

Commonwealth of Massachusetts

Department of Energy Resources

Response to Comments on:

225 CMR 26.00, Massachusetts Offers Rebates for Electric Vehicles (MOR-EV) Program Regulations

November 29, 2023

Regulatory Authority:

M.G.L. c. 25A, § 19

Public Stakeholder Comments and Department Response

The Department of Energy Resources (Department) received ten comments on the program regulations. This Response to Comments addresses six issues that were raised by commenters and the Department's rationale for maintaining the regulations as proposed. To read the comments as posted on the Department's website, please visit: <https://www.mass.gov/info-details/mor-ev-rebate-program>.

1. Types of Electric Vehicles (EVs) Included Under MOR-EV Program

Comment: Commenters request that the Department consider expanding program eligibility to include off-road EVs (e.g., federal DOT-approved electric “yard dog” or “yard tractor” trucks), electric bikes (e-bikes), and electric motorcycles. The commenters note the success of incentive programs for these types of vehicles in other states, the benefits of mode shift, and the role rebates could play in increasing electrification among other segments of the transportation sector.

Response: Pursuant to M.G.L. c. 25A, § 19, the MOR-EV program must provide rebates for eligible “passenger cars and light duty, medium duty and heavy-duty trucks, buses and vans.” The Department lacks the authority to change the program to include electric motorcycles, e-bikes, or off-road vehicles. However, the Department has noted that other state funding has been available previously, most recently through MassDEP for electrifying off-road vehicles and other equipment, and that Executive Office of Energy and Environmental Affairs was directed to develop and implement an e-bike incentive program.

2. Rebate Amounts for Medium- and Heavy-Duty EVs

Comment: Commenters expressed support for increasing the medium- and heavy-duty (MD/HD) rebate levels that reflect both market conditions and the needs of fleet operators, citing similar programs in New York and California that have higher rebate amounts. One commenter suggests increases of between 50%-75% of the current rebate amounts for eligible MD/HD vehicles.

Response: The Department finds that further analysis and stakeholder input will be necessary to support future consideration of different rebate amounts for MD/HD EVs. The Department will maintain the current rebate levels in the regulations at this time.

3. Definition of Sales Price: Dealer Markups

Comment: 225 CMR 26.00 defines Sales Price as “The total manufacturer suggested retail price (MSRP) at the time of sale or lease, which includes different pre-packaged groups of features for a particular New Vehicle, excluding registration fees, documentation fees, or sales and use taxes. For Qualifying Zero Emission Vehicle conversions, the Sales Price must include the total MSRP plus the total cost of the all-electric upfit.” The commenter suggests that the definition of Sales Price can lead to unintended outcomes by excluding dealer mark-ups since dealers may elect to mark-up vehicles unnecessarily knowing the markup will not count against the rebate eligibility, and alternately customers cannot benefit from a dealer reduction if the manufacturer’s suggested retail price for the vehicle is over the statutory \$55,000 Sales Price cap. They request that the Department explicitly remove dealer markups from the definition of Sales Price and account for dealer reductions when determining Sales Price.

Response: The proposed provisions are being retained in the regulation. The Department encourages participating dealerships to use the MOR-EV rebates as a tool to help sell or lease EVs to residents of the Commonwealth. As over 115 Massachusetts dealerships (and counting) are enrolled in the MOR-EV point-of-sale rebate program, to remain competitive in the market, it would benefit participating dealerships to minimize EV markups when consumers have a range of options to pursue. Similarly, dealer discounts are not considered part of the Sales Price; this allows consumers to know which vehicles are eligible for the program, based on the total MSRP, and enables consumers to seek dealers that are offering the vehicle at a lower price. The Department makes every effort to ensure the MOR-EV rebate process is as easy, predictable, and clear as possible for residents, and defining Sales Price with total MSRP best reflects the actual value of the vehicle purchased or leased at the time of the transaction, while simultaneously providing pre-purchase clarity to consumers about vehicle eligibility (e.g., the total MSRP is listed on the window sticker of the vehicle).

4. Definition of Sales Price: Destination Fees

Comment: 225 CMR 26.00 defines Sales Price as “The total manufacturer suggested retail price (MSRP) at the time of sale or lease, which includes different pre-packaged groups of features for a particular New Vehicle, excluding registration fees, documentation fees, or sales and use taxes. For Qualifying Zero Emission Vehicle conversions, the Sales Price must include the total MSRP plus the total cost of the all-electric upfit.” The commenter maintains that the Massachusetts legislature set the MSRP based on the “retail price” of the car and that the new regulations no longer reflect the retail price. The commenter notes that the inclusion of destination fees prevents some EV models from being eligible for the program and this limits customer options (wheels, paint, etc.) to keep the price under the Sales Price cap. They encourage the Department to exclude destination fees in the definition of Sales Price and the subsequent determination of eligible vehicles.

Response: The proposed provisions are being retained in the regulation. The Department makes every effort to ensure the MOR-EV rebate process is as easy, predictable, and clear as possible for residents. The Department maintains that defining Sales Price with total MSRP best reflects the actual value of the vehicle purchased or leased at the time of the transaction, while simultaneously providing pre-purchase clarity to consumers about vehicle eligibility (e.g., the total MSRP is listed on the window sticker of the vehicle). The current Sales Price definition only excludes vehicle costs that are not set by the manufacturer, such as registration fees and taxes; unlike destination charges, which are included in the total MSRP. The Department further notes that M.G.L. c. 25A, § 19 increased the sales price

cap by \$5,000, which already provides customers with a greater allowable budget for additional options. *[Note: There appears to be a misunderstanding of the statute by the commenter; the Legislature set a “sales price” cap and did not use the terms MSRP or retail price in the 2022 Climate Bill.¹]* Pursuant to 225 CMR 26.10(7), DOER considers appeals to the denial of rebate applications, in full or in part, on a case-by-case basis. Constituents who wish to submit an appeal for consideration for an eligible, pre-ordered vehicle that was over the Sales Price cap because of destination charges at the time of purchase or lease between the date on which 225 CMR 26.00 went into effect (August 8, 2023) and the date on which the inclusion of destination charges was explicitly addressed on the MOR-EV website (August 22, 2023) must contact the [Center for Sustainable Energy](#) to initiate the appeals process within 90 calendar days of the date of application denial. The following documentation must be included for review of such an appeal:

- Proof of vehicle pre-order dated prior to August 8, 2023.
- Proof of vehicle purchase or lease dated on or before August 22, 2023.
- Copy of Monroney label or other documentation that includes the vehicle identification number (VIN) and the vehicle’s total MSRP with the destination charges clearly delineated.

5. Request for Grace Period

Comment: Commenters request that the Department enact a transition period for the new program regulations to offer the opportunity for auto dealerships and potential applicants to adapt to the new stipulations.

Response: As emergency regulations, 225 CMR 26.00 went into effect upon filing. Pursuant to 225 CMR 26.10(7), DOER considers appeals to the denial of rebate applications, in full or in part, on a case-by-case basis.

6. Eligible Vehicle Price Cap

Comment: The commenter expresses that the maximum sales price requirement is set too low. They suggest that while many base models fit into the requirement, by the time some options are added (in particular, all-wheel drive), the price can quickly exceed this maximum threshold.

Response: Pursuant to M.G.L. c. 25A, § 19, the program must provide rebates for eligible vehicles with a Sales Price of \$55,000 or less. The Department lacks the authority to establish a Sales Price maximum that exceeds statutory requirements.

¹ St. 2022, c. 179, § 41.