

Legislative Report

Oregon Clean Vehicle Rebate Program

December 2018



Air Quality

700 NE Multnomah
Portland, OR 97232
Phone: 503-229-5687
800-452-4011
Fax: 503-229-6762
Contact: Matthew Davis
www.oregon.gov/DEQ

*DEQ is a leader in restoring,
maintaining and enhancing
the quality of Oregon's air,
land and water.*



State of Oregon
Department of
Environmental
Quality

Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language, call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email deqinfo@deq.state.or.us.

Introduction

In 2016, approximately 39 percent of greenhouse gas emissions in Oregon came from the transportation sector¹. Transitioning to lower-emitting vehicles, including electric vehicles, is one of many important approaches to meeting Oregon's statutory greenhouse gas reduction goal of reducing emissions to 75 percent below 1990 levels by 2050.

HB 2017 (2017) directed the Oregon Department of Environmental Quality to develop and implement a program for incentivizing the purchase or lease of electric vehicles in Oregon. This report responds to the requirement in Section 151² of HB 2017 that the department report to the legislative assembly on even-numbered years on the effectiveness of the program, use of funds, recommendations on future legislation and the results of relevant audits. Because this is the inaugural report, this document also summarizes one-time processes and activities involved in developing and initiating this new program.

Program Background and Description

HB 2017 (2017), also known as the *Keep Oregonians Moving Act*, represented the most comprehensive transportation investment package in recent Oregon history. The legislation also included a suite of investments and programs aimed at reducing greenhouse gas emissions and other pollutants from the transportation sector. In addition to direct investments in public transit and safe routes to schools, the legislation directed DEQ to develop and implement an electric vehicle rebate program.

Program Design

The Electric Vehicle Rebate program is designed to provide additional incentives for the purchase and lease of electric vehicles by Oregonians through a suite of rebates. The rebates fall into two main categories and are summarized in table 1:

- **Standard Rebates.** These are rebates for the purchase or lease of new electric vehicles. Rebate amounts range from \$1,500-\$2,500 depending on the vehicle's battery capacity. Rebate qualifications include:
 - The vehicle's base Manufactured Suggested Retail Price (MSRP) must be less than \$50,000.
 - The vehicle must be continuously registered in Oregon for 24 months following purchase or lease.
 - The vehicle must be purchased or leased at a licensed automobile dealership, or an original equipment manufacturer that does not have licensed franchised new automobile dealers in Oregon.
- **Charge Ahead Rebates.** The Charge Ahead Rebate is a flat \$2,500 rebate for the purchase or lease of a new or used Battery Electric Vehicle (BEV), such as a Chevy Bolt, Nissan Leaf or Tesla 3. Charge Ahead Rebates are specifically designed for low- and moderate-income households and in certain circumstances can be combined with a Standard Rebate for a total incentive of up to \$5,000. Rebate qualifications include:
 - The purchaser or lessee must qualify as low- or moderate-income. This is defined in statute as having a household income of up to 120 percent of the median family income where the purchaser lives.
 - The vehicle's base Manufactured Suggested Retail Price (MSRP) must be less than \$50,000.
 - The vehicle must be continuously registered in Oregon for 24 months following purchase or lease.
 - The vehicle must be purchased or leased at a licensed automobile dealership, or an original equipment manufacturer that does not have licensed franchised new automobile dealers in Oregon.
- **Additional Rebates.** The enabling legislation also directed DEQ to make rebates available for Electric Motorcycles (\$750) and Neighborhood Electric Vehicles (\$750) in 2019.

¹ Oregon Greenhouse Gas Statewide Sector-based Inventory. Available at: <https://www.oregon.gov/deq/aq/programs/Pages/GHG-Inventory.aspx>

² Oregon Laws 2017, Chapter 750 Section 151 (2)

Table 1 – Rebate Program Features and Requirements

	Standard Rebates	Charge Ahead Rebates
Rebate Amount	<ul style="list-style-type: none"> • \$2,500 - Vehicles with battery capacity \geq 10 kilowatt hours • \$1,500 – Vehicles with battery capacity < 10 kilowatt hours 	\$2,500
Purchased vehicles qualify	Yes	Yes
Lease vehicles qualify	Yes	Yes
Eligible vehicle types	Plug-in Hybrid (PHEV) and BEVs	BEVs
New vehicles qualify	Yes	Yes
Used Vehicles qualify	No	Yes
Income Restrictions	No	Less than 120% of Area Median Family Income
Registration	Consecutive 24 month minimum	Consecutive 24 month minimum

In 2018 the Legislative Assembly amended the program statutes through HB 4059³, with a focus on technical adjustments and simplifying Charge Ahead Rebate requirements. Specifically, the legislation removed a requirement that Charge Ahead Rebate recipients scrap an older vehicle and live in an area of the state disproportionately impacted by pollution from motor vehicles.

The rebate program expires on January 2, 2024.

