



State of Oregon Department of Environmental Quality

Annual Legislative Rulemaking Report Rules Adopted in 2021

([ORS 183.403](#); [ORS 192.245](#))

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1) Introduction

This report satisfies the requirements of ORS 183.403 and ORS 192.245 that require administrative agencies to annually submit a report to the legislature describing their rulemaking activities.

2) Permanent Rules

The Department of Environmental Quality adopted, amended, repealed or suspended 257 rules during 2021.

3) Temporary Rules

The Department of Environmental Quality adopted, amended or suspended 7 temporary rules during 2021.

List of Temporary Rules Adopted

340-270-0010; 340-270-0020; 340-270-0030; 340-270-0400; 340-270-0420; 340-270-0430; 340-270-0500

Justification for Rules

Rule No. 340-011-0900

Statement of Need for the Rule

What need was DEQ trying to address?

House Bill 2165 (2021) made changes to the OCVRP, specifically to the Charge Ahead Rebate program. DEQ needs to adjust its rules to account for these legislative changes to ensure successful on-going implementation of the program. The 2021 legislation will be going into effect on Jan. 1, 2022 and applies to vehicles purchased or leased after that date. DEQ needs to have rules in place by that time to ensure that its rules are consistent with the amended legislation.

How did the proposed rule address the need?

DEQ's rules will be consistent with the amended legislation and implement the changes approved by the legislature. DEQ's rules will ensure all eligible Charge Ahead Rebate applicants are able to receive the increased rebate amount.

Findings on failure to act promptly

Failing to act promptly will result in serious prejudice to the public interest and to the interests of the parties concerned because it would result in a program that is inconsistent with requirements passed by the legislature earlier this year, which become effective on Jan. 1, 2022.

Consequences of not taking immediate action

Not immediately amending the proposed rules would cause harm to the the affected parties by prejudicing the interested parties identified in this document because it would result in potentially having low- and moderate-income households who qualify for Charge Ahead rebates receiving a smaller rebate amount than stipulated in the legislation. This would also cause harm to the public interest of providing strong incentives for individuals to purchase qualifying electric vehicles. Notably, a conflict between DEQ's rules and the legislation would create difficulty for DEQ in administrating the program and create confusion among interested rebate applicants regarding program eligibility.

Affected parties

The members of the public or parties who would be harmed if EQC did not take this action are:

- Charge Ahead Rebate applicants;
- Low-income service providers who could now purchase a new or used eligible vehicle and receive a Charge Ahead Rebate;
- Automobile dealers that sell or lease new or used qualifying electric vehicles. Dealers could be affected by increased electric vehicle sales due to the higher Charge Ahead Rebate amount;
- Automobile manufacturers. The manufacturers could be affected by increased electric vehicle sales;
- Oregonians who are interested in purchasing hydrogen fuel-cell vehicles that were not previously eligible but may now qualify due to the higher MSRP cap;

Other Oregonians interested in purchasing or leasing a qualifying vehicle under the OCVRP.

Why or how failing to act immediately would cause the harm described above

The harm described above would occur if EQC does not act immediately for the reasons stated in the Justification section above, and because it would affect the public as a whole by undercutting DEQ's credibility to the public; absent temporary rules that adjust program requirements in response to the 2021 legislation, DEQ's rules would conflict with its authority to act under the legislation for the OCVRP.

How temporary rule would avoid or mitigate consequences

If EQC adopts the proposed temporary rule amendments, this will prevent the harm described above because it would clarify program requirements to implement the new legislation. The rules would allow DEQ to facilitate implementation of the 2021 legislation in a timely and transparent manner and allow more people to qualify for the Charge Ahead Rebate program. It also allows potential Charge Ahead Rebate purchasers to receive the increased rebate amount allowed under the legislation. The rule encourages higher adoption rates of zero-emission vehicles for low- and moderate-income households. It also helps reduce air pollution and moves the state towards its greenhouse gas reduction goals.

Explanation of why ORS 183.335(5) was most appropriate

Temporary rules were necessary to prevent serious prejudice to the public interest or the interests of the affected parties. If DEQ had not used the temporary rule process, the harms described above would have continued during the time it took to complete a conventional permanent rulemaking.

Accessibility

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.

Obtaining copies of report

Any person can obtain a copy of the report by:

- Using the link to the report posted on DEQ's rulemaking web page: [DEQ Rulemaking Web Page](#)
- Contacting the DEQ Agency Rules Coordinator at: 700 Multnomah St. NE, 6th Floor, Portland, OR 97232