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ARCHIVES DIVISION  
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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 340  
DEPARTMENT OF ENVIRONMENTAL QUALITY

**FILED**  
10/30/2018 3:21 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Zero-Emission and Electric Vehicle Rebates - 2019

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/27/2018 4:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

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Filed By:  
Emil Hnidey  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 11/20/2018

TIME: 3:00 PM - 3:30 PM

OFFICER: DEQ Staff

ADDRESS: 3rd Floor conference room

700 NE Multnomah St.

Portland, OR 97232

SPECIAL INSTRUCTIONS:

You may also participate in the hearing through a teleconference.

Teleconference call-in number: 888-

278-0296

Participant ID: 8040259

NEED FOR THE RULE(S):

What need would the proposed rule address?

The proposed rule would address the need for a definition of rebate-eligible light duty zero emission vehicles and plug in hybrid electric vehicles that include three wheeled vehicles.

How would the proposed rule address the need?

The proposed rule would change the definition of rebate-eligible light duty zero emission vehicles and plug in hybrid electric vehicles from those with "at least four wheels" to those with "at least three wheels." This will make the Oregon Clean Vehicle Rebate Program more inclusive of all vehicle types and expand options for businesses and consumers to participate in the program. The changes are also consistent with House Bill 2017, which does not specify the number of

wheels in the definitions of light duty zero emission vehicles and plug in hybrid electric vehicles.

How will DEQ know the rule addressed the need?

DEQ will know the need has been addressed when applicants are able to apply for a rebate for three wheeled vehicles.

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

House Bill 2017 (2017): <https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureDocument/HB2017/Enrolled>

House Bill 4059 (2018): <https://olis.leg.state.or.us/liz/2018R1/Downloads/MeasureDocument/HB4059>

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#### FISCAL AND ECONOMIC IMPACT:

In May 2018, the EOC adopted rules to implement a zero-emission vehicle rebate program in Oregon. The program, 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, called the Charge Ahead Program, provides rebates for the purchase or lease of new or used zero-emission vehicles if the purchaser is from a low or moderate-income household and if all program requirements are met.

DEQ is proposing to amend the zero-emission vehicle rebate program by changing the definitions in OAR 340-270-0030 for rebate-eligible light duty zero emission vehicles and plug in hybrid electric vehicles to include vehicles with at least three wheels. Currently light duty zero emission vehicles and plug in hybrid electric vehicles are defined as vehicles with at least four wheels. The proposed change would broaden the range of eligible vehicles to include those with three wheels.

This change is likely to have positive economic impact on purchasers of 3-wheel vehicles who would now be eligible to receive a rebate, and to manufacturers of such 3-wheel vehicles, who may experience greater demand for their vehicles due to the incentive. To the extent there is a finite amount of rebates available, this change could have a negative economic effect on some electric vehicle (EV) purchasers if rebate funds are used up and later purchasers are not able to obtain a rebate. DEQ is unable to quantify the potential fiscal and economic impact of the proposed rule change at this time because it is unknown how many three wheeled rebate eligible vehicles would be available for use by consumers seeking to participate in the OCVRP, and it is also unknown how many applications DEQ could receive for these vehicles. Because three wheeled light duty zero emission vehicles and plug in hybrid electric vehicles are not currently widely available, DEQ expects that the number of rebate applications for these type of vehicles would be low, amounting to a minimal fiscal impact.

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#### COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

State agencies

DEQ does not expect the proposed rule change to have a fiscal impact on state agencies. It would not significantly affect DEQ implementation of the Oregon Clean Vehicle Rebate Program.

#### Local governments

DEQ does not expect the proposed rule change to have a 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. Allowing rebates for eligible three wheeled vehicles may have a positive fiscal impact on consumers choosing to participate in the Oregon Clean Vehicle Rebate Program. Inclusion of three wheeled vehicles could increase the range of choices and could provide additional opportunities for people to buy lower cost vehicles and receive the same level of rebates they could receive for more costly four wheeled vehicles eligible for the program. Members of the public would be eligible to receive standard rebates of \$2,500 for the purchase or lease of new three wheeled zero-emission vehicles. Under the Charge Ahead program, qualified low and moderate-income applicants purchasing new zero-emission three wheeled vehicles could realize an additional benefits by combining the \$2,500 standard rebate with the \$2,500 Charge Ahead rebate for a total of \$5,000.

