/commercial, and electric power. Of the 30% of GHG emissions produced by Delaware's transportation sector, passenger vehicles and light-duty trucks contribute 60% of these emissions. As the EPA deemed New Castle County as a contributor of emissions in the Philadelphia area, the County is included in the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE metropolitan statistical area. The EPA made a final rule dated November 7, 2022 (87 FR 60897) that designated New Castle County as "Moderate" non-attainment for the 2015 Ozone NAAQS.

In 1967, the CAA established the framework for controlling mobile source emissions. Under subsection 202(a)(1) of the CAA, Congress directed the EPA to promulgate regulations applicable to the emissions of any air pollution from new motor vehicles or new motor vehicle engines that contribute to air pollution that could endanger public health or welfare. The EPA established the federal standards for cars and light-duty trucks in 1975, and under the CAA, state and local agencies were prohibited from enforcing any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines, thus requiring states to adhere to the federal standards established in the CAA. The exception is California, the one state authorized by the CAA to enact stricter standards than the federal standards established by the EPA.

In 1990, Congress amended the CAA by revising the federal standards by adding Section 177, a provision that allows other states that have non-attainment areas to adopt the CARB approved (more stringent) vehicle emission standards, thus providing an additional option to the federal standards. Under Section 209 of the CAA (40 U.S.C. §7507), states that choose to adopt these vehicle emission standards are required (1) to adopt an identical version of California's standards that have been approved by the EPA, and (2) to provide auto manufacturers with a two-year advance notice before the start of the model year.

In 2010, Delaware adopted the vehicle emission standards known as the Low Emission Vehicle Standards (LEV III), beginning with model year (MY) 2014. The CARB then established the Advanced Clean Car program, incorporating LEV III, GHG Standards, and Zero-Emission Vehicles ("ZEV") Standards. The Advanced Clean Car program includes reducing criteria pollutants and greenhouse gas emissions and establishes requirements for the increase of zero-emitting vehicles to be delivered and offered for sale. The three elements combined the control of smog-causing pollutants and greenhouse gas emissions into a single coordinated package of requirements for MY 2015 through MY 2025. After the adoption of the ACCI program, Delaware updated the vehicle emission standards and adopted two of the three standards established by CARB, LEV III standard and GHG standard. To remain in compliance with Section 209 of the CAA, the Department amended the Delaware Low Emission Vehicle Program in 2013, 2018, and 2019.

In March 2022, Governor John Carney directed the Department to begin the regulatory development process for the adoption of the ZEV portion of the Advanced Clean Car program to achieve the GHG goals set for 2025. On August 25, 2022, the vehicle emission program was revised, and it was adopted by CARB on November 30, 2022, as the ACC II program. The purpose of the ACC II program is to increase the manufacture and sale of new cars and light-duty trucks to 100% ZEVs by MY 2035, thus reducing smog-forming emissions that form from new internal combustion engine vehicles (ICEVs), GHG, and other toxic air pollutants. This will be achieved by incrementally increasing sales of ZEVs, battery electric vehicles (BEVs), hydrogen fuel cell electric vehicles (FCEV), and the cleanest possible plug-in hybrid-electric vehicles (PHEVs).

The ACC II program requires automobile manufacturers to design, produce, and deliver new vehicles to market that meet the Advanced Clean Car emission standards. Commencing at 35% in MY 2026, auto manufacturers will be required to deliver an increased percentage of ZEVs until it reaches 100% in MY 2035. Auto manufacturers are required to certify that their vehicles meet the Criteria and GHG emissions standards established by CARB. The ACC II program also implements charging and ZEV assurance measures which set minimum warranty and durability requirements, increase serviceability, and facilitate battery labeling. There are also various flexibilities established in the ACC II program to assist manufacturers in meeting the established ZEV goals.

