



State of Oregon Department of Environmental Quality

Oregon Environmental Quality Commission Meeting

May 19-20, 2022

Item A: Rulemaking (Action) Electric Vehicle Rebate Rules 2021

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DEQ Recommendation to the EQC

DEQ recommends that the Oregon Environmental Quality Commission adopt the proposed rules as seen on pages 35 through 47 of this report as part of Chapter 340 of the Oregon Administrative Rules.

Language of Proposed EQC Motion:

“I move that the commission adopt the proposed rule amendments seen on pages 35 through 47 of this report as part of Chapter 340 of the Oregon Administrative Rules.”

Introduction

DEQ proposes revisions to the Oregon Clean Vehicle Rebate Program (OCVRP) rules contained in OAR Chapter 340, Division 270 to incorporate 2021 Legislative direction (in HB 2165 (2021)) for changes to the program. The OCVRP contains two elements. One element provides rebates for the purchase or lease of eligible new zero-emission vehicles (referred to as Standard rebates) if all program requirements are met. The second element, referred to as the Charge Ahead rebate, provides rebates for the purchase or lease of qualifying new or used zero-emission vehicles if the purchaser or lessee is from a qualifying household (that is, a household with income that does not exceed 400 percent of federal poverty guidelines) and meets all program requirements (referred to as Charge Ahead rebates). These proposed rule changes, which apply to vehicles purchased or leased after Jan. 1, 2022, include:

- Increasing the amount of the Charge Ahead Rebate from \$2500 to \$5000
- Changing the way low- and moderate-income households are defined to follow direction from the 2021 Oregon legislature (from a definition tied to area median income, to a definition tied to federal poverty guidelines)
- Allowing low-income service providers to apply for the Charge Ahead Rebate
- Further defining low-income service provider
- Clarifying how DEQ will implement the program if funds are oversubscribed
- Clarifying how low-income service providers apply for the Charge Ahead rebate
- Increasing the base manufacturer's suggested retail price (MSRP) cap for fuel celled vehicles to \$60,000

Background

On Aug. 18, 2017, Oregon Governor Kate Brown signed House Bill 2017 which, in addition to making many other transportation investments, created a program to provide incentives to Oregonians to purchase certain types of zero-emission vehicles, including plug-in hybrid zero-emission vehicles, and other zero-emissions vehicles. This program was designed by the Oregon Legislature to encourage higher adoption of zero-emission vehicles to reduce air pollution and accelerate the state's transition to clean energy. In 2018, the legislature passed House Bill 4059, which included further adjustments to the rebate program to reduce barriers to participation by low-and moderate-income households.

In 2018, the EQC adopted rules to implement the legislative direction in these bills. In 2019 and 2020, the Oregon Legislature passed additional legislation making further adjustments to the program: expanding vehicle eligibility, clarifying program requirements and increasing access to rebates for applicants, particularly Charge Ahead Program participants. The EQC subsequently incorporated these changes into its rules.

Key Policy Issues

1. Rebate Amounts

DEQ currently receives \$12 million dollars a year to provide rebates and implement the program. Program participation is increasing rapidly, and DEQ anticipated program funding to run out in mid-2022 and in subsequent years. Anticipating this shortfall, DEQ initially proposed to adjust

both Standard and Charge Ahead rebate amounts. First, by increasing the Charge Ahead Rebate amount to \$5,000 to ensure access for low- and moderate-income applicants, and then secondly by decreasing the Standard Rebate amount by \$500 to \$2,000. The purposes of these proposed changes were to maximize rebate funding available to low- and moderate-income households, and to help assure continued funding for standard rebates. With regard to the first purpose, it is also important to note that HB 2165 (2021) specifically requires that the commissions rules require that at least 20 percent of funding be allocated to the Charge Ahead rebates. Doubling the rebate amount for Charge Ahead is expected to achieve that result.

DEQ specifically requested comment on these proposed rebate changes. Based on public comment, and the subsequent action of the Oregon legislature in its 2022 session to invest an additional \$15 million in the program (one-time funding), DEQ has altered its recommendation regarding the Standard Rebate. DEQ’s proposed rules for EQC consideration now would maintain the Standard Rebate at its current level (\$2,500).

2. Addressing the Continued Acceleration in Demand for Clean Vehicle Rebates

Sales of clean vehicles in Oregon, and in California and Washington, have accelerated significantly in the last eighteen months and appear likely to continue growing rapidly. This does raise the prospect of a shortfall in rebate funding, even with the additional investment of \$15 million by the Oregon legislature. To ensure the fiscal stability of the program and avoid a break in the availability of incentives, DEQ is proposing some program changes that would be triggered if funding dropped to certain levels. Specifically, and to ensure DEQ is able to meet the 20 percent funding mandate for Charge Ahead Rebates, if available annual program funding drops below \$6 million and the Charge Ahead threshold of 20 percent has not been met, DEQ will initiate a temporary rulemaking proposal to the commission to decrease the Standard Rebate amount. This proposed section of the rules will ensure sustained availability of funds for Charge Ahead rebates, while minimizing the potential for suspension of the Standard rebates if funds are oversubscribed.

3. Change in Income Limits for Charge Ahead Rebates

The 2021 Oregon Legislature changed the income eligibility for households to qualify for the Charge Ahead rebate, from up to 120 percent of “the area median income” to “a household with income that does not exceed 400 percent of the federal poverty guidelines.” The federal poverty guidelines are published by the U.S. Department of Health & Human Services annually, and are set based on the number of persons in the household. For 2022, the poverty guideline for a one-person household is \$13,950 and the guideline for a four-person household is \$27,750. The table below shows the current guidelines and resulting income limits for the Charge Ahead program.

Household/ Family Size	Poverty Level	400% of Poverty Level
1	13,560	54,360
2	18,310	73,240
3	23,030	92,120

4	27,750	111,000
5	32,470	129,880
6	37,190	148,760

The guidelines may be viewed at: <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>. The prior income limit for a one-person household ranges from \$68,400 in the Portland metro area to \$50,160 in the Albany area. As HB 2165 set the income limits in statute, the commission does not have the ability to set different levels in its rules.

Affected Parties

DEQ is implementing the program as established by Oregon Legislature. There are no regulated parties, because the proposed rules do not impose any requirements on parties who do not wish to participate in the program. Other parties who may choose to participate in the program may include:

- Automobile dealers that sell or lease new and or used zero-emission vehicles. Such dealers may be affected by the rules if they choose to apply the rebate to the purchase at the point of sale, by allowing purchasers to assign their rebates to the dealers or by otherwise assisting purchasers in obtaining rebates. Further, dealers could be affected by increased zero-emission vehicle sales.
- Automobile manufacturers, such as those that manufacture zero-emission vehicles eligible for rebates. Manufacturers may be affected by the rules if they allowed purchasers to assign their rebates or otherwise assist purchasers in obtaining rebates. Further, dealers could be affected by increased zero-emission vehicle sales.
- Zero-emission vehicle purchasers such as low- and moderate-income Oregon residents who purchase or lease zero-emission vehicles that qualify for rebates under the program.

Statement of Need

What need would the proposed rule address?

House Bill 2165 (2021) made changes to the Oregon Clean Vehicle Rebate Program, specifically to the Charge Ahead Rebate program. The EQC rules for the program need to be amended to conform to these legislative changes to ensure successful on-going implementation of the program. The 2021 legislation went into effect Jan. 1, 2022, and applies to vehicles purchased or leased after that date. The EQC adopted temporary rules in November 2021 (effective 1/1/2022) to ensure the program aligned with the effective date of the amended legislation. DEQ needs to establish permanent rules by EQC adoption, as the temporary rules expire on June 30, 2022, to ensure continuity of the program.

How would the proposed rule address the need?

DEQ's rules will be consistent with the amended legislation and implement the changes approved by the 2021 Legislature. DEQ's rules will ensure all eligible Charge Ahead Rebate applicants are able to receive the increased rebate amount.

How will DEQ know the rule addressed the need?

DEQ will know the need has been addressed when Charge Ahead Rebate applicants are able to apply for a rebate with the increased rebate amount.

Rules Affected, Authorities, Supporting Documents

Lead Division

Air Quality Division

Program or Activity

Air Quality Planning

Chapter 340 Action

Amend				
340-270-0010	340-270-0020	340-270-0030	340-270-0100	340-270-0110
340-270-0200	340-270-0400	340-270-0420	340-270-0430	340-270-0500

Statutory Authority - ORS				
468.020	2017 Or. Law Ch. 750, Sec. 148-157	2018 Or. Law Ch. 93, Sec. 18-21	2019 Or. Laws Ch. 491, Sec 35-37	2021 Or. Laws, Ch. 95 §§ 4a, 5, 6, 8 and 9

Statutes Implemented - ORS				
2017 Or. Laws Ch. 750 Sec. 148-157	2018 Or. Laws Ch. 93 Sec. 18-21	2019 Or. Laws Ch. 491 Sec 35-37	2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9	

Legislation

House Bill 2017 (2017)

House Bill 4059 (2018)

House Bill 2592 (2019)

House Bill 2165 (2021)

Documents Relied on for Rulemaking

Document title	Document location
House Bill 2165 (2021)	https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB2165/Enrolled
2021 Or. Laws Ch. 95	https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2021orlaw0095.pdf

Fee Analysis

This rulemaking does not involve fees.

Statement of Fiscal and Economic Impact

Note: This document is prepared as part of the public notice for draft rules, and may not reflect the final recommendations of DEQ for proposed final rules. Public comment on the items in this document may result in changes in the proposed final rules.

Fiscal and Economic Impact

DEQ is proposing that the EQC adopt revisions to the Oregon Clean Vehicle Rebate Program under Division 270 of Chapter 340 of the OAR. The OCVRP contains two elements. One element provides rebates for the purchase or lease of eligible new zero-emission vehicles (referred to as Standard rebates). The second element, referred to as the Charge Ahead rebate, provides rebates for the purchase or lease of qualifying new or used zero-emission vehicles if the purchaser or lessee is from a qualifying household (that is, a household with income that does not exceed 400 percent of federal poverty guidelines).

The proposed rules would revise the OCVRP rules to incorporate 2021 Legislative changes affecting the program.

- Increasing the amount of the Charge Ahead Rebate from \$2500 to \$5000
- Decreasing the amount of Standard Rebates by \$500, from:
 - \$1500 to \$1000 for electric vehicles with a battery capacity of less than 10 kWh
 - \$2500 to \$2000 for electric vehicles with a battery capacity of 10 kWh or more
- Allowing low-income service providers to apply for the Charge Ahead Rebate
- Further defining low-income service provider
- Clarifying how DEQ will implement the program if funds are oversubscribed
- Clarifying how low-income service providers apply for the Charge Ahead rebate
- Increasing the base manufacturer's suggested retail price (MSRP) cap for fuel celled vehicles to \$60,000

DEQ anticipates the proposed rules will have positive fiscal impacts on affected parties. DEQ has also identified potential negative fiscal impacts. Overall, DEQ expects any fiscal impacts to be relatively minor, given the proposed rules only impact those who choose to participate in the program. If the program is oversubscribed, those applicants will not be able to participate and may choose to not purchase or delay their purchasing decision as a result.