Program Funding

The rebate program is funded by a privilege tax on the sales of new cars by automobile dealers. The tax, also established in HB 2017 (2017) is projected to generate between \$40 million and \$56 million in revenue biennially. Transfers to the Zero-Emission Incentive Fund (the fund dedicated for EV rebates) is capped at \$12 million annually. Additional budget direction provided by the legislature includes:

- No more than 10 percent of available funds shall be used on administrative costs
- At least 10 percent of available funds shall be used for Charge Ahead Rebates

As of October 2018, the Oregon Department of Revenue has transferred \$10,175,146 into the Zero-Emission Incentive Fund. The Legislative Revenue Office forecast predicts the full \$12 million annual transfer for each year of the program⁴.

Following the adoption of HB 2017 (2017), the use of privilege tax revenue was challenged in court. The Legislature anticipated a legal challenge to the tax, and incorporated in the legislation a provision for expedited judicial review by the Oregon State Supreme Court. The petition for review was filed by AAA Oregon/Idaho and Oregon Trucking Associations on November 3, 2017, and the court issued its opinion on August 2, 2018. During the review period, the Department of Revenue collected the tax but held collections in a suspense account. This meant DEQ did not receive any resources to begin program development until August when the court upheld the rebate program as an eligible use of privilege tax revenue.

³ Oregon Laws 2018, Chapter 93

⁴ HB 2017 (2017) Legislative Impact Statement available at:

<https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureAnalysisDocument/40077>

Implementation of the Program

Despite not being resourced, DEQ took certain actions beginning in fall 2017 to begin developing the program so that it could commence as quickly as possible in the event of a favorable court decision. Those actions included:

Accepting Applications Beginning January 1, 2018

Purchases made on or after January 1, 2018 qualify for a rebate. The legislation requires that rebate recipients apply for a rebate within six months of purchase. To ensure purchasers could satisfy the six-month requirement while key program design features were finalized through administrative rulemaking, DEQ launched an online “Phase I Application” on January 1, 2018. Completing an application did not guarantee a rebate (the Supreme Court had not yet issued an opinion), although it did ensure Oregonians could register their purchase or lease with DEQ, in essence reserving a spot on a waitlist should the court uphold the program.

Administrative Rule Development

The legislation authorized the Environmental Quality Commission (EQC) to make certain program design decisions and further specify eligibility requirements. DEQ initiated an administrative rulemaking process in November 2017 by convening a Rule Advisory Committee comprised of 12 members representing diverse perspectives⁵. The committee included representatives from the automobile industry and dealers, environmental groups, a citizen group, and environmental justice groups.

The most consequential aspect of committee discussion included the setting of rebate amounts. Enabling legislation established ranges and directed the EQC to establish specific amounts. Committee members unanimously supported issuing rebates at the top of allowable ranges with a request that the agency revisit that decision in future years to ensure the maximum utilization and impact of available funds.

Administrative rules were adopted by the EQC on May 11, 2018⁶.

As of November 2018, DEQ was also accepting public comments on a second proposed rulemaking that would allow three-wheeled vehicles to qualify for the standard rebate⁷. This change would allow a local vehicle manufacturer to qualify for the Oregon rebate.

Program Administrator Vendor Contract

The legislature approved the rebate program with the expectation that DEQ would contract with a third-party to administer the program. This is the approach that has been used in most other states with similar programs. However, the sensitive nature of the data that will be required to run the program in Oregon (personal identifiable information, including income information for households to qualify) means the program and Request for Proposals (RFP) is subject to review and approval through the State’s Chief Information Office Stage Gate process for information technology projects.

DEQ began developing an RFP in spring 2018 and released it for review by the Department of Administrative Services when the Supreme Court opinion was issued in August. The agency received Stage Gate 2 endorsement in early December and released the RFP shortly thereafter.

The contract is expected to cover the full operation of the program, including implementation of a marketing and outreach plan. The legislature authorized one position at DEQ to monitor the contract and periodically audit rebates.

⁵ Oregon Clean Vehicle Rebate Program Rules Advisory Committee Roster, available at: <https://www.oregon.gov/deq/Rulemaking%20Docs/evr2018roster.pdf>

⁶ Oregon Clean Vehicle Rebate Program Rules Public Notice Packet, available at: <https://www.oregon.gov/deq/Rulemaking%20Docs/evreb2018pnpacket.pdf>

⁷ Oregon Clean vehicle Rebate Program 2019 Rules Public Notice Packet, available at: <https://www.oregon.gov/deq/Rulemaking%20Docs/evr2019pnp.pdf>

Stakeholder Outreach and Communication

DEQ has routinely convened stakeholders since the adoption of the enabling legislation. Stakeholders have offered valuable input on the development of the program and outreach to prospective EV purchasers. Input from associations representing automobile dealerships has been particularly valuable as the agency develops application procedures and protocols.

Agency staff have also provided formal updates to the EQC and the legislature on the development of this program. Including:

- Update to the Joint Committee on Transportation. February 19, 2018
- Adoption of key program updates by the Joint Committee on Transportation. February 28, 2018
- Update to the Environmental Quality Commission. March 22, 2018
- Administrative Rule Adoption by the Environmental Quality Commission. May 11, 2018
- Update to the Joint Committee on Transportation. May 23, 2018
- Update to the House Committee on Energy and Environment. September 24, 2018
- Update to the Joint Committee on Carbon Reduction. November 8, 2018

DEQ expects to launch a comprehensive Oregon Clean Vehicle Rebate Program webpage in December 2018. Until that time, stakeholders and members of the public can sign up for text or email updates through DEQ's GovDelivery public notice system.