Although the ACC II program moves the new vehicle model year fleet to 100% zero-emission vehicles by 2035, gasoline vehicles purchased prior to MY 2035 are not affected. The proposed ACC II rule also includes low-emission vehicle requirements on ICEVs to continue to reduce smog-forming emissions while the sector transitions toward 100% zero-emitting vehicles by 2035. The updated ICEV standards address the increased emissions associated with aggressive driving and cold starts, more stringent exhaust and evaporative emissions standards, and changes to the fleet average requirements. Additionally, auto manufacturers will be able to continue to deliver for sale PHEVs, to make up to 20% of the ZEV compliance obligations in a model year.

The ACC II program requires auto manufacturers to deliver for sale a percentage of ZEVs that will expand the availability and opportunity for the market to have an upsurge in sales. The increased sales of BEVs, FCEVs, and PHEVs will significantly reduce criteria pollutants and GHG from vehicle emissions yearly, which are the greatest contributors to emissions in Delaware. Beginning with MY 2027 implementation, Delawareans will have realized a reduction of emissions by the year 2030 of 123 tons of nitrogen oxides, 8 tons of particulate matter, and 1.2 million metric tons of well-to-wheel carbon dioxide. Additional emission reductions will continue as more ZEV are incorporated into the fleet of vehicles in use.

As previously mentioned, states have the option to be governed by the federal emissions standards or adopt the CARB approved emission standards. The federal emissions standards, known as tier three engine standards, were adopted by the EPA in 2014 and limit the amount of sulfur in gasoline and reduce nitrogen oxide and other pollutants. The Federal Greenhouse Gas Standards initially covered model years 2012 through 2025 and were recently amended in December 2021, for model years 2023 through 2026.

The Department's mission is to protect public health and the environment by reducing the impact of mobile source emissions on public health and to reduce Delaware's greenhouse gas emissions, which will also reduce emissions to combat climate change goals. These goals move in concert with one another. Increasing the use of ZEVs reduces emissions of criteria pollutants and GHG from the mobile source sector. Pursuant to 7 *Del.C.* §6010 and 7 *Del.C.* §6703, the Department is authorized by the Delaware General Assembly to regulate emissions and reduce air pollution and air contaminants. With this authority, the Department initially adopted the Advanced Clean Car program in 2010 and is now proposing a Regulation update by incorporating the ACC II program by reference.

Furthermore, in accordance with Section 209 of the CAA, the Department is required to adopt an identical version of the standards that have been approved by the EPA (November 2022). The Department is proposing to adopt by reference, all three elements of the ACC II: (1) low-emission vehicle standards; (2) greenhouse gas emission standards; and (3) zero emission standards for new vehicles weighing up to 14,000 pounds gross vehicle weight. By implementing the third element, ZEV standards, the proposed Amendments will help to ensure long-lasting emissions benefits and enable consumers to successfully replace their ICEVs with new or used ZEVs and PHEVs that meet their transportation needs. Commencing with MY 2027 and progressively elevating the requirement percentage each year, the implementation of ZEV requirements will result in an annual reduction in emissions, ultimately benefiting public health and meeting the goals of the Paris Agreement and establishing standards in accordance with Delaware's House Bill 99 to update *Delaware's Climate Action Plan*.

In addition, the Department proposed to amend the title of the Regulation from "Low Emission Vehicle Program" to "Advanced Clean Car Program," with minor revisions through the Regulation to align with the regulatory style manual and add definitions related to the ACC II program.

The Department held two virtual stakeholder workshops (October 13 and October 26, 2022) and five virtual public workshops (November 15, 16, and 17, 2022, and December 13 and 15, 2022) to review the Regulation language, provide information on complementary policies and programs, review the implementation process of the Amendments, and provide a platform for public comment. At the conclusion of all the workshops held, the Department received over 700 comments from October 2, 2022, through March 31, 2023, on the proposed Amendments.