Statement of Cost of Compliance

State Agencies

DEQ does not expect the proposed rule changes to have a significant fiscal impact on state agencies.

Local Governments

DEQ does not expect the proposed rule changes to have a significant fiscal impact on local governments.

Public

The public would not incur any mandatory compliance costs as a result of the proposed rule changes because the proposed rules do not impose any requirements on parties who do not wish to participate in the program. Furthermore, the proposed rule amendments are to conform with statutory changes already enacted by the 2021 Oregon legislature in HB 2165.

The rule changes are expected to have a positive fiscal impact on the public, particularly for low- and moderate-income households. The rule increases the amount of the Charge Ahead rebate from \$2500 to \$5000. When combined with a Standard Rebate, eligible Charge Ahead applicants could receive up to a \$7000 rebate. This provides a larger rebate amount towards the purchase or lease of a new or used vehicle and reduces the out-of-pocket costs incurred by the recipient.

Providing a pathway for low-income service providers to apply for the Charge Ahead rebate may also have a positive fiscal impact on the public. These providers would save money on the cost of purchasing an electric vehicle for their organization that provides services to low- and moderate-income households. There are also potential health benefits associated with these rules, as it could increase the number of electric vehicles in use, particularly in low- and moderate-income household areas. Conventional gasoline vehicles emit harmful pollutants such as particulate matter, air toxics, carbon monoxide, and nitrogen oxides. Replacing conventional vehicles with electric vehicles would reduce these emissions and could result in reduced mortality, fewer hospital and emergency room visits, and fewer missed days of work and school.

Increasing the MSRP cap for fuel-celled vehicles provides for a greater number of eligible fuel cell vehicles an applicant can choose from and receive. Increased participation can result in more rebates being issued resulting in a positive fiscal impact to the public.

The proposed rule changes are not expected to have significant negative fiscal impacts on the public. However, the increased amount of the Charge Ahead rebate may result in fewer rebates being available to the public because the available funding may be spent down more quickly. Additionally, decreasing the Standard rebate may result in some members of the public not being able to purchase or lease a vehicle because they were relying on the higher amount. The increased eligibility of other applicants to apply for the rebate could also result in DEQ not having enough funding to fund all eligible applications; thus, there could be a negative fiscal impact on members of the public who were eligible for a rebate but could not receive a rebate because of DEQ having to suspend the program.

Large Businesses - Businesses with More Than 50 Employees

There are no businesses or industries subject to the proposed rules because the rules do not impose any requirements on parties who do not wish to participate in the program.

Businesses or industries that are likely to be impacted by the proposed rules are those that manufacture or sell automobiles.

Large businesses would not incur any mandatory compliance costs as a result of the proposed rules because the proposed rules do not impose any requirements on parties who do not wish to participate in the program. There are no projected reporting, recordkeeping, or other administrative activities required for compliance. There are no anticipated additional equipment, supplies, labor, or increased administration required for compliance with the proposed rules.

Large business automobile manufacturers and car dealerships, such as those that manufacture or sell electric vehicles eligible for Charge Ahead rebates or other vehicles eligible for a rebate, could be affected by increased sales or leases, which could result in a positive fiscal impact. Large business automobile manufacturers and car dealerships that manufacture or sell cars other than electric vehicles eligible for a rebate could be affected by decreased sales or leases of non-rebated cars, if buyers or lessees opted to purchase rebate-eligible vehicles as a result of the added financial incentive provided by rebates. This could result in a negative fiscal impact for these manufacturers and dealerships.

Small Businesses – Businesses with 50 or Fewer Employees

There are no businesses or industries subject to the proposed rules because the rules do not impose any requirements on parties who do not wish to participate in the program.

Businesses or industries that are likely to be impacted by the proposed rules are those that manufacture or sell automobiles. DEQ identified up to 3,973 small businesses potentially affected by this rule. This includes 382 automobile dealers (that sell both new and used vehicles). Additionally, there could be up to 3,591 low-income service providers who could be affected by this rule.

Small businesses would not incur any mandatory compliance costs as a result of the proposed rules because the proposed rules do not impose any requirements on parties who do not wish to participate in the program. There are no projected reporting, recordkeeping, or other administrative activities required for compliance. There are no anticipated equipment, supplies, labor, or increased administration required for compliance with the proposed rules.

Overall, DEQ anticipates that affected small businesses would benefit from the proposed rules. The proposed rule would expand incentives for low-income service providers who buy or lease a new or used electric vehicle. There could be a positive fiscal impact on small businesses manufacturing, selling, or leasing electric vehicles eligible for a rebate, as a larger pool of applicants could utilize this incentive and increase sales or leases in Oregon. There could be a negative fiscal impact on small businesses manufacturing, selling, or leasing cars other than electric vehicles eligible for a rebate, as a result of customers choosing to purchase rebate-eligible vehicles. There could also be a negative fiscal impact on small businesses who are not

low-income service providers as they will need to incur higher costs for purchasing an electric vehicle because they do not qualify for the rebate.

1. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

DEQ originally identified up to 382 small business automobile dealers (that sell both new and used vehicles) and 3,591 low-income service providers that could participate in the OCVRP.

2. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

No additional activities are required to comply with the proposed rules.

3. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

No additional activities are required to comply with the proposed rules. If the low-income service provider decides to participate in the rebate program, they would be required to collect and submit paperwork associated with the rebate application to prove program eligibility.

4. Describe how DEQ involved small businesses in developing this proposed rule.

DEQ included small business representatives on the Electric Vehicle Rebate Rule Advisory Committee that advised DEQ on the cost of compliance for small businesses. DEQ also provided rulemaking notice through the Oregon Auto Dealers Association, the Oregon Independent Auto Dealers Association, and the Oregon Vehicle Dealers Association. These associations include small businesses as part of their membership.

Documents Relied on for Fiscal and Economic Impact

Document title	Document location
Oregon Department of Employment 2019 data	Employment Department 875 Union Street NE Salem OR 97311

Advisory Committee Fiscal Review

DEQ appointed an advisory committee. As ORS 183.333 requires, DEQ asked for the committee’s recommendations on:

- Whether the proposed rules would have a fiscal impact,
- The extent of the impact, and
- Whether the proposed rules would have a significant adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 reduce that impact.

The committee reviewed the draft fiscal and economic impact statement and its findings are stated in the approved minutes dated Feb. 7, 2022.

The committee agreed with DEQ's analysis regarding the fiscal and economic impacts. The committee did provide comments about how reducing the Standard Rebate amounts might affect EV purchases. However, the committee also recommended maintaining the higher Charge Ahead Rebate amounts to provide better access for qualifying households. The committee determined the proposed rules would not have a significant adverse impact on small businesses in Oregon.

Housing Cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel. DEQ determined the proposed rules would have no effect on the development costs because they only affect purchasers of zero-emission vehicles and automobile dealers and manufacturers who sell or produce zero-emission vehicles.

Racial Equity

The adoption of this rule doubles the amount of the Charge Ahead Rebate to \$5000 and allows low-income service providers, defined as an organization that provides health, dental, social, financial, energy conservation or other assistive services to low- or moderate-income households, to apply for the Charge Ahead Rebate. These rule changes increase accessibility to households with low- and moderate-incomes; moreover, in Oregon, data shows that Black, Indigenous, and People of Color (BIPOC) are more likely to have low- and moderate-incomes than other groups. Increasing accessibility to EVs ensures BIPOC communities are not left behind in acquiring cleaner modes of transportation, reducing their vulnerability to increases in the price of fossil fuels, and reducing air pollution within their communities.

Federal Relationship

Relationship to Federal Requirements

ORS 183.332 and OAR 340-011-0029 require DEQ to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so.

The proposed rules are in addition to federal requirements since there are no federal regulations regarding rebates for the purchase or lease of zero-emission vehicles. The proposed rules protect the environment by reducing greenhouse gases.

What alternatives did DEQ consider if any?

DEQ did not consider any alternatives to the proposed rule because the Legislature passed House Bill 2165, requiring DEQ to implement these legislative changes.

Land Use

Considerations

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with state-wide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005(2) and OAR 340 Division 18, DEQ considers that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
 - Resources, objectives or areas identified in the statewide planning goals, or
 - Present or future land uses identified in acknowledged comprehensive plans

To determine whether the proposed rules involve programs or actions that affect land use, DEQ reviewed its Statewide Agency Coordination plan, which describes the DEQ programs that have been determined to significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

Goal	Title
5	Open Spaces, Scenic and Historic Areas, and Natural Resources
6	Air, Water and Land Resources Quality
9	Ocean Resources
11	Public Facilities and Services
16	Estuarial Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

Determination

DEQ determined that these proposed rules do not affect land use under OAR 340-018-0030, OAR 660-030-0005(2), or DEQ's State Agency Coordination Program.

EQC Prior Involvement

DEQ shared information about this rulemaking with the EQC in the Oregon Clean Vehicle Rebate Program temporary rule adoption action item in the Nov. 17, 2021, meeting.

Advisory Committee

Background

DEQ convened the Oregon Clean Vehicle Rebate Program 2021 Rule advisory committee. The committee included representatives from the automobile industry and dealers, environmental groups, low-income service providers, and environmental justice groups. The committee met twice. The committee's web page is located at: <https://www.oregon.gov/deq/rulemaking/Pages/EVRebate2021.aspx> and a summary of the meeting minutes is available.

The committee members were:

Oregon Clean Vehicle Rebate Program 2021 Rule Advisory Committee	
Name	Representing
Jessi Adams	Community Action Partnership of Oregon (CAPO)
Neil Baungard	The Environmental Center
Amy Corbett	Metropolitan Family Services
Gary Exner	Oregon Electric Vehicle Association
Ingrid Fish	City of Portland
Rhett Lawrence	Forth
Sergio Lopez	Verde
Victoria Paykar	Climate Solutions
Julia Rege	Alliance for Automotive Innovation
Greg Remensperger	Oregon Auto Dealers Association
Diane Sparks	Oregon Independent Auto Dealers
Linda Woodley	Diversifying Energy

Meeting Notifications

To notify people about the advisory committee's activities, DEQ:

- Sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
 - Rulemaking
 - Oregon Clean Vehicle Rebate Program
- Added advisory committee announcements to DEQ's calendar of public meetings at [DEQ Calendar](#).

Committee Discussions

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee provided input to DEQ on certain program elements.

The committee specifically discussed:

- Adjusting the rebate amounts, specifically whether to reduce the Standard Rebate amount, given the program is anticipated to be oversubscribed in 2022 and beyond.
- Reviewing how DEQ interprets base MSRP for vehicle eligibility
- Implementation of how to verify low-income service providers for the Charge Ahead Rebate
- Enhanced communication and outreach, particularly how to prioritize Charge Ahead communities
- Opportunities to provide rebates for Charge Ahead applicants besides the dealerships or individuals. This included a discussion of DEQ's intent to launch a prequalification process for Charge Ahead Rebate applicants to get the rebate applied at the dealerships.

Public Engagement

Public Notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing by:

- On Feb. 28, 2022, filing notice with the Oregon Secretary of State for publication in the March Oregon Bulletin;
- Posting the Notice, Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at:
<https://www.oregon.gov/deq/rulemaking/Pages/EVRebate2021.aspx>;
- Emailing approximately 25,136 interested parties on the following DEQ lists through GovDelivery:
 - DEQ Public Notices
 - Rulemaking
 - Oregon Clean Vehicle Rebate Program
 - Low Emission/Zero-emission Vehicle Program
- Emailing the following key legislators required under ORS 183.335:
 - Representative Pam Marsh
 - House Speaker Dan Rayfield
 - Senator Lee Beyer
 - Senate President Peter Courtney
- Emailing advisory committee members,
- Posting on the DEQ event calendar: [DEQ Calendar](#)

Public Hearing

DEQ held two public hearings. DEQ received four comments at the hearings. Later sections of this document include a summary of the 23 comments received during the open public comment period, DEQ's responses, and a list of the commenters. Original comments are on file with DEQ.

Presiding Officers' Record

Hearing 1

Date	March 22, 2022
Place	Remotely via Zoom
Start Time	11:15 a.m.
End Time	11:28 a.m.

Hearing 2

Date	March 22, 2022
Place	Remotely via Zoom
Start Time	6:30 p.m.
End Time	7:21 p.m.

Presiding Officer's report:

The presiding officer convened the hearings, summarized procedures for the hearing, and explained that DEQ was recording the hearing. The presiding officer asked people who wanted to present verbal comments to sign the registration list, or if attending by phone, to indicate their intent to present comments. The presiding officer advised all attending parties interested in receiving future information about the rulemaking to sign up for GovDelivery email notices.

As OAR 137-001-0030 requires, the presiding officer summarized the content of the rulemaking notice. Four people attended the hearings via webinar, three people at the 11 a.m. hearing and one person at the 6:30 p.m. hearing. Four people commented orally and no one submitted written comments at the hearing.

Summary of Public Comments and DEQ Responses

Public Comment Period

DEQ accepted public comment on the proposed rulemaking from Feb. 28, 2022, until 4 p.m. on March 24, 2022.

For public comments received by the close of the public comment period, the following table organizes comments into 23 categories with cross references to the commenter number. DEQ's response follows the summary. Original comments are on file with DEQ.

DEQ changed the proposed rules in response to comments as described in the response sections below.

Comment #1: General Support (Commenters 1, 10, 14, 28, 30, 38)

DEQ received six comments expressing general support for the proposed rule changes. The availability of the rebate encourages more people to purchase an EV and improves the environment.

DEQ Response

DEQ thanks you for your support.

Comment #2: Increased Charge Ahead Rebate Amount (Commenters 2, 3, 5, 7, 8, 15, 17, 18, 20, 24, 32, 36, 37, 38, 40, 41)

DEQ received 16 comments supporting the increased Charge Ahead Rebate amount to \$5,000. They supported the ability for low- and moderate-income households to have better access to electric vehicles.

DEQ Response

DEQ thanks you for your comment. DEQ agrees the increased rebate amount supports the increased accessibility for low- and moderate-income households to obtain an electric vehicle.

Comment #3: Do Not Support the Increased Charge Ahead Rebate Amount (Commenters 22, 35)

DEQ received two comments opposed to increasing the Charge Ahead Rebate amount. Commenters #22 and 35 expressed views that only high-income households are purchasing EVs due to the higher cost of the vehicle and increasing the rebate amount will not likely increase participation with Charge Ahead eligible households. These commenters also expressed concerns that low- and moderate-income households cannot charge in their apartments making access more challenging. Commenter #35 stated increasing the Charge Ahead rebate amount did not seem equitable particularly since the Standard Rebate amount was proposed to decrease. Additionally, because EVs are in high demand there is no need to incent people to purchase.

DEQ Response

DEQ thanks you for your comment. DEQ believes the increased rebate amount better supports households that might not otherwise be able to obtain an EV due to the higher purchase costs. EVs are beneficial for low- and moderate-income households due to its lower total cost of ownership, providing savings for households that are looking at the overall costs of a vehicle. Additionally, transportation emissions from gasoline powered vehicles contribute air quality pollutants and greenhouse gas emissions that can adversely affect public health. In particular, these emissions have been known to

disproportionately affect many low- and moderate-income households who often live near major transportation corridors. Making EVs more available for these households better provides clean transportation options.

Comment #4: Support for the Decreased Standard Rebate Amounts (Commenters 17, 24, 36, 37)

DEQ received four comments supporting the decrease of the Standard Rebate amount by \$500. Commenters 36 and 37 supported the decrease if a sustainable rebate funding source is not obtained to anticipate for future oversubscription of the program. These commenters also supported the decrease based on the fact most Standard Rebate recipients are from medium to high income households and the decreased rebate amount is less likely to deter them from purchasing an EV. Additionally, any funding saved would enable more individuals to receive a rebate.

DEQ Response

DEQ thanks you for your comment. DEQ has decided not to retain the proposal to lower the Standard Rebate amounts by \$500. DEQ recognizes the recent Legislative actions providing the program additional one-time funding will not create budget shortfalls for this upcoming year as initially predicted when the rules were proposed. DEQ does anticipate the funds could be oversubscribed in future years and has incorporated a provision in the rules that allows the EQC to adopt temporary rules to lower the Standard Rebate amount. The temporary rules would be triggered if anticipated and existing funding for the year is below \$6 million and if DEQ has not met the 20 percent Charge Ahead funding threshold, thus ensuring funds are reserved for Charge Ahead while mitigating potential funding shortfalls.

Comment #5: Do NOT Support Decreasing the Standard Rebate Amount (Commenters: 9, 11, 12, 13, 15, 19, 29, 32, 33, 34, 35, 39, 40, 41)

DEQ received 14 comments against decreasing the Standard Rebate amount by \$500. Commenters #33, 39, 40 and 41 felt that the increased funding the program was allocated in 2022 may no longer make the decrease critical from a budget perspective. Commenters #9, 19, and 32 stated decreasing the rebate is contrary to the program goals of encouraging drivers to purchase electric. Other commenters noted decreasing the rebate could negatively impact the decision for some drivers to transition to an electric vehicle (9, 11), did not seem equitable to decrease the amount (13, 35), and would be detrimental to EV sales (33). Commenters 33 and 34 stated decreasing the rebate would also result in decreasing the total amount available to Charge Ahead applicants purchasing or leasing a new vehicle, which makes it more difficult for these applicants to access electric vehicles. Commenter #32 also expressed concern that those purchasing vehicles may be expecting the rebate and suggested postponing the decrease to assure all are informed of the change.

DEQ Response

DEQ thanks you for your comment. DEQ has decided to modify its proposed rule to keep the Standard Rebate amounts at current levels. DEQ recognizes the recent Legislative actions providing the program additional one-time funding will not create budget shortfalls as initially predicted when the rules were proposed.

Comment #6: Request a higher rebate amount for used vehicles (Commenter: #18)

DEQ received one comment in support of higher rebates for used vehicles. Commenter #18 stated that the Standard rebate supports those that can afford a new electric vehicle and suggesting increasing the used electric vehicle rebate to \$7,500.

DEQ Response

DEQ thanks you for your comment. The legislature established the rebate amounts for Charge Ahead applicants who can purchase a used vehicles and DEQ does not have the authority to override this legislative intent.

Comment #7. Raise all the rebate amounts (Commenters: #15, 29, 35)

DEQ received three comments in support of raising both Standard and Charge Ahead rebate amounts. Commenters #15, 29 encourage DEQ to raise all rebate amounts to incent Oregon residents to transition to electric vehicles for environmental benefits. Commenter #35 stated it would be equitable to increase both the rebates by a reasonable amount based on research, funding and demand.

DEQ Response

DEQ thanks you for your comment. Under 2017 Or. Law Ch. 750 Sec. 148-157, the legislature provided that the Standard Rebate shall be in an amount up to \$2,500 but not less than \$750, depending upon the battery capacity of the vehicle. Under House Bill 2165 (2021), the legislature provided the Charge Ahead rebate shall be in an amount up to \$5,000 but not less than \$2,500. DEQ selected the maximum rebate amounts allowable under the law, establishing a \$2,500 Standard Rebate and a \$5,000 Charge Ahead rebate to encourage low- and moderate-income households to purchase vehicles eligible for such a rebate. DEQ is not able to increase the amount unless the legislature amends the maximum rebate amount set in statute.

Comment #8: Rebate Amounts – General (Commenters: 34, 40)

DEQ received two comments provided general feedback on rebate amounts. Commenters #34 and 40 supported a decrease in plug-in hybrid rebate amounts. Commenter #40 also encouraged rebate amounts to be evaluated on emission contributions and the program goal to “reduce vehicle emissions by encouraging more Oregonians to purchase or lease electric vehicles rather than gas vehicles”, referencing research stating that plug-in hybrids driven in the real world contribute more emissions and consume more fuel than the certification standard and rebating these vehicles may be incenting Oregon residents to choose a hybrid over an electric vehicle unnecessarily.

DEQ Response

DEQ thanks you for your comment. The legislature established rebate amounts based on battery size of the vehicle, not on whether the vehicle was a plug-in-hybrid or battery electric vehicle. DEQ does not have the authority to override this legislative intent. Any modifications to the rebate amount would have to focus on the battery size, of which some plug-in hybrids qualify for the \$1500 rebate amount and others qualify for the \$2500 rebate amount. While DEQ understands the benefits of linking rebate amounts to

emissions contributions, DEQ is not able to adjust rebate amounts based on emissions contributions of the vehicle.

Comment #9: Do NOT support ANY rebates (Commenters: 22, 23, 31)

DEQ received three comments against offering rebates of any kind for electric vehicles. Commenters #22 and 31 noted that electric vehicles are in high demand and in addition to the high gas prices the encouragement to purchase through rebates is unnecessary. Commenter #22 felt that the electric vehicle market applies primarily to people of high income, so rebates for low- and moderate-income households were unlikely to offer encouragement to access electric vehicles. Commenter #23 stated questioned whether rebates should be offered for electric vehicles due to concerns about the instability of the electric grid.

DEQ Response

DEQ acknowledges your comment. The program is mandated by House Bill 2017 (2017), which establishes a zero-emission and electric vehicle rebate program for the state. The purpose of the program is to reduce air pollution and advance progress toward the state’s greenhouse gas reduction goals. Additionally, because electric vehicles have a higher initial purchase price, the availability of a rebate makes the overall price comparable with a gasoline vehicle. An electric vehicle, due to its overall lower total cost of ownership and low- to zero-emissions emit less air pollution and provide multiple benefits to users. These factors support the adoption of EVs and incenting them to households who might not otherwise be able to take advantage of these benefits.

