



State of Oregon
Department of
Environmental
Quality

Oregon Department of Environmental Quality

Dec. 4, 2018

Oregon Environmental Quality Commission special meeting

Temporary Rulemaking, Action Item: A
Zero Emission and Electric Vehicle Rebates

DEQ recommendation to the EQC

DEQ recommends that the Oregon Environmental Quality Commission:

1. 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.
2. Adopt TEMPORARY rules as proposed in Attachment A of this report as part of chapter 340 of the Oregon Administrative Rules to be effective on filing with the Oregon Secretary of State.

Proposed EQC motion language:

I move that the Oregon 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 the staff report for this item; and adopt temporary rules, as seen in Attachment A to the staff report for this item, as part of chapter 340 of the Oregon Administrative Rules to be effective on filing with the Oregon Secretary of State.

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 Aug. 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 more rapid adoption of zero-emission vehicles to reduce air pollution and speed progress toward the state's 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, a standard rebate for all purchases and leases of eligible zero-emission vehicles and an additional rebate for a person buying or leasing an eligible zero-emission vehicle and who can substantiate their household as low- or moderate-income. The second element is known as the Charge Ahead Program.

Beginning Jan. 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 Nov. 28, 2018, currently has 2200 applications waiting to be processed.

DEQ is in the process of retaining a contractor to administer the Zero Emission and Electric Vehicle Rebate Program, also known as the Oregon Clean Vehicle Rebate Program or OCVRP. The process requires multiple State agency reviews and coordination, and it is currently estimated to take three to six months for the contractor to be in place. 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 in-house 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.

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 temporary rule address the need?

The proposed temporary rule would modify language that requires DEQ to process applications on a first-come, first-served basis. The proposed temporary rules would allow

DEQ to process applications submitted directly to the department by the recipient on a first-come, first-served basis and enter into agreements with dealerships to issue standard rebates at the time of purchase.

Justification

1. Application Review Process

Consequences of not taking immediate action:

DEQ would be unable to partner with dealerships to issue rebates at the time of sale of vehicles, thus potentially diminishing the incentives for zero-emission vehicle purchases.

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. 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. Allowing DEQ to issue rebates at this time will accelerate the state's ability to reach the Governor's goal.

Rules affected, authorities, supporting documents

Lead division

Air Quality Division

Program or activity

Air Quality Planning

Chapter 340 action

Amend – OAR

340-270-0200

Statutory authority – ORS

468.020

2017 Or. Law Ch. 750 Sec. 148-157

468.065

House Bill 4059 (2018), Sec. 18-21

Statute implemented – ORS

2017 Or. Law Ch. 750 Sec. 148-157

2018 Or. Law Ch. 93 Sec. 18-21

Legislation

House Bill 2017 (2017)

House Bill 4059 (2018)

Documents relied on for rulemaking

| 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 |

Housing costs

As ORS 183.534 requires, DEQ evaluated whether the proposed temporary 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 temporary 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.

EQC prior involvement

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

Implementation

Notification

If approved, the proposed temporary rules would become effective Dec. 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:
 - 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](#)

Key to Identifying Changed Text:

~~Strikethrough: Deleted Text~~

Underline: New/inserted text

DEPARTMENT OF ENVIRONMENTAL QUALITY

340-270-0200

Application Review Process

- (1) DEQ will process applications on a first-come, first-serve basis as received by DEQ; except 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) DEQ will reject all applications that do not meet the applicable requirements of OAR 340-270-0100, -0120, -0410, and -0430.
- (3) 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 14 days of its request, DEQ may reject the application.
- (4) 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 Agency itself.
- (5) 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

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

History: