Oregon Department of Environmental Quality

**December 4, 2018**

Oregon Environmental Quality Commission Meeting

Temporary Rulemaking Action Item: #

Zero Emission and Electric Vehicle Rebates

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| **DEQ recommendation to the EQC** |

DEQ recommends that the Environmental Quality Commission:

Determine that failure to act promptly would result in serious prejudice to the public interest or the interests of the parties concerned as provided under the Justification section of this staff report.

Adopt TEMPORARY rules as proposed in Attachment A as part of chapter 340 of the Oregon Administrative Rules to be effective on filing with the Oregon Secretary of State.

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| **Overview** |

**Short summary**

DEQ is seeking a revision to the Zero Emission and Electric Vehicle Rebate Program rules (OAR Chapter 340, Division 270) to clarify how the agency intends to process applications for electric vehicle rebates.

**Background**

On August 18, 2017, Oregon Governor Kate Brown signed House Bill 2017 which, in addition to making many other transportation investments, creates a program to provide rebates to Oregonians who meet all program requirements and purchase certain types of zero-emission vehicles, including eligible plug-in hybrid zero-emission vehicles, and other eligible zero-emissions vehicles. In 2018, House Bill 4059 became law, which included further adjustments to the rebate program to reduce barriers for low and moderate income households hoping to access rebates by removing certain program eligibility requirements included in House Bill 2017. This program was designed by the Oregon Legislature to encourage higher adoption of zero-emission vehicles to reduce air pollution and progress the state towards its greenhouse gas reduction goals.

In May 2018, EQC 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 if all program requirements are met

Beginning January 1, 2018, DEQ began allowing purchasers of electric vehicles to apply for the rebate, by submitting an online “Phase 1” application. Phase 1 Applicants were advised they would need to fill out a subsequent “Phase 2” application to determine if they met program requirements in order to qualify for the rebate. DEQ began receiving Phase 1 applications in January 2018 and as of November 28, 2018 currently has 2200 applications waiting to be processed.

DEQ is in the process of developing a Request for Proposal for a contractor to administer the Zero Emission and Electric Vehicle Rebate Program (also known as the Oregon Clean Vehicle Rebate Program (OCVRP)). The process requires multiple State agency review and coordination, and it is currently estimated to take 3 to 6 months for the program to start. As the program is brought online, and in order to begin issuing rebates as soon as possible, DEQ is implementing two temporary approaches to issuing rebates:

1. Allow Phase 1 applicants to submit Phase 2 applications and have DEQ begin processing applications for the standard rebates.
2. Establish agreements with dealerships that allow for the issuance of rebates at the time of purchase. Dealerships would be reimbursed at specific frequencies for rebates issued at the time of sale. DEQ would audit sales information for program eligibility and provide reimbursement.

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| **Statement of need** |

1. **Application Review Process**

What need is DEQ trying to address?

The current rules do not provide the flexibility needed to implement the two temporary rebate issuance procedures described above.

How would the proposed rule address the need?

The proposed rule would modify language stating DEQ must process applications on a first-come, first-served basis. This would allow DEQ to process applications submitted directly to the department by the recipient on a first-come, first-served basis while entering into agreements with dealerships to issue standard rebates at the time of purchase.

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| **Justification** |

1. **Application Review Process**

Consequences of not taking immediate action

DEQ would be unable to partner with dealerships to issue rebates at the sale of vehicles, thus restricting its ability to issue rebates to interested purchasers or lessees.

**Affected parties**

* Automobile dealers that sell or lease new zero-emission vehicles. Such dealers would 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, the manufacturers could be affected by increased zero-emission vehicle sales.
* Zero-emission vehicle purchasers such as Oregon residents who purchase or lease zero-emission vehicles that qualify for rebates under the program

**How temporary rule would avoid or mitigate consequences**

The temporary rule would allow DEQ to facilitate the processing and issuance of rebates to interested purchasers or lessees. It also encourages higher adoption rates of zero-emission vehicles to reduce air pollution and help move the state towards its greenhouse gas reduction goals. Additionally, Governor Kate Brown, issued an Executive Order in 2017, targeting the adoption of 50,000 electric vehicles by 2020, and highlighted the rebate program as one of the key mechanisms to achieve that goal. For DEQ to be able to issue rebates at this time will accelerate the State’s ability to reach the Governor’s goal.

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| **Rules affected, authorities, supporting documents** |

#### **Lead division**

Air Quality Division

#### **Program or activity**

Air Quality Planning

#### **Chapter 340 action**

**Amend – OAR**

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| 340-270-0200 |  |

### **Statutory authority – ORS**

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| 468.020  468.065 |  | 2017 Or. Law Ch. 750 Sec. 148-157  House Bill 4059 (2018), Sec. 18-21 |
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### **Statute implemented – ORS**

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| 2017 Or. Law Ch. 750 Sec. 148-157  2018 Or. Law Ch. 93 Sec. 18-21 |  |
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### **Legislation**

## House Bill 2017 (2017)

House Bill 4059 (2018)

**Documents relied on for rulemaking**

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| Document title | Document location |
| 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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| **Housing costs** |

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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| **EQC Prior Involvement** |

DEQ did not present additional information specific to this proposed rule revision

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| **Implementation** |

**Notification**

The proposed rules would become effective on December 5, 2018. DEQ would notify affected parties by:

* Emailing approximately 11,402 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
* Electric Vehicle Rebate 2019 Rulemaking
* DEQ Public Notices
* Emailing the following key legislators required under [ORS 183.335](http://www.leg.state.or.us/ors/183.html):
* Senator Lee Beyer, Co-Chair, Joint Committee on Transportation Preservation and Modernization
* Representative Caddy McKeown, Co-Chair, Joint Committee on Transportation Preservation and Modernization
* Senator Brian Boquist, Co-Vice Chair, Joint Committee on Transportation Preservation and Modernization
* Representative Andy Olson, Co-Vice Chair, Joint Committee on Transportation Preservation and Modernization
* Postings on Twitter and Facebook
* Posting on the DEQ event calendar: [DEQ Calendar](http://www.oregon.gov/deq/Get-Involved/Pages/Calendar.aspx)