The Department published its initial proposed Amendments in the April 1, 2023, *Delaware Register of Regulations*. The virtual public hearing regarding this matter was held on April 26, 2023. There were approximately 250 virtual attendees at the Department's virtual public hearing. The Department also provided an opportunity for the public to attend and provide verbal comments at an in-person venue located at the Kent County Levy Court Building in Dover, DE. There were 77 participants in attendance at the in-person venue. The Department received 130 registrations for public comment. Pursuant to 29 *Del.C.* §10118(a), the Hearing Record ("Record") remained open for receipt of written comment for 30 days following the public hearing. The Record formally closed for comment in this matter on May 26, 2023, with 2,469 written comments received by the Department during this phase of the formal promulgation. All comments were posted on the DNREC public hearing web page dedicated to this matter upon their receipt.

Subsequent to the close of the public comment period on May 26, 2023, Hearing Officer Theresa Smith requested a Technical Response Memorandum ("TRM") from the Department's subject matter experts in the Division of Air Quality. That TRM, dated September 15, 2023, is discussed herein in greater detail below. It should be noted that the Department revised the initially proposed Amendment subsequent to the public hearing. These revisions are not substantive in nature therefore no further noticing or additional hearing is necessary in this matter.

Thereafter, Hearing Officer Theresa Smith prepared her report dated October 17, 2023 ("Report"), which expressly incorporated into the Record the above-referenced TRM regarding the comments received from the public in this matter, attached thereto as Appendix "B." Mrs. Smith's Report set forth the procedural history, summarized and established the record of information ("Record") relied on in the Report and provided findings of fact, reasons, and conclusions that recommend the approval of the *revised* proposed Amendments pending before the Department.

The Report, along with its Appendices, is incorporated herein by reference. The Report documents the proper completion of the required regulatory amendment process, establishes the record, and recommends the adoption of the *revised* proposed Amendments as attached to the Report as Appendix "A."

The Department has the statutory basis and legal authority to act with regard to the formal promulgation of these *revised* proposed Amendments, pursuant to 7 *Del.C.* §6010 and 7 *Del.C.* §6703. All notification and noticing requirements concerning this matter were met by the Department and proper notice of the hearing was provided as required by law.

## Reasons and Conclusions

Currently pending before the Department are the proposed regulatory amendments to 7 DE Admin. Code 1140 – *Low Emission Vehicle Program*. In reviewing the applicable statutes and regulations, as well as weighing the public benefits of the proposed Amendments against potential detriments, the Department’s experts in the Division of Air Quality (“DAQ”) have concluded that the proposed Amendments comply with all applicable federal and state laws and regulations. Further, the proposed Amendments as published in the April 1, 2023, *Delaware Register of Regulations*, and subsequently revised, are reflective of the Department’s authority under 7 *Del.C.* §6010 and 7 *Del.C.* §6703, to ensure continued protection of public health and the environment by regulating emissions and reduce air pollution and air contaminants.

The Department’s TRM, attached and incorporated into Mrs. Smith’s Report as Appendix “B,” acknowledges the comments received from the public concerning the proposed Amendments, and provides a thorough and balanced response to the same, accurately reflecting the Record generated in this matter. Rather than attempting to relay each of the public comments received in this matter, this Order will highlight the Department’s responses to the same, as provided for in full within the Report’s Appendices, as referenced above. During the Department’s review of the Record generated in this matter, the subject matter experts in the DAQ grouped the comments received into areas of concern or support, and then offered responses to the same.

The topics listed below are related to the proposed Amendments and impacts on public health and the environment and address the public comments received by the Department in this matter. Again, all public comments received can be viewed in their entirety on the Department’s hearing web page dedicated to this regulatory matter.

Some members of the public expressed opposition to the rulemaking, stating that they should have the freedom to choose a vehicle that best suits their needs. The focus of the public opposition appears to be the standards for MYs with very high percentages of ZEVs and the final 100% requirement in MY 2035 and later. The Department’s intent of the proposed Amendments is to reduce criteria and greenhouse gas emissions through the largest sources of these emissions, the transportation sector, which will enable Delaware to progress towards continuous attainment of all NAAQS and meeting the Climate Action Plan goals. The requirements of ACC II are applicable to auto manufacturers to deliver for sale a certain percentage of new ZEV vehicles per year beginning with 43% in MY 2027, 51% in MY 2028, 59% in MY 2029, 68% in MY 2030, 76% in MY 2031, 82% in MY 2032, 88% in MY 2033, 94% in MY 2034, and 100% in 2035 and thereafter.