Issuance of Standard Rebates

DEQ intends to issue Standard Rebates in advance of executing a contract with a program administrator. This temporary (bridge) approach will involve agreements with participating dealerships, allowing dealers to issue standard rebates and be directly reimbursed by DEQ, as well as beginning work to issue rebates to individuals that have filed a phase one application. Enabling legislation anticipated agreements with automobile dealers for point-of-sale rebates, and allows rebates to be assigned from purchasers to dealerships. This approach means the purchaser or lessee can receive a rebate at the time of purchase if the purchase is from a participating dealer. DEQ will audit sales information for program eligibility and provide reimbursement to the dealership.

The agency will also process the "Phase I" applications (eligible purchases made starting January 1, 2018) through a temporary, in-house, process beginning in mid-December 2018. The nearly 2,100 applications received to date will be processed in the order received.

A third-party Program Administrator will assume these duties upon execution of a contract.

Effectiveness Analysis

Because the program is not yet issuing rebates, DEQ cannot provide a report on effectiveness. However, as of November 2018, the agency has received approximately 2,100 Phase I applications. Submissions are likely to increase once the program is marketed and rebates are available in real-time at the point of purchase and lease.

Use of Funds

DEQ is required to report on the "uses to date of moneys in the Zero-Emission Incentive Fund." As noted previously, DEQ did not receive access to the fund until August 2, 2018. As of October 1, 2018, DEQ has expended \$16,538. These funds are entirely related to staff time developing the program. Expenditure type as follows:

Personal Services	\$13,415.09
Indirect	\$2,776.93
Services and Supplies	\$346.68
Total	\$16,538.70

Expenditures will ramp-up significantly once a vendor contract is awarded and rebates are being issued.

Recommendations for Legislation

DEQ recommends the following technical and substantive changes based on input from stakeholders, feedback from legislators, concerns raised directly by Oregonians and other issues encountered by staff during rule and program development. The order in which changes are presented does not represent priority.

Eligible Vehicle Types for Charge Ahead Rebates

Issue: Currently, the statute only allows the Charge Ahead Rebate to be used on Battery Electric Vehicles (such as Nissan Leaf and Chevy Bolt). Program proponents who were active in drafting the enabling legislation intended for both Battery Electric Vehicles *and* Plug-in Hybrid Electric Vehicles (PHEV) to be eligible for the Charge Ahead Rebates. PHEVs (Prius plug-in hybrid, Chevy Volt, etc.) can run for a certain range on battery power but also have a backup combustion engine for longer trips. PHEVs are a particularly attractive choice for those who live or frequently travel in rural Oregon or other areas of the state with underdeveloped charging infrastructure. A statutory change would allow PHEVs to qualify for the Charge Ahead Rebate.

Suggested Program Change: Amend Charge Ahead Rebate eligibility to include Plug-in Hybrid Electric Vehicles.

Six Month Application Period

Issue: The enabling legislation requires rebate recipients to apply for a rebate within six months of purchase or lease of qualifying vehicle. This provision ensures timely processing of rebates and facilitates an ability to accurately assess the availability of funds. However, this requirement was not widely communicated during the initial months of the program before administrative rules had been adopted. Additionally, confusion between the state-level rebate and federal tax credit resulted in purchasers assuming they would apply at the time they filed their 2018 tax returns. Waiving the six-month window for early participants for a set time period would allow those purchasers who acted in good faith to receive a rebate while preserving the six month requirement moving forward.

Suggested Program Change: Amend the six month application period [Oregon laws 2017 Chapter 750 Section 149 (7)(c)] to create an exception for vehicles purchased between January 1, 2018 and August 2, 2018, provided they apply for a rebate no later than December 31, 2019.

Flexibility in Rebate Clawback Provisions

Issue: To ensure the benefits of the rebate program are realized in Oregon, by Oregonians, the enabling legislation requires rebate recipients to maintain registration of the vehicle for 24 consecutive months following the purchase or lease. If the owner/lessee sells the vehicle or terminates the lease before the end of the 24 month period they “shall reimburse the administrator for the entire rebate amount.” The current statute offers the agency and program administrator no discretion to waive or prorate the payback. Other states allow a waiver of the payback in certain circumstances, such as the vehicle being totaled, title transfer due to death or disability, military service relocation, or

other unforeseen/unavoidable circumstances. Other states also allow resale of the vehicle before the 24-month period, but rebate recipients must repay a prorated share of the rebate.

Proposed Program Change: Amend the repayment requirement [Oregon Laws 2018, Chapter 93 Section 19 (9)] in two ways:

1. If a rebate recipient sells the vehicle, transfers title, terminates lease or otherwise does not maintain registration for 24 months they must repay a prorated share of the rebate amount.
2. Provide the agency discretion to waive the 24-month registration requirement on a case-by-case basis due to unforeseen or unavoidable circumstances.