#### Large businesses - businesses with more than 50 employees

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. DEQ has identified there are at least 20 large manufacturers of zero-emission vehicles and a number of large auto dealers who could participate in the program through the assignment of rebates, and up to 29 large manufacturers and some large auto dealers who would not participate because they do not manufacture or sell zero-emission vehicles. DEQ lacks data on the number of large manufacturers of three wheeled zero-emission vehicles. However any of the large auto dealers could potentially participate in the program through assignment of rebates for three wheeled vehicles.

There could be a positive impact on large businesses manufacturing, selling or leasing three wheeled rebate eligible vehicles, as rebates could provide an incentive that would increase sales in Oregon. Conversely, there may also be a chance the sales of other types of vehicles could go down because purchasers are buying three wheeled vehicles instead of other vehicles.

Large business automobile dealers that sell or lease new and or used zero-emission vehicles may be affected by the rule changes 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 three wheeled vehicle sales and also could experience reduced sales of other types of vehicles.

Large business automobile manufacturers, such as those that manufacture zero-emission vehicles eligible for rebates may be affected by the rule changes if they allowed purchasers to assign their rebates or otherwise assist purchasers in obtaining rebates. Further, dealers could be affected by increased zero-emission three wheeled vehicle sales.

Small businesses – businesses with 50 or fewer employees

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. The proposed rule could potentially offer additional incentives for sales of three wheeled vehicles that could positively impact small businesses. There could be a positive impact on small businesses manufacturing, selling or leasing three wheeled rebate eligible vehicles, as EV rebates could provide an incentive that would increase sales in Oregon.

Small business automobile dealers that sell or lease new and or used zero-emission vehicles may be affected by the rule changes 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.

Small business automobile manufacturers, such as those that manufacture zero-emission vehicles eligible for rebates may be affected by the rule changes if they allowed purchasers to assign their rebates or otherwise assist purchasers in obtaining rebates.

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

DEQ originally identified up to 245 small business automobile dealers (both new and used) that could participate in the Oregon Clean Vehicle Rebate Program. However, participation in assignment of rebates is entirely optional to any automobile dealer, and any associated costs might be offset by the increased number of sales these small businesses would experience in zero-emission vehicles. Any of the small business automobile dealers could potentially participate in assignment of rebates for three wheeled vehicles. DEQ is aware of one Oregon-based business planning to market three wheeled vehicles that could potentially qualify for EV rebates.

b. 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.

c. 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.

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

DEQ did not involve small businesses in developing this proposal because it is a minor rule revision that does not impose any regulatory requirements, and could potentially provide positive fiscal impacts.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

DEQ did not appoint an advisory committee in developing this proposal because it is a minor rule revision that does not impose any regulatory requirements and has relatively straightforward likely fiscal impact.

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HOUSING IMPACT STATEMENT:

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, auto dealers and manufacturers who sell or produce zero-emission vehicles.

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AMEND: 340-270-0030

RULE SUMMARY: DEQ is proposing to amend the zero-emission vehicle rebate program by changing the definitions in OAR 340-270-0030 for rebate-eligible light duty zero emission vehicles and plug in hybrid electric vehicles to include vehicles with at least three wheels. Currently, light duty zero emission vehicles and plug in hybrid electric vehicles are defined as vehicles with at least four wheels. The proposed change would broaden the range of eligible vehicles to include those with three wheels.

CHANGES TO RULE:

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) "Charge Ahead rebate" means a rebate for the purchase of a new or used light-duty zero-emission vehicle with an electrochemical storage capacity issued through the Charge Ahead Program.¶¶
- (3) "DEQ" is the Oregon Department of Environmental Quality or a contractor selected by DEQ.¶¶
- (4) "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) Has a base manufacturer's suggested retail price of less than \$50,000;¶¶
  - (f) 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¶¶

- (g) 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.¶
- (5) "Lease date" means the day that the lease agreement is signed.¶
- (6) "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 ~~4~~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.¶
- (7) "Low income household" means a household with income less than or equal to 80 percent of the area median income.¶
- (8) "Moderate income household" means a household with income less than or equal to 120 percent and greater than 80 percent of the area median income.¶
- (9) "Motor vehicle" has the meaning given that term in ORS 801.360.¶
- (10) "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.¶
- (11) "Person" means a person as defined in ORS 174.100 or a public body as defined in ORS 174.109.¶
- (12) "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 ~~four~~three wheels.¶
- (13) "Purchase date" means the day that the purchase and sales agreement is signed.¶
- (14) "Used electric vehicle" means a light-duty zero-emission 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).¶
- (15) "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).¶¶

(16) "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.¶¶

(17) "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.

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

Statutes/Other Implemented: 2017 Or. Law Ch. 750 Sec. 148-157, House Bill 4059 (2018), Sec. 18-21