In addition to ZEVs, PHEVs will be permitted to make up a maximum of 20% of a manufacturer's ZEV credit compliance obligations in any model year prior to 2035. The ACC II regulations do not prohibit the sale of other light and medium-duty vehicles for model years prior to MY 2035, including vehicles used for farming equipment. Under 21 *Del.C. §2113- Special Farm Vehicle Registration*, vehicles tagged as "Farm Vehicles" or "FV" tags, are exempt from the Regulation.

The Department also received concerns about affordability, fueling infrastructure, and access to ZEV charging stations for people in multi-unit dwellings or downtown areas. The Department advised that it is widely expected that advancements in technology, supply chains, and battery cost/performance will allow ZEVs to eclipse conventionally powered vehicles in affordability, range, and performance, even leaving their environmental benefits aside. The CARB and the International Council on Clean Transportation project a decrease in the cost of ZEVs over the next decade, due to expected battery costs decreasing and an increase in ZEV production to meet market demands. Also, lower-cost models, including high-range models, are increasingly available and industry trends indicate that they will become more prevalent, offer extended battery range, and cost less, making the ZEVs competitively priced with ICEVs.

According to the International Council on Clean Transportation analysis, lower-range EVs (i.e., 150-mile ranges) are projected to be at price parity with comparable classes of ICEVs starting in 2024 while larger vehicles such as pickups with large ranges (e.g., 400-mile ranges) are projected to reach price parity with comparable ICEVs around 2033. The ACC II program offers incentives for auto manufacturers to gain credits towards the annual requirement through MY 2028, which generates more than 20% zero emission market shares in 2024 and 2025. The credit incentive is expected to slightly increase sales over the next few years and to support a robust used ZEV market that offers ZEVs at a lower cost for customers.

Additionally, the federal government offers incentives such as tax credits/rebates, up to \$4000 toward used ZEV purchases and up to \$7500 towards new ZEV purchases, and Delaware also offers new and used vehicle rebates of up to \$2,500 for BEVs. In 2023 a federal tax credit was extended to bi-directional charges, which enables electric vehicles to serve as grid-connected batteries typically earning bill credits from their utility for providing this service and providing backup power for the home during blackouts. There is also a federal tax credit, valid through December 31, 2032, which covers 30% of the cost of hardware and installation, up to \$1,000.28, for home charging stations. Specific electricity providers will also provide incentives to their customers for savings on their electric bill.



The infrastructure for ZEVs is expected to expand to a much broader network of charging stations with the increased use of ZEV vehicles. Significant federal funding through the Bipartisan Infrastructure Bill and the Inflation Reduction Act are also helping to accelerate the deployment of ZEVs and fueling stations. Additionally, Delaware's Department of Transportation and the Department's Division of Climate, Coastal, and Energy are developing a Delaware Statewide EV Charging Infrastructure Plan, that will help guide charging station locations and feasibility with a special interest in serving rural communities, disadvantaged communities, and those who live in multi-unit dwellings.

Moreover, under the National Electric Vehicle Infrastructure Formula funding, a program included in the Bipartisan Infrastructure Law, the Delaware Department of Transportation will receive funding over fiscal years 2022 to 2026 for the installation of DC fast charging stations along the state's alternative fuel corridors, including Routes 1, 13, 113, and I-95. The U.S. Department of Transportation's Charging and Fueling Infrastructure Discretionary Grant Program, established by the Bipartisan Infrastructure Law, will provide \$2.5 billion over five years to a wide range of applicants, including cities, counties, local governments, and Tribes. Additionally, \$700 million is available in fiscal years 2022 and 2023 to strategically deploy EV charging and other alternative vehicle-fueling infrastructure project in publicly accessible locations in urban and rural communities, as well as along designated Alternative Fuel Corridors.

