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DNREC – Division of Air Quality
715 Grantham Lane
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12/2/2022

Cc Governor John Carney

RE: Final Public Comments on Alternative to proposed Amendments to 7 DE Admin. Code 1140, Delaware Low Emission Vehicle

The proposed Amendments to the Low Emission Vehicle regulation should be abandoned for the reasons listed below, and a new amendment should be prepared abandoning alignment with the California standards in favor of following federal Low Emission Standards. Adoption of the California Low Emission Vehicle standards was established by regulatory action based on an Executive Order from the Governor, and can be abandoned on the same basis.

Further, submission of a State Implementation Plan to the US Environmental Protection Agency should stipulate the return to following the federal Low Emission Vehicle standard along with a petition to remove New Castle County from the Philadelphia-Wilmington-Atlantic City Nonattainment Area. The county now meets all National Ambient Air Quality Standards (NAAQS) and is no longer contributing to regional nonattainment as the ten closest upwind Air Quality Monitoring Stations are also now in attainment. As the EPA often states in recognizing areas that have reached attainment, the change is accompanied by less stringent air quality permitting requirements that promotes economic development as businesses grow, and new businesses open.

Here is a summary of the reasons to take the alternative proposed actions summarized from previous comments submitted on the topic:

- Adoption of the proposed regulation will require auto manufacturers to sell 35% electric vehicles (EVs) by Model Year 2027, and 100% by 2035. In 2035 no new gasoline or diesel powered light or medium duty vehicle will meet the Delaware emission standards effectively banning such new vehicles from being registered in Delaware violating freedom of choice.
- Currently, new full battery EVs have an average \$14,000 premium price compared to the same model powered by gasoline. Many of the models do not have sufficient US manufacturing content to qualify for a \$7,500 federal subsidy and the premium price places such vehicles beyond what low and moderate income people can afford. Many of these vehicles have seen significant price increases in 2022, and there is no guarantee price premiums will fall in the future.
- The proposed regulation even eventually bans hybrid vehicles with one tenth the price premium that increase miles per gallon by up to 50%, and are currently selling at twice the rate of full battery EVs.
- Used EVs may face a battery replacement at 100,000 miles. General Motors Manufacturers Suggested Retail Price for a replacement cost of a Chevrolet Bolt battery pack is \$16,250 plus an \$870 labor charge. This is an unpleasant surprise for purchasers of used EVs and will weigh heavily on lower income people.



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- Currently over 80% of charging occurs overnight at home, typically from a garage charger. Delmarva Power offers reduced time of use electric rates as electric demand falls at night. If everyone adopts an EV high demand will end that low time of use rate, and significant electric distribution infrastructure investment will be needed that will significantly increase electric rates. New taxes will be needed to replace lost gasoline taxes that pay for highway construction and improvement. Lower income, especially urban families, do not have garages or even access to dedicated off street parking. The proposed regulation is not accompanied by a legislatively approved budget to invest in a massive increase in public charging infrastructure, or purchase subsidies for the Environment Justice community.
- Air quality standards are established to protect health. Every Delawarean now breathes air that meets all federal air quality standards. In reaching the standards vehicle emissions of nitrous oxide has fallen 83% since 1990, and 38% just since 2017. Emissions of Volatile Organic Compounds have fallen 91% since 1990, and 66% since 2017. Emissions will continue to fall based on tighter federal emissions standards as older vehicles leave the vehicle fleet. It is likely emissions from five large point sources have fallen by similar rates since 2017 but DNREC has not responded to a Freedom of Information Act request to supply the most recent emission data.
- When measurements started in 1980 Wilmington had 180 days over a less stringent standard with many of those days way over the standard. In 2022 there was not a single day over the current more stringent standard.
- The Supreme Court is likely to rule the California Waiver in the Clean Air Act does not include regulations covering greenhouse gas emissions undercutting the Delaware proposed regulatory effort rendering the propose amendment moot.

In conclusion, DNREC's proposed regulation is unfounded as it is based on the false claim Delaware is in nonattainment for air quality standards, harms low and moderate income families, and attacks our freedom of choice. The proposed regulation should be abandoned. Please follow these links to copies of previous public comments for supporting documentation,

[https://www.caesarrodney.org/pdfs/Public Comments on proposed amendents to Delaware low emission vehicle regulation.pdf](https://www.caesarrodney.org/pdfs/Public%20Comments%20on%20proposed%20amendments%20to%20Delaware%20low%20emission%20vehicle%20regulation.pdf) ,

[https://www.caesarrodney.org/pdfs/Public Comments on Alternative to proposed DNREC EV mandate 2.pdf](https://www.caesarrodney.org/pdfs/Public%20Comments%20on%20Alternative%20to%20proposed%20DNREC%20EV%20mandate%202.pdf) .

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