Comment #10: Base MSRP Eligibility (Commenters: 25 and 33)

DEQ received two comments encouraging DEQ to reconsider the base MSRP maximum amount eligibility requirement. Commenter #25 suggests that rebate decisions should be made based on income, rather than vehicle price, allowing people to purchase the electric vehicle that best meets their needs to increase electric vehicle use. Commenter #33 states that the current MSRP cap does not recognize the diversity of EV offers on the market, minimizes vehicle options for applicants and goes against the program goal of increasing widespread electric vehicle adoption. Commenter #33 also states that some higher priced electric vehicles could reach communities not yet broadly transitioning to electric vehicles and could compete and displace some of the higher polluting vehicles.

DEQ Response

DEQ thanks you for your comment. The legislature established a base MSRP cap of \$50,000 for the BEVs and PHEVs and \$60,000 for FCEVs and DEQ does not have the authority to override this legislative intent. These legislative requirements govern which vehicles can be eligible for the rebate.

Comment #11: Vehicle Eligibility (Commenters: 33)

DEQ received one comment regarding vehicle eligibility within the Oregon Clean Vehicle Rebate Program. Commenter #33 noted that the only light duty (under 8,500 lbs. gross vehicle weight) are eligible, yet vehicles up to 14,000 lbs. gross vehicle weight can earn

credits under the state's light duty zero-emission vehicle mandate. Commenter #33 stated this was a design gap and removing it would increase vehicle options.

DEQ Response

DEQ thanks you for your comment. The legislature set the requirement for only light-duty vehicles (under 8,500 lbs. gross vehicle weight rating (GVWR)) to be eligible for the rebate program and DEQ does not have the authority to override this legislative intent. Under DEQ's Low Emission Vehicle/Zero-emission Vehicle Program, manufacturers are allowed to earn credit for manufacturing and delivering for sale zero-emission vehicles up to 14,000 lbs. GVWR. This is a separate program designed to ensure clean vehicles are being delivered to Oregon. While the rebate program does not incent the heavier vehicles (8,501-14,000 lbs. GVWR) the LEV/ZEV program ensures there are many vehicle choices for consumers when they decide to make their purchase.

**Comment #12: Charge Ahead Eligibility for Low-Income Service Providers
(Commenters: 36, 37, 38, 41)**

DEQ received four comments supporting the inclusion of low-income service providers in Charge Ahead eligibility.

DEQ Response

DEQ thanks you for your comment. DEQ is also clarifying that low-income service providers, like businesses, are limited to 10 rebates per calendar year.

Comment #13: Charge Ahead Income Eligibility (Commenter: #27)

DEQ received one comment encouraging DEQ to consider a phased income eligibility approach. Commenter #27 stated a hard income eligibility cut-off seems unjust because those that are slightly above the threshold miss out on the increased rebate.

DEQ Response

DEQ thanks you for your comment. The legislature established the income thresholds for Charge Ahead Rebate applicants at less than 400 percent of the federal poverty level and DEQ does not have the authority to override this legislative intent.

Comment #14: Rebates Applied Retroactively (Commenters: 3, 21)

DEQ received two comments encouraging DEQ to consider offering rebates retroactively. Commenter #3 stated it would be fair if the increased Charge Ahead could be applied to previous Charge Ahead recipients as some customers may have delayed their purchase due to the increase. Commenter #21 proposed that eligibility periods should be more flexible and offer the option for early adopters of electric vehicles to access rebates, suggesting a one-year retroactive option.

DEQ Response

DEQ thanks you for your comment. The legislature established the effective date for the higher Charge Ahead Rebate amounts to go into effect on Jan. 1, 2022, but no earlier than that date. House Bill 2017 (2017) also mandated the provisions of the program are operative starting Jan. 1, 2018, and applicants must apply within six months of

purchase or lease. Therefore, any purchases or leases prior to the Jan. 1, 2018, date or past the six-month application date cannot be retroactively granted a rebate. DEQ does not have the authority to override this legislative intent.

Comment #15: Increasing reserved funds for Charge Ahead rebates (Commenters: #36, 37, 41)

DEQ received three comments supporting the increase of reserved funding for Charge Ahead rebates from 10 percent to 20 percent.

DEQ Response

DEQ thanks you for your comment.

Comment #16: Addressing Other Barriers to Charge Ahead Applicant Program Access (Commenters: 34, 36, 37, 38, 39 and 41)

DEQ received six comments noting other ways DEQ could decrease barriers to participation for Charge Ahead communities. Commenters #34, 36, 37, 38 and 41 encouraged DEQ to implement a prequalification process for the Charge Ahead rebate as it would provide Charge Ahead applicants the ability to receive the rebate at the time of purchase and decrease the price of the vehicle and the loan amount immediately. Commenter #39 noted that enabling the Charge Ahead rebate at the point-of-sale will make the process easier and more efficient for both consumers and auto dealers.

DEQ Response

DEQ thanks you for your comment. DEQ hopes to launch a prequalification process to allow potential Charge Ahead Rebate applicants to pre-qualify prior to purchase or lease sometime this year.

Comment #17: Number of Rebates for Businesses (Commenter: #26)

DEQ received one comment encouraging DEQ to consider increasing the number of rebates a business is eligible for annually. Commenter #26 suggested businesses that purchase many vehicles and contribute to the privilege tax at high levels should be eligible for more rebates every year.

DEQ Response

DEQ is retaining the number of allowed rebates to 10 per calendar year for fleet purchases. While DEQ wants to encourage as much participation in the program as possible and help ensure the state meets the Governor's goal of achieving 250,000 electric vehicles by 2025, DEQ also wants to ensure everyone, especially individual households, have access to the rebates. Depending upon who utilizes the program and how successful it is, in the future DEQ may increase or decrease the number of allowed rebates for fleet purchases and businesses.

Comment #18: Vehicle Ownership and Leasing (Commenter: #35)

DEQ received one comment in regard to vehicle ownership and leasing. Commenter #35 stated rebates for leased vehicles are not a productive use of funds and do not provide an asset for low-income families to build upon.

DEQ Response

DEQ thanks you for your comment. The legislature established allowed both vehicle purchases and leases to qualify for the rebate and DEQ does not have the authority to override this legislative intent.

Comment #19: Rebate Processing and Funding Availability (Commenters: 36, 37)

DEQ received two comments in regard to funding being reserved and distributed to Charge Ahead applicants first after a suspension of rebate processing. Commenters #36 and 37 stated they would appreciate more clarity on the language in the proposed rules. Commenters #36 and 37 also stated they would support the process of reserving and prioritizing Charge Ahead rebate application processing if there was a backlog of Charge Ahead applicants that met the 20 percent reserved, but if there was not, they are concerned that it would cause undue long wait times for Standard rebate applicants.

DEQ Response

DEQ thanks you for your comment. DEQ has updated the rules to provide more clarity about how it will reserve funds for Charge Ahead after a suspension of rebate processing. DEQ understands the concern about delaying the processing of Standard Rebates if there is not a backlog of Charge Ahead applicants and agrees this could create unduly long wait times. DEQ's goal is to ensure low-and moderate-income households are able access rebates and wants to eliminate as many barriers as possible.

Comment #20: Incentives for Other Transportation and Non-Transportation Types (Commenter #4, 6, 29, 31)

DEQ received four comments encouraging DEQ to consider offering incentives for other transportation types not currently part of the Oregon Clean Vehicle Program and electric appliances. Commenter #4 suggested that a rebate for a used hybrid vehicles may enable more people to participate in the program that would not be able to afford a new electric vehicle. Commenter #4 also suggested free registration for hybrid vehicles could be a helpful incentive. Commenter #6 noted that electric outboard motors were not covered in House Bill 2165 and suggested it should be included to remove a source of pollution from waterways and encourage the public to use electric boat motors. Commenter #29 suggested excess funding could be used to rebate electric appliances, water heaters, heat pumps, solar panels, wind turbines and garden tools to transition off of fossil fuels. Commenter #31 stated solar incentives be a helpful in decreasing installation costs.

DEQ Response

DEQ thanks you for your comment. The Oregon Legislature, through House Bill 2017 does not include used hybrid vehicles or electric outboard motors as vehicles eligible for the rebate program. Therefore, DEQ is not including these as an eligible vehicle under the program. The Legislature also authorized rebates under the program for vehicles only, other electric appliances are not eligible. Additionally, DEQ does not oversee the registration of vehicles in Oregon and cannot offer the option of free registration for vehicles.

Comment #21: Program Implementation (Commenter: #32)

DEQ received one comment regarding program implementation changes within the Oregon Clean Vehicle Rebate Program. Commenter #32 suggested that qualifying an eligible vehicle for the program should not be incumbent on the Original Vehicle Manufacturer to submit the application for a specific vehicle, as it makes customers dependent on the manufacturer to ensure a vehicle is eligible.

DEQ Response

DEQ thanks you for your comment. To ensure an eligible vehicle meets all the program requirements established in statute and rule, DEQ requests documentation from the original equipment manufacturer. This allows DEQ to verify the vehicle meets the base MSRP cap and vehicle certification requirements, rather than incorrectly listing a vehicle that may not qualify under the program.

Comment #22: Program Education and Outreach (Commenters: 36, 37, and 41)

DEQ received three comments supporting the increase in education and outreach work for the program. These commenters highlighted the importance of increased outreach to Charge Ahead communities and support DEQ partnering with community-based organizations and low-income service providers to share program, electric vehicle use and ownership, electric vehicle charging information and full electric vehicle costs with low-income and BIPOC communities through a trusted voice.

DEQ Response

DEQ thanks you for your comment.

Comment #23: Charging Infrastructure (Commenters: 11, 12, 23)

DEQ received three comments regarding electric vehicle charging infrastructure. Commenter #11 stated an interest in free public fast chargers for low-income Oregon residents and noted the federal transportation infrastructure package being a funding option. Commenter #12 encouraged DEQ to advocate for more electric vehicle infrastructure. Commenter #23 stated the grid would not support widespread electric vehicle use and was concerned about removal of hydro-electric dams and this impact on charging stations.

DEQ Response

DEQ thanks you for your comment. DEQ agrees more electric vehicle infrastructure is needed, including options for fast charging for low-income Oregon residents and the federal transportation infrastructure package offers opportunities to fund charging installation. The state of Oregon, through the Oregon Department of Transportation will receive \$52 million to distribute within federally designated electric vehicle corridors (I-5, I-84, I-82, US-101, US-26, US-97 and US-20). More funding is potentially available by applying for discretionary grants from FHWA. Sufficient vehicle infrastructure will better support adoption of EVs.

List of Commenters

#	Name	Organization	Comment Number	Hearing #
1	Mica Richards		1	
2	Mark Gamba	City of Milwaukie, Mayor	2	
3	Simon Daws		2, 14	
4	Carrie Baldwin	Radio Cab	20	
5	Kristina Marlia-Johnson		2	
6	Bob Brown		20	
7	Yashar Mosanen		2	
8	Carmine Campione		2	
9	Bret Kimple		5	
10	Natalie Schuette		1	
11	Bailey Payne		5, 23	
12	Shawn Looney		5, 23	
13	June Meeks		5	
14	Robin Harrower		1	
15	Manford Hotchkiss		2, 5, 7	
16	Keita Sakon			
17	Stann Lovan		2, 4	
18	Bonnie Larson		2,6	
19	A Ti		5	
20	Shannon Tivona		2	
21	Lisa Battaglia		14	
22	Ron Miller		3, 9, 22	
23	Dave Ganslein		9, 23	
24	Jakob Slemc		2,4	
25	Dolores Matthys		10	
26	Susan Thayer	Enterprise Rent-A-Car	17	
27	Jeffrey Jackson		13	
28	David Babcock		1	
29	Valerie Blackmore	7	5, 7, 20	
30	Nancy Hedrick		1	
31	Traig Van Dyke		9, 20	
32	Paul Hill		2, 5, 21	
33	Chris Nevers	Rivian	5, 10, 11	
34	Stuart Liebowitz	Douglas County Global Warming Coalition	5, 8, 16	1
35	Awab Al-Rawe		3, 5, 7, 18	2
36	Victoria Paykar	Climate Solutions; also provided public comment on 3/22/22	2, 4, 12, 15, 16, 19, 19, 22	1
37	Sergio Lopez	Verde	2, 12, 15, 22	
38	Sara Wright	Oregon Environmental Council	1,2, 4, 12, 16	
39	Curt Augustine	Alliance for Automotive Innovation	5, 16	
40	Noelani Derrickson	Tesla	2, 5, 8	
41	Rhett Lawrence	Forth; also provided public comment on 3/22/22	2, 5, 12, 16, 22	1

Implementation

Notification

The proposed rules would become effective upon filing on approximately May 19, 2022.

DEQ would notify affected parties by:

- Emailing approximately 25,136 interested parties on the following DEQ lists through GovDelivery:
 - Rulemaking
 - Oregon Clean Vehicle Rebate Program
 - Low Emission/Zero-emission Vehicle Program
 - Electric Vehicle Rebate 2018 Rulemaking
- Emailing the following key legislators required under ORS 183.335:
 - Representative Pam Marsh
 - House Speaker Dan Rayfield
 - Senator Lee Beyer
 - Senate President Peter Courtney
- Emailing advisory committee members and those who submitted public comments
- Postings on Twitter and Facebook

Five-Year Review

Requirement

Oregon law requires DEQ to review new rules within five years after EQC adopts them. The law also exempts some rules from review. DEQ determined whether the rules described in this report are subject to the five-year review. DEQ based its analysis on the law in effect when EQC adopted these rules.

Exemption From Five-Year Rule Review

The Administrative Procedures Act exempts all of the proposed rules from the five-year review because the proposed rules would:

- Amend or repeal an existing rule. ORS 183.405(4).

Accessibility Information

You may review copies of all documents referenced in this announcement electronically. To schedule a review of all websites and documents referenced in this announcement, call Rachel Sakata, DEQ (503-863-4271).

Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format, or any other arrangements necessary to accommodate a disability. To make these arrangements, contact DEQ, Portland, at 503-229-5696 or call toll-free in Oregon at 1-800-452-4011, ext. 5696; fax to 503-229-6762; or email to deqinfo@deq.state.or.us. Hearing impaired persons may call 711.

Draft Rules – Edits Highlighted

Key to Identifying Changed Text:

~~Strikethrough: Deleted Text~~

Underline: New/inserted text

Division 270 ZERO-EMISSION AND ELECTRIC VEHICLE REBATES

340-270-0010

Overview

(1) Purpose. The purpose of this division is to establish a rebate program and eligibility requirements for the purchase or lease of new or used zero-emission vehicles in Oregon.

(2) Background. The 2017 Oregon Legislature adopted House Bill 2017 that authorizes DEQ to establish a rebate program for zero-emission vehicles. The 2018 Oregon Legislature adopted House Bill 4059, which clarified and removed existing requirements. The 2019 Oregon Legislature adopted House Bill 2592, which clarified and removed existing requirements. The 2021 Oregon Legislature adopted House Bill 2165, 2021 Oregon Laws chapter 95, which changed existing requirements. OAR division 270 of chapter 340 implements those laws.

(3) Administration. DEQ administers this division in all areas in the state of Oregon, including the areas of the state subject to the jurisdiction of the Lane County Regional Air Protection Agency.

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37, 2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9

History:

DEQ 2-2020, amend filed 01/24/2020, effective 01/24/2020

DEQ 21-2019, temporary amend filed 09/27/2019, effective 09/29/2019 through 03/26/2020

DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

340-270-0020

Effective Dates

(1) The rebates for eligible new light-duty zero-emission vehicles and eligible plug-in hybrid electric vehicles took effect on January 1, 2018.

(2) The rebates for the Charge Ahead Program took effect on January 1, 2018 for light duty zero-emission vehicles. The rebates for the Charge Ahead Program ~~take~~took effect on September 29, 2019 for plug-in hybrid electric vehicles.

(3) The rebates for eligible neighborhood electric vehicles and eligible zero-emission motorcycles took effect on January 1, 2019.

~~(4) The rules in this division expire on January 2, 2024.~~

~~(45)~~ The effective dates of the program are contingent on appropriate funding.

Statutory/Other Authority: [ORS 468.020](#), 2017 Or. Law Ch. 750 Sec. 148-157, ORS 468.020, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37, [2021 Or. Laws, Ch. 95, §§ 4a, 5,](#)

[6, 8 and 9](#)

History:

DEQ 2-2020, amend filed 01/24/2020, effective 01/24/2020

DEQ 21-2019, temporary amend filed 09/27/2019, effective 09/29/2019 through 03/26/2020

DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

340-270-0030

Definitions and Abbreviations

(1) “Area median income” means the median income for the metropolitan statistical area in which a household is located or, if the household is not located within a metropolitan statistical area, for the metropolitan statistical area in closest proximity to the location of the household, as determined by the Housing and Community Services Department, adjusted for household size.

~~(2) “Base manufacturer’s suggested retail price” or “base MSRP” means the lowest retail prices suggested by the manufacturer for a given model of a new motor vehicle. The base MSRP does not include the price of optional accessories or equipment, destination charges, or dealership add-ons. The base MSRP model must be available for sale and purchase.~~

~~(3) “Charge Ahead rebate” means a rebate for the purchase or lease of a new or used light-duty zero-emission vehicle with an electrochemical storage capacity or a plug-in hybrid electric vehicle issued through the Charge Ahead Program.~~

~~(43) “DEQ” is the Oregon Department of Environmental Quality or a contractor selected by DEQ.~~

~~(54) “Eligible vehicle” means a motor vehicle that:~~

~~(a) Qualifies as a:~~

~~(A) Light-duty zero-emission vehicle with an electrochemical energy storage capacity;~~

~~(B) Plug-in hybrid electric vehicle;~~

(C) Neighborhood electric vehicle; or

(D) Zero-emission motorcycle;

(b) Is new, or has been previously used only as a dealership floor model or test-drive vehicle;

(c) Has not previously been registered in Oregon;

(d) Is constructed entirely from new parts that have never been the subject of a retail sale;

(e) For motor vehicles as defined in OAR 340-270-0030(8)(d)(A) and (C) and (15), and for a motor vehicle as defined in OAR 340-270-0030(8)(d)(B) that was purchased or leased prior to January 1, 2022, Hh has a base manufacturer's suggested retail price of less than \$50,000. The manufacturer must have the base MSRP model available for sale and purchase;:

(f) For a light-duty zero-emission vehicle as defined in 340-270-0030(8)(d)(B), that was purchased or leased on or after January 1, 2022, has a base manufacturer's suggested retail price of less than \$60,000. The manufacturer must have the base MSRP model available for sale and purchase;:

(gf) Is covered by a manufacturer's express warranty on the vehicle drive train, including the applicable energy storage system or battery pack, for at least 24 months from the purchase or lease date; and

(hg) Is certified by the manufacturer to comply with all applicable federal safety standards issued by the National Highway Traffic Safety Administration for new motor vehicles and new motor vehicle equipment.

(65) "Household" means an individual living alone, a family with or without children, or a group of individuals who are living together as one economic unit. For all motor vehicles with a purchase or lease date before the effective date of these rules, DEQ will apply the definition of household that most benefits the applicant, with this new definition of household applying retroactively if it is in the benefit of the applicant. For all motor vehicles with a purchase or lease date on or after the effective date of these rules, DEQ will apply this new definition of household.

(76) "Lease date" means the day that the lease agreement is signed.

(87) "Light-duty zero-emission vehicle" means a motor vehicle that:

(a) Has a gross vehicle weight rating of 8,500 pounds or less;

(b) Is capable of travelling at a speed of 55 miles per hour or more;

(c) Has at least three wheels; and

(d) Is powered:

(A) Primarily by an electric battery and may or may not use a flywheel energy storage device or a capacitor that also stores energy to assist in vehicle operation;

(B) By polymer electrolyte membrane fuel cells or proton exchange membrane fuel cells that use hydrogen fuel and oxygen from the air to produce electricity; or

(C) Primarily by a zero-emission energy storage device that provides enough power for the vehicle to travel 75 miles or more using only electricity and may or may not use a backup alternative power unit that does not operate until the energy storage device is fully depleted.

(9) “Low-income service provider” means an organization that provides health, dental, social, financial, energy conservation or other assistive services to low or moderate income households in Oregon. A low-income service provider must be registered as a 501(c)(3) organization based in Oregon at the time the eligible vehicle is purchased or leased.

~~(108)~~ “Low income household” means an individual or a household with income less than or equal to 580 percent of the area median income.

~~(119)~~ “Moderate income household” means an individual or a household with income less than or equal to ~~120 percent and greater than~~ 80 percent of the area median income.

~~(120)~~ “Motor vehicle” has the meaning given that term in ORS 801.360.

~~(134)~~ “Neighborhood electric vehicle” means a motor vehicle that:

(a) Is powered using an electric battery;

(b) Has a gross vehicle weight not exceeding 3,000 pounds;

(c) Is capable of traveling at a speed of up to 25 mph; and

(d) Has at least four wheels.

(e) DEQ will require certification to zero-emission standards in California Code of Regulations Title 13, section 1962.2 to show a vehicle meets these specifications.

~~(142)~~ “Person” means a person as defined in ORS 174.100 or a public body as defined in ORS 174.109.