The Department also received comments regarding environmental justice strategies to help low-income households afford ZEVs, ensure cultural competence of the Department's outreach strategies, and implement consistent definitions of environmental justice terms such as "community-based clean mobility program" and "financial assistance program" across the Department's programs.

As discussed above, the Department acknowledged the affordability aspect of the concerns, addressing the federal tax credits and incentives, and the expected price parity ZEVs will have with comparable classes of ICEVs, making ZEVs affordable and equaling the market value of a used ZEV to ICEVs. Also as mentioned above, the Delaware Statewide EV Charging Infrastructure Plan is geared towards developing charging station locations to serve rural communities and disadvantaged communities. The proposed Amendments also include incentive opportunities for manufacturers to meet the ZEV percent requirements by investing in community car share programs, producing affordable ZEVs, and keeping used vehicles in Delaware, which in turn will benefit disadvantaged, low-income, and other frontline communities. Terms have also been defined within the proposed Amendments to clarify the Qualifying Community-based Clean Mobility Program.

Lastly, concerns were expressed regarding the timeline of the ACC II program - increasing sales of new ZEVs, commencing at 43% in 2027, and increasing yearly until it reaches 100% by 2035. Some commenters expressed that the timeframe is too short to phase out gasoline and diesel-powered cars. Based on the available evidence, the Department believes the timeline is achievable and allows Delaware to meet its scientifically driven climate goals. Additionally, the Department plans to work with staff from the Northeast States for Coordinated Air Use Management and programmatic staff from other states that have adopted ACC II, using tracking tools developed by CARB, to conduct annual reviews of the program. These annual reviews will confirm the delivery of compliant vehicles to Delaware and indicate that technological advancements are occurring in the automotive industry as anticipated. In addition, concerns related to affordability and whether the infrastructure will manifest can be addressed through the above annual review process as well.

Throughout this process, the Department has been cognizant of the public's concerns that the ACC II will impose limitations that will require ZEV vehicles to become an increasingly large percentage of the new vehicles sold within Delaware until it reaches 100% in 2035. However, in order to take action to reduce emissions from motor vehicles within Delaware, the Department is limited by Section 177 of the CAA to either adopt the CARB approved or continue to rely on federal standards. Continuing to rely on the federal standards forgoes the significant emissions reductions that could be achieved through the adoption of the CARB approved vehicle emission program.

Significant emissions reductions are necessary and while Delaware cannot adopt standards different from ACC II, the public concerns in the record regarding opposition to a mandate were sufficient for Delaware to consider adopting ACC II only through MY 2032, rather than through MY 2035. The record shows that such a practice has been considered by other states that had similar concerns with adopting the entire ACC II program. If Delaware adopts only through MY 2032, evidence in the record demonstrates that significant reductions in nitrogen oxides, particulate matter, and carbon dioxide will be achieved. This approach not only helps achieve significant pollution reduction from vehicle emissions, but this will ensure that Delaware makes the changes necessary to support the transition to ZEVs, while avoiding the requirement that ZEVs become 100% of the new vehicle sales market.


The Department has the authority to propose and adopt regulations to reduce air pollution from vehicles by the Delaware General Assembly under 7 *Del.C.* Chapters 60 and 67. The Department has the authority to act with regard to this proposed regulatory promulgation, pursuant to 7 *Del.C.* §6010, and consistent with the CAA, to adopt ACC II through MY 2032, and to revise the initially proposed Amendments to provide further clarity. These revisions are not substantive in nature therefore no further noticing or additional hearing is necessary in this matter. The Department will utilize the annual reviews and may take further action in the future to adopt additional model years of ACC II.

