State of Utah

Department of Environmental Quality

Richard W. Sprott
Executive Director

DIVISION OF AIR QUALITY
Cheryl Heying
Director

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

DAQ-045-07

MEMORANDUM

TO: Air Quality Board

THROUGH: Cheryl Heying, Acting Executive Secretary

FROM: Glade Sowards, Energy Program Coordinator

DATE: June 21, 2007

SUBJECT: FINAL ADOPTION: R307-121, General Requirements: Eligibility of Expenditures for Purchase of Vehicles that Use Cleaner Burning Fuels for Corporate and Individual Income Tax Credits.

On April 4, 2007, a revision to R307-