~~(153)~~ “Plug-in hybrid electric vehicle” means a motor vehicle that:

- (a) Has zero evaporative emissions from its fuel system when operating as an electric vehicle;
- (b) Has an onboard electrical energy storage device with useful capacity of 10 or more miles of urban dynamometer driving schedule range, as described by the United States Environmental Protection Agency in 40 CFR 600.116-12, on electricity alone;
- (c) Is equipped with an onboard charger;
- (d) Is rechargeable from an external connection to an off-board electrical source;
- (e) Meets the super ultra-low emission vehicle standards for exhaust emissions, as certified to standards in California Code of Regulations, Title 13, section 1961(a)(4) (2003);
- (f) Has a warranty of at least 15 years and 150,000 miles on emission control components;
- (g) Is capable of travelling at a speed of 55 miles per hour or more;
- (h) Has an on-board internal combustion engine; and
- (i) Has at least three wheels.

(164) “Purchase date” means the day that the purchase and sales agreement is signed.

(17) “Qualifying household” means an individual or household with income that does not exceed 400 percent of federal poverty guidelines.

(1518) “Used electric vehicle” means a light-duty zero-emission or plug-in hybrid electric vehicle that:

- (a) Would have been eligible for the standard rebate at the time of its original sale or lease had the rebate program in OAR 340-270-0010 to -0500 existed; or;
- (b) Is a direct model predecessor of an eligible vehicle as defined in OAR 340-270-0030(4)(a)(A).

(1986) “Vehicle dealer” means:

- (a) A person engaged in business in this state that has been issued a vehicle dealer certificate under ORS 822.020; or
- (b) A person engaged in business in another state that would be subject to ORS 822.005 if the person engaged in business in this state.
- (c) It does not include a person who:

(A) Conducts an event that lasts less than 7 consecutive days, for which the public is charged admission and at which otherwise eligible vehicles are sold at auction; or

(B) Sells an otherwise eligible vehicle at auction at an event as described in (A).

(~~1207~~) “Zero-emission motorcycle” means a motor vehicle that:

(a) Has zero evaporative emissions from its fuel system;

(b) Is capable of attaining a speed of 55 miles per hour or more;

(c) Is designed to travel on two wheels; and

(d) Is powered by electricity.

(e) DEQ will require documentation of the following as proof that a motorcycle meets these specifications:

(A) Successful completion of the most current California Zero-Emission Motorcycle Evaluation Procedure, as defined in California’s Implementation Manual for the Clean Vehicle Rebate Project; and

(B) Issuance of a “pass” determination and verification that the vehicle meets the specified range and acceleration requirements by the California Air Resources Board.

(~~2148~~) “Zero-emission vehicle” means a motor vehicle that that is certified to zero-emission standards in California Code of Regulations, Title 13, section 1962.2.

[NOTE: View a PDF of California Implementation Manual by clicking on "Tables" link below.]

[\[ED. NOTE: To view attachments referenced in rule text, click here to view rule.\]](#)

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37, [2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9](#)

History:

DEQ 2-2020, amend filed 01/24/2020, effective 01/24/2020

DEQ 21-2019, temporary amend filed 09/27/2019, effective 09/29/2019 through 03/26/2020

DEQ 6-2019, amend filed 01/28/2019, effective 01/28/2019

DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

340-270-0100

Vehicles Eligible for Zero-Emission Vehicle Standard Rebates

To qualify for a standard rebate, a motor vehicle must qualify as an eligible vehicle, as defined in OAR 340-270-0030(54), and must have a purchase or lease date on or after effective date of the program for the type of vehicle, as established in OAR 340-270-0020.

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37, [2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9](#)

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DEQ 6-2019, amend filed 01/28/2019, effective 01/28/2019

DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

340-270-0110

Amount of Zero-Emission Vehicle Standard Rebates

(1) The amount of the rebate for eligible light-duty zero-emission vehicles and plug-in hybrid electric vehicles with electrochemical energy storage capacities of 10 kilowatt hours or more is \$2,500.

(2) The amount of the rebate for eligible light-duty zero-emission vehicles and plug-in hybrid electric vehicles with electrochemical energy storage capacities of less than 10 kilowatt hours is \$1,500.

(3) The amount of the rebate for eligible neighborhood electric vehicles is \$750.

(4) The amount of the rebate for eligible zero-emission motorcycles is \$750.

(5) DEQ will set the rebate amounts annually. In doing so, if DEQ determines that the rebate amounts should be adjusted, DEQ will engage in rulemaking to adjust the rebate amounts established herein.

(6) In the event that the allocated funds in the Zero-emission Incentive Fund reach less than \$6 million when accounting for any existing balance and anticipated funding for that year, DEQ will evaluate the program's compliance with 340-270-0500. If DEQ forecasts it will not meet the targets in 340-270-0500, it will initiate a temporary rulemaking to decrease the Standard Rebate amount.

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37, [2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9](#)

History:

DEQ 2-2020, amend filed 01/24/2020, effective 01/24/2020

DEQ 21-2019, temporary amend filed 09/27/2019, effective 09/29/2019 through 03/26/2020
DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

340-270-0200

Application Review Process

(1) DEQ will process applications on a first-come, first-serve basis as received by DEQ, except as provided in OAR 340-270-0200(2), or in circumstances where a rebate recipient assigns a rebate to a vehicle dealer, or to an original equipment manufacturer that does not have licensed franchised new automobile dealers in Oregon.;

(2) In the event that funding for rebate payments from the Zero-emission Incentive Fund is exhausted or is anticipated to be exhausted, DEQ will:

(a) Cease acceptance of new applications at least 30 days prior to the anticipated exhaustion of funds. Any purchases or leases made during the period DEQ ceases acceptance are not eligible for the rebate. Only applicants with existing applications submitted to DEQ at the time funds are exhausted will be eligible to receive payment; and

(b) When program funds are replenished DEQ will first process any applications that were submitted prior to DEQ's cessation of acceptance of new applications but that were not issued a rebate because funds were exhausted. Once DEQ resumes accepting new applications, DEQ will prioritize processing of Charge Ahead Rebate applications. DEQ will resume processing applications as stated in OAR 340-270-0200(1) after 20 percent of program funding is distributed to Charge Ahead applicants. If DEQ has not reached the 20 percent threshold 3 months after DEQ resumes application processing, then DEQ will resume processing as stated in OAR 340-270-0200(1).

~~(32)~~ DEQ will reject all applications that do not meet the applicable requirements of OAR 340-270-0100, -0120, -0410, and -0430.

~~(43)~~ As provided in OAR 340-270-0120(2)(f), DEQ may require additional information or documentation to complete its review of an application. If DEQ does not receive the requested information and documentation within 30 days of its request, DEQ may reject the application.

~~(54)~~ DEQ will provide a written explanation for all rejected applications. If DEQ rejects an application, an applicant may appeal that rejection by:

(a) Providing a written explanation of why the applicant believes that DEQ misapplied the statute or its rules or otherwise improperly rejected the applicant;

(b) Submitting that written explanation by depositing the explanation in the mail, with proper postage, postmarked within 60 days of the date of DEQ's written rejection; and

(c) Submitting the explanation to the person specified on the letter rejecting the application.

(65) DEQ will respond to an appeal of a rejection in writing as soon as is practicable. DEQ's response to an appeal is an order in other than a contested case.

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21, and House Bill 2592 (2019), Sec. 33-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21, and House Bill 2592 (2019), Sec. 33-37, 2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9

History:

DEQ 2-2020, amend filed 01/24/2020, effective 01/24/2020

DEQ 21-2019, temporary amend filed 09/27/2019, effective 09/29/2019 through 03/26/2020

DEQ 200-2018, temporary amend filed 12/04/2018, effective 12/04/2018 through 06/01/2019

DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

340-270-0400

Charge Ahead Program

(1) OAR 340-270-0400 through -0430 establish the requirements for the Charge Ahead Program.

(2) The Charge Ahead Program ~~will provide~~s rebates only for the purchase or lease of new or used vehicles that meet the requirements of OAR 340-270-0410 if the purchaser~~s~~:

(a) For vehicles purchased or leased prior to January 1, 2022, was from a low or moderate-income household during the year the vehicle was purchased or leased; ~~or-~~

(b) For vehicles purchased or leased on or after January 1, 2022, is from a qualifying household or is a low-income service provider during the year the vehicle was purchased or leased.

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37, 2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9

History:

DEQ 2-2020, amend filed 01/24/2020, effective 01/24/2020

DEQ 21-2019, temporary amend filed 09/27/2019, effective 09/29/2019 through 03/26/2020

DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

340-270-0420

Amount of Charge Ahead Program Rebate

(1) ~~(1)~~ The amount of the Charge Ahead rebate is:

(a) For vehicles purchased or leased prior to January 1, 2022, \$2,500 per vehicle or

(b) For vehicles purchased or leased on or after January 1, 2022, \$5,000 per vehicle.

(2) A Charge Ahead rebate may be combined with a standard rebate under OAR 340-270-0110 if the applicant meets the requirements in OAR 340-270-0100.

(3) DEQ will set the rebate amounts annually. If DEQ determines that the rebate amounts should be adjusted, DEQ will engage in rulemaking to adjust the rebate amounts.

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37, 2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9

History:

DEQ 2-2020, amend filed 01/24/2020, effective 01/24/2020

DEQ 21-2019, temporary amend filed 09/27/2019, effective 09/29/2019 through 03/26/2020

DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

340-270-0430

Requirements for Charge Ahead Program Rebates

(1) A person may only apply for a Charge Ahead rebate if the person:

(a) Owns or leases a vehicle that meets the requirements established in OAR 340-270-0410;

(b) If leasing a vehicle, has a minimum lease term of 24 months;

(c) Intends to retain the registration of the eligible vehicle for a minimum of 24 consecutive months after the purchase or lease date; and

(d) Is an Oregon resident.

(2) To qualify for a Charge Ahead rebate, an applicant must:

(a) Apply using a form approved by DEQ;

(b) Provide information and documentation sufficient to allow DEQ to verify that the applicant purchased or leased a vehicle that meets the requirements established in OAR 340-270-0410;

(c) Provide sufficient information to allow DEQ to determine that:

(A) For vehicles purchased or leased prior to January 1, 2022, the applicant is a member of a low or moderate-income household during the year the vehicle was purchased or leased. DEQ will rely on documentation of an applicant's household income from the year the vehicle was purchased or leased or, if that information is unavailable or inadequate, from a previous year. DEQ will rely on the most recent area median income determinations of the Housing and Community Services Department available at the time of application; or:

(B) For vehicles purchased or leased on or after January 1, 2022, that either:

(i) The applicant is a member of a qualifying household during the year the vehicle was purchased or leased. DEQ will rely on documentation of an applicant's household income from the year the vehicle was purchased or leased or, if that information is unavailable or inadequate, from a previous year. DEQ will rely on the most recent federal poverty level determinations of the U.S. Department of Health and Human Services available at the time of application; or

(ii) The applicant is a low-income service provider during the year the vehicle was purchased or leased. The applicant must provide documentation that demonstrates to DEQ's satisfaction that the applicant is a low-income service provider, as defined in OAR 340-270-0030(9).