Based on the record developed by the Department's staff in the DAQ, and established by the Hearing Officer's Report, I find that the proposed regulatory Amendments are well-supported. I further find that the Amendments will enable the Department to update the adoption by reference of the Advanced Clean Car II low-emission vehicle and greenhouse gas standards and add the requirements for zero-emitting vehicles commencing at 43% in MY 2027 and increasing yearly until it reaches 82% in MY 2032. I find that the Department's only opportunity to seek reductions beyond the federal emissions standards is to adopt the ACC II standards; however, there is no prohibition against adopting selective model years ACC II vehicle standards in order to achieve those reductions. These actions will protect public health and the environment by reducing the impact of mobile source emissions on public health and reducing Delaware's greenhouse gas inventory, which will also reduce emissions to combat climate change goals, established by *Delaware's Climate Action*.

The following reasons and conclusions are hereby entered:

1. The Department has the statutory basis and legal authority to adopt and enforce these proposed regulatory amendments pursuant to 7 *Del.C.* §6010 and 7 *Del.C.* §6703 and Section 209 of the *Clean Air Act*;
2. The Department has jurisdiction under its statutory authority, pursuant to 7 *Del.C.* Chapter 60, to issue an Order adopting these *revised* proposed Amendments as final;
3. The Department provided adequate public notice of the proposed Amendments and all proceedings in a manner required by the law and regulations, and provided the public with an adequate opportunity to comment on the proposed Amendments, including at the time of the virtual public hearing held on April 26, 2023, and during the 30 days subsequent to the hearing (through May 26, 2023), before making any final decision;
4. Promulgation of the *revised* proposed Amendments to 7 DE Admin. Code 1140 – *Low Emission Vehicle Program*, will enable the Department to update the adoption by reference of the Advanced Clean Car II low-emission vehicle and greenhouse gas standards and add the requirements for zero-emitting vehicles commencing at 43% in MY 2027 and increasing yearly until it reaches 82% in MY 2032, thereby protecting public health and the environment by reducing the impact of mobile source emissions on public health and reducing Delaware's greenhouse gas inventory, which will also reduce emissions to combat climate change goals, established by *Delaware's Climate Action Plan*;

5. The Department has reviewed the *revised* proposed Amendments in the light of the Regulatory Flexibility Act, consistent with 29 *Del.C.* §104, and believes the same to be lawful, feasible and desirable, that it will not establish reporting requirements or substantive additional costs for individuals or small businesses, and that the recommendations as proposed should be applicable to all Delaware individuals or small businesses equally;
6. Furthermore, the Department has reviewed the Record generated in this matter with the consideration of the Environmental Justice issues related to the *revised* proposed Amendments, and has determined that the approval of the same is consistent with the Department's Environmental Justice policy;
7. The Department has generated an adequate record to support the incorporating by reference the Advanced Clean Car II low-emission vehicle and greenhouse gas standards starting from MY 2027, and may either choose to adopt standards until MY 2035, as initially proposed during the public hearing, or opt for standards until MY 2032 as a reasonable response to the concerns raised in the record, and the decision does not constitute a significant alteration necessitating further public notification or commentary;
8. The Department's Hearing Officer's Report, including its established record and the recommended *revised* proposed Amendments as set forth in Appendix "A," are hereby adopted to provide additional reasons and findings for this Order;
9. The Department's proposed regulatory Amendments, as initially published in the April 1, 2023, *Delaware Register of Regulations*, and then subsequently *revised* as set forth in Appendix "A" hereto, are adequately supported, are not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, they are approved as final regulatory Amendments, which shall go into effect ten days after their publication in the next available issue of the *Delaware Register of Regulations*;
10. The Department has an adequate Record of its decision, and no further public hearing is appropriate or necessary; and
11. The Department shall submit this Order approving the *revised* proposed Amendments as final regulations to the *Delaware Register of Regulations* for publication in its next available issue, and provide such other notice as the law and regulation require, and the Department determines is appropriate.

  
Shawn M. Garvin  
Secretary