(d) Purchase or lease an eligible vehicle from a vehicle dealer or from an original equipment manufacturer, that does not have licensed franchised new automobile dealers in Oregon;

(e) Provide proof of registration of the vehicle that meets the requirements established in OAR 340-270-0410 in Oregon;

(f) Submit an application within 6 months after the vehicle purchase or lease date, ~~except that persons who purchased or leased a vehicle that meets the requirements established in OAR 340-270-0410 between January 1, 2018 and August 2, 2018 may apply for a rebate if an application is submitted to DEQ by March 30, 2020. If DEQ has already received an application from the person who purchased or leased a vehicle that meets the requirements established in OAR 340-270-0410 between January 1, 2018 and August 2, 2018, and the applicant has been notified by DEQ of its receipt, the applicant does not need to reapply;~~

(g) Provide any additional information and documentation requested by DEQ that is necessary to ascertain that the applicant qualifies for a rebate;

(h) Provide information requested by DEQ that DEQ determines is necessary to ascertain that the person is not buying, selling, or leasing vehicles in a manner that circumvents the intent of the Charge Ahead Program, including an attestation that the person has not in the past owned or leased the vehicle for which a rebate is sought; and

(i) Participate in ongoing research efforts and surveys regarding the program.

(3) Recipients may assign the rebate to a vehicle dealer, or to an original equipment manufacturer that does not have licensed franchised new automobile dealers in Oregon. The

limit established in subsection (5) of this rule does not apply to vehicle dealers or automobile manufacturers who receive rebate assignments pursuant to this section.

(4) Recipients may not make or allow any modifications to the vehicle's emission-control systems, hardware, or software calibrations, or the vehicle's hybrid system.

(5) A low income service provider that applies for a rebate is limited to 10 rebates per calendar year.

~~(6)~~ The application review process established by OAR 230-270-0200 ~~will apply~~ applies to applications for Charge Ahead rebates.

~~(7)~~ The vehicle ownership requirements established by OAR 230-270-0300 ~~will~~ apply to Charge Ahead Rebates.

~~(8)~~ DEQ will conduct community outreach to ~~low income households, moderate income households~~ qualifying households and ~~community-based organizations~~ low-income service providers, in order to:

(a) Solicit feedback on program implementation; and

(b) Take steps to ensure the program is promoted effectively.

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37, 2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9

History:

DEQ 2-2020, amend filed 01/24/2020, effective 01/24/2020

DEQ 21-2019, temporary amend filed 09/27/2019, effective 09/29/2019 through 03/26/2020

DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

340-270-0500

Allocation of Rebate Funding

DEQ will allocate at least 2~~10~~ percent of available moneys deposited per biennium into the Zero-Emission Incentive Fund for rebates under the Charge Ahead Program.

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37, 2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9

History:

DEQ 2-2020, amend filed 01/24/2020, effective 01/24/2020

DEQ 21-2019, temporary amend filed 09/27/2019, effective 09/29/2019 through 03/26/2020
DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

Draft Rules – Edits Included

Division 270 ZERO-EMISSION AND ELECTRIC VEHICLE REBATES

340-270-0010

Overview

(1) Purpose. The purpose of this division is to establish a rebate program and eligibility requirements for the purchase or lease of new or used zero-emission vehicles in Oregon.

(2) Background. The 2017 Oregon Legislature adopted House Bill 2017 that authorizes DEQ to establish a rebate program for zero-emission vehicles. The 2018 Oregon Legislature adopted House Bill 4059, which clarified and removed existing requirements. The 2019 Oregon Legislature adopted House Bill 2592, which clarified and removed existing requirements. The 2021 Oregon Legislature adopted House Bill 2165, 2021 Oregon Laws chapter 95, which changed existing requirements. OAR division 270 of chapter 340 implements those laws.

(3) Administration. DEQ administers this division in all areas in the state of Oregon, including the areas of the state subject to the jurisdiction of the Lane County Regional Air Protection Agency.

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37, 2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9

History:

DEQ 2-2020, amend filed 01/24/2020, effective 01/24/2020

DEQ 21-2019, temporary amend filed 09/27/2019, effective 09/29/2019 through 03/26/2020

DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

340-270-0020

Effective Dates

(1) The rebates for eligible new light-duty zero-emission vehicles and eligible plug-in hybrid electric vehicles took effect on January 1, 2018.

(2) The rebates for the Charge Ahead Program took effect on January 1, 2018 for light duty zero-emission vehicles. The rebates for the Charge Ahead Program took effect on September 29, 2019 for plug-in hybrid electric vehicles.

(3) The rebates for eligible neighborhood electric vehicles and eligible zero-emission motorcycles took effect on January 1, 2019.

(4) The effective dates of the program are contingent on appropriate funding.

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, ORS 468.020, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37, 2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9

History:

DEQ 2-2020, amend filed 01/24/2020, effective 01/24/2020

DEQ 21-2019, temporary amend filed 09/27/2019, effective 09/29/2019 through 03/26/2020

DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

340-270-0030

Definitions and Abbreviations

(1) “Area median income” means the median income for the metropolitan statistical area in which a household is located or, if the household is not located within a metropolitan statistical area, for the metropolitan statistical area in closest proximity to the location of the household, as determined by the Housing and Community Services Department, adjusted for household size.

(2) “Base manufacturer’s suggested retail price” or “base MSRP” means the lowest retail prices suggested by the manufacturer for a given model of a new motor vehicle. The base MSRP does not include the price of optional accessories or equipment, destination charges, or dealership add-ons. The base MSRP model must be available for sale and purchase.

(3) “Charge Ahead rebate” means a rebate for the purchase or lease of a new or used light-duty zero-emission vehicle with an electrochemical storage capacity or a plug-in hybrid electric vehicle issued through the Charge Ahead Program.

(4) “DEQ” is the Oregon Department of Environmental Quality or a contractor selected by DEQ.

(5) “Eligible vehicle” means a motor vehicle that:

(a) Qualifies as a:

(A) Light-duty zero-emission vehicle with an electrochemical energy storage capacity;

(B) Plug-in hybrid electric vehicle;

(C) Neighborhood electric vehicle; or

(D) Zero-emission motorcycle;

(b) Is new, or has been previously used only as a dealership floor model or test-drive vehicle;

(c) Has not previously been registered in Oregon;

(d) Is constructed entirely from new parts that have never been the subject of a retail sale;

(e) For motor vehicles as defined in OAR 340-270-0030(8)(d)(A) and (C) and (15), and for a motor vehicle as defined in OAR 340-270-0030(8)(d)(B) that was purchased or leased prior to January 1, 2022, has a base manufacturer's suggested retail price of less than \$50,000. The manufacturer must have the base MSRP model available for sale and purchase;

(f) For a light-duty zero-emission vehicle as defined in 340-270-0030(8)(d)(B), that was purchased or leased on or after January 1, 2022, has a base manufacturer's suggested retail price of less than \$60,000. The manufacturer must have the base MSRP model available for sale and purchase;

(g) Is covered by a manufacturer's express warranty on the vehicle drive train, including the applicable energy storage system or battery pack, for at least 24 months from the purchase or lease date; and

(h) Is certified by the manufacturer to comply with all applicable federal safety standards issued by the National Highway Traffic Safety Administration for new motor vehicles and new motor vehicle equipment.

(6) "Household" means an individual living alone, a family with or without children, or a group of individuals who are living together as one economic unit.

(7) "Lease date" means the day that the lease agreement is signed.

(8) "Light-duty zero-emission vehicle" means a motor vehicle that:

(a) Has a gross vehicle weight rating of 8,500 pounds or less;

(b) Is capable of travelling at a speed of 55 miles per hour or more;

(c) Has at least three wheels; and

(d) Is powered:

(A) Primarily by an electric battery and may or may not use a flywheel energy storage device or a capacitor that also stores energy to assist in vehicle operation;

(B) By polymer electrolyte membrane fuel cells or proton exchange membrane fuel cells that use hydrogen fuel and oxygen from the air to produce electricity; or

(C) Primarily by a zero-emission energy storage device that provides enough power for the vehicle to travel 75 miles or more using only electricity and may or may not use a backup alternative power unit that does not operate until the energy storage device is fully depleted.

(9) “Low-income service provider” means an organization that provides health, dental, social, financial, energy conservation or other assistive services to low- or moderate-income households in Oregon. A low-income service provider must be registered as a 501(c)(3) organization based in Oregon at the time the eligible vehicle is purchased or leased.

(10) “Low-income household” means an individual or a household with income less than or equal to 50 percent of the area median income.

(11) “Moderate income household” means an individual or a household with income less than or equal to 80 percent of the area median income.

(12) “Motor vehicle” has the meaning given that term in ORS 801.360.

(13) “Neighborhood electric vehicle” means a motor vehicle that:

(a) Is powered using an electric battery;

(b) Has a gross vehicle weight not exceeding 3,000 pounds;

(c) Is capable of traveling at a speed of up to 25 mph; and

(d) Has at least four wheels.

(e) DEQ will require certification to zero-emission standards in California Code of Regulations Title 13, section 1962.2 to show a vehicle meets these specifications.

(14) “Person” means a person as defined in ORS 174.100 or a public body as defined in ORS 174.109.

(15) “Plug-in hybrid electric vehicle” means a motor vehicle that:

(a) Has zero evaporative emissions from its fuel system when operating as an electric vehicle;

(b) Has an onboard electrical energy storage device with useful capacity of 10 or more miles of urban dynamometer driving schedule range, as described by the United States Environmental Protection Agency in 40 CFR 600.116-12, on electricity alone;

(c) Is equipped with an onboard charger;

(d) Is rechargeable from an external connection to an off-board electrical source;

(e) Meets the super ultra-low emission vehicle standards for exhaust emissions, as certified to standards in California Code of Regulations, Title 13, section 1961(a)(4) (2003);

(f) Has a warranty of at least 15 years and 150,000 miles on emission control components;

(g) Is capable of travelling at a speed of 55 miles per hour or more;

(h) Has an on-board internal combustion engine; and

(i) Has at least three wheels.

(16) "Purchase date" means the day that the purchase and sales agreement is signed.

(17) "Qualifying household" means an individual or household with income that does not exceed 400 percent of federal poverty guidelines.

(18) "Used electric vehicle" means a light-duty zero-emission or plug-in hybrid electric vehicle that:

(a) Would have been eligible for the standard rebate at the time of its original sale or lease had the rebate program in OAR 340-270-0010 to -0500 existed; or

(b) Is a direct model predecessor of an eligible vehicle as defined in OAR 340-270-0030(4)(a)(A).

(19) "Vehicle dealer" means:

(a) A person engaged in business in this state that has been issued a vehicle dealer certificate under ORS 822.020; or

(b) A person engaged in business in another state that would be subject to ORS 822.005 if the person engaged in business in this state.

(c) It does not include a person who:

(A) Conducts an event that lasts less than 7 consecutive days, for which the public is charged admission and at which otherwise eligible vehicles are sold at auction; or

(B) Sells an otherwise eligible vehicle at auction at an event as described in (A).

(20) "Zero-emission motorcycle" means a motor vehicle that:

(a) Has zero evaporative emissions from its fuel system;

(b) Is capable of attaining a speed of 55 miles per hour or more;

(c) Is designed to travel on two wheels; and

(d) Is powered by electricity.

(e) DEQ will require documentation of the following as proof that a motorcycle meets these specifications:

(A) Successful completion of the most current California Zero-Emission Motorcycle Evaluation Procedure, as defined in California's Implementation Manual for the Clean Vehicle Rebate Project; and

(B) Issuance of a "pass" determination and verification that the vehicle meets the specified range and acceleration requirements by the California Air Resources Board.

(21) "Zero-emission vehicle" means a motor vehicle that that is certified to zero-emission standards in California Code of Regulations, Title 13, section 1962.2.

[NOTE: View a PDF of California Implementation Manual by clicking on "Tables" link below.]

[\[ED. NOTE: To view attachments referenced in rule text, click here to view rule.\]](#)

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37, 2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9

History:

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DEQ 21-2019, temporary amend filed 09/27/2019, effective 09/29/2019 through 03/26/2020

DEQ 6-2019, amend filed 01/28/2019, effective 01/28/2019

DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

340-270-0100

Vehicles Eligible for Zero-Emission Vehicle Standard Rebates

To qualify for a standard rebate, a motor vehicle must qualify as an eligible vehicle, as defined in OAR 340-270-0030(5), and must have a purchase or lease date on or after effective date of the program for the type of vehicle, as established in OAR 340-270-0020.

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37, 2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9

History:

DEQ 2-2020, amend filed 01/24/2020, effective 01/24/2020

DEQ 21-2019, temporary amend filed 09/27/2019, effective 09/29/2019 through 03/26/2020
DEQ 6-2019, amend filed 01/28/2019, effective 01/28/2019
DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

340-270-0110

Amount of Zero-Emission Vehicle Standard Rebates

(1) The amount of the rebate for eligible light-duty zero-emission vehicles and plug-in hybrid electric vehicles with electrochemical energy storage capacities of 10 kilowatt hours or more is \$2,500.

(2) The amount of the rebate for eligible light-duty zero-emission vehicles and plug-in hybrid electric vehicles with electrochemical energy storage capacities of less than 10 kilowatt hours is \$1,500.

(3) The amount of the rebate for eligible neighborhood electric vehicles is \$750.

(4) The amount of the rebate for eligible zero-emission motorcycles is \$750.

(5) DEQ will set the rebate amounts annually. In doing so, if DEQ determines that the rebate amounts should be adjusted, DEQ will engage in rulemaking to adjust the rebate amounts established herein.

(6) In the event that the allocated funds in the Zero-emission Incentive Fund reach less than \$6 million when accounting for any existing balance and anticipated funding for that year, DEQ will evaluate the program's compliance with 340-270-0500. If DEQ forecasts it will not meet the targets in 340-270-0500, it will initiate a temporary rulemaking to decrease the Standard Rebate amount.

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37, 2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9

History:

DEQ 2-2020, amend filed 01/24/2020, effective 01/24/2020

DEQ 21-2019, temporary amend filed 09/27/2019, effective 09/29/2019 through 03/26/2020

DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

340-270-0200

Application Review Process

(1) DEQ will process applications on a first-come, first-serve basis as received by DEQ, except as provided in OAR 340-270-0200(2), or in circumstances where a rebate recipient assigns a rebate to a vehicle dealer, or to an original equipment manufacturer that does not have licensed franchised new automobile dealers in Oregon.

(2) In the event that funding for rebate payments from the Zero-emission Incentive Fund is exhausted, DEQ will:

(a) Cease acceptance of new applications at least 30 days prior to the anticipated exhaustion of funds. Any purchases or leases made during the period DEQ ceases acceptance are not eligible for the rebate. Only applicants with existing applications submitted to DEQ at the time funds are exhausted will be eligible to receive payment; and

(b) When program funds are replenished DEQ will first process any applications that were submitted prior to DEQ's cessation of acceptance of new applications but that were not issued a rebate because funds were exhausted. Once DEQ resumes accepting new applications, DEQ will prioritize processing of Charge Ahead Rebate applications. DEQ will resume processing applications as stated in OAR 340-270-0200(1) after 20 percent of program funding is distributed to Charge Ahead applicants. If DEQ has not reached the 20 percent threshold three months after DEQ resumes application processing, then DEQ will resume processing as stated in OAR 340-270-0200(1).

(3) DEQ will reject all applications that do not meet the applicable requirements of OAR 340-270-0100, -0120, -0410, and -0430.

(4) As provided in OAR 340-270-0120(2)(f), DEQ may require additional information or documentation to complete its review of an application. If DEQ does not receive the requested information and documentation within 30 days of its request, DEQ may reject the application.

(5) DEQ will provide a written explanation for all rejected applications. If DEQ rejects an application, an applicant may appeal that rejection by:

(a) Providing a written explanation of why the applicant believes that DEQ misapplied the statute or its rules or otherwise improperly rejected the applicant;

(b) Submitting that written explanation by depositing the explanation in the mail, with proper postage, postmarked within 60 days of the date of DEQ's written rejection; and

(c) Submitting the explanation to the person specified on the letter rejecting the application.

(6) DEQ will respond to an appeal of a rejection in writing as soon as is practicable. DEQ's response to an appeal is an order in other than a contested case.

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21, and House Bill 2592 (2019), Sec. 33-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21, and House Bill 2592 (2019), Sec. 33-37, 2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9

History:

DEQ 2-2020, amend filed 01/24/2020, effective 01/24/2020

DEQ 21-2019, temporary amend filed 09/27/2019, effective 09/29/2019 through 03/26/2020

DEQ 200-2018, temporary amend filed 12/04/2018, effective 12/04/2018 through 06/01/2019

DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

340-270-0400**Charge Ahead Program**

(1) OAR 340-270-0400 through -0430 establish the requirements for the Charge Ahead Program.

(2) The Charge Ahead Program will provide rebates only for the purchase or lease of new or used vehicles that meet the requirements of OAR 340-270-0410 if the purchaser:

(a) For vehicles purchased or leased prior to January 1, 2022, was from a low or moderate-income household during the year the vehicle was purchased or leased; or

(b) For vehicles purchased or leased on or after January 1, 2022, is from a qualifying household or is a low-income service provider during the year the vehicle was purchased or leased.

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37, 2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9

History:

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DEQ 21-2019, temporary amend filed 09/27/2019, effective 09/29/2019 through 03/26/2020

DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

340-270-0420**Amount of Charge Ahead Program Rebate**

1. The amount of the Charge Ahead rebate is:

(a) For vehicles purchased or leased prior to January 1, 2022, \$2,500 per vehicle or

(b) For vehicles purchased or leased on or after January 1, 2022, \$5,000 per vehicle.

(2) A Charge Ahead rebate may be combined with a standard rebate under OAR 340-270-0110 if the applicant meets the requirements in OAR 340-270-0100.

(3) DEQ will set the rebate amounts annually. If DEQ determines that the rebate amounts should be adjusted, DEQ will engage in rulemaking to adjust the rebate amounts.

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37, 2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9

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DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

340-270-0430

Requirements for Charge Ahead Program Rebates

(1) A person may only apply for a Charge Ahead rebate if the person:

- (a) Owns or leases a vehicle that meets the requirements established in OAR 340-270-0410;
- (b) If leasing a vehicle, has a minimum lease term of 24 months;
- (c) Intends to retain the registration of the eligible vehicle for a minimum of 24 consecutive months after the purchase or lease date; and
- (d) Is an Oregon resident.

(2) To qualify for a Charge Ahead rebate, an applicant must:

- (a) Apply using a form approved by DEQ;
- (b) Provide information and documentation sufficient to allow DEQ to verify that the applicant purchased or leased a vehicle that meets the requirements established in OAR 340-270-0410;
- (c) Provide sufficient information to allow DEQ to determine that:
 - (A) For vehicles purchased or leased prior to January 1, 2022, the applicant is a member of a low or moderate-income household during the year the vehicle was purchased or leased. DEQ will rely on documentation of an applicant's household income from the year the vehicle was purchased or leased or, if that information is unavailable or inadequate, from a previous year. DEQ will rely on the most recent area median income determinations of the Housing and Community Services Department available at the time of application; or
 - (B) For vehicles purchased or leased on or after January 1, 2022, that either:

(i) The applicant is a member of a qualifying household during the year the vehicle was purchased or leased. DEQ will rely on documentation of an applicant's household income from the year the vehicle was purchased or leased or, if that information is unavailable or inadequate, from a previous year. DEQ will rely on the most recent federal poverty level determinations of the U.S. Department of Health and Human Services available at the time of application; or

(ii) The applicant is a low-income service provider during the year the vehicle was purchased or leased. The applicant must provide documentation that demonstrates to DEQ's satisfaction that the applicant is a low-income service provider, as defined in OAR 340-270-0030(9).

(d) Purchase or lease an eligible vehicle from a vehicle dealer or from an original equipment manufacturer, that does not have licensed franchised new automobile dealers in Oregon;

(e) Provide proof of registration of the vehicle that meets the requirements established in OAR 340-270-0410 in Oregon;

(f) Submit an application within 6 months after the vehicle purchase or lease date;

(g) Provide any additional information and documentation requested by DEQ that is necessary to ascertain that the applicant qualifies for a rebate;

(h) Provide information requested by DEQ that DEQ determines is necessary to ascertain that the person is not buying, selling, or leasing vehicles in a manner that circumvents the intent of the Charge Ahead Program, including an attestation that the person has not in the past owned or leased the vehicle for which a rebate is sought; and

(i) Participate in ongoing research efforts and surveys regarding the program.

(3) Recipients may assign the rebate to a vehicle dealer, or to an original equipment manufacturer that does not have licensed franchised new automobile dealers in Oregon. The limit established in subsection (5) of this rule does not apply to vehicle dealers or automobile manufacturers who receive rebate assignments pursuant to this section.

(4) Recipients may not make or allow any modifications to the vehicle's emission-control systems, hardware, or software calibrations, or the vehicle's hybrid system.

(5) A low-income service provider that applies for a rebate is limited to 10 rebates per calendar year.

(6) The application review process established by OAR 230-270-0200 applies to applications for Charge Ahead rebates.

(7) The vehicle ownership requirements established by OAR 230-270-0300 apply to Charge Ahead Rebates.

(8) DEQ will conduct community outreach to qualifying households and low-income service providers, in order to:

- (a) Solicit feedback on program implementation; and
- (b) Take steps to ensure the program is promoted effectively.

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37, 2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9

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DEQ 186-2018, adopt filed 05/14/2018, effective 05/14/2018

340-270-0500

Allocation of Rebate Funding

DEQ will allocate at least 20 percent of available moneys deposited per biennium into the Zero-Emission Incentive Fund for rebates under the Charge Ahead Program.

Statutory/Other Authority: ORS 468.020, 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21 & House Bill 2592 (2019), Sec. 35-37, 2021 Or. Laws, Ch. 95, §§ 4a, 5, 6, 8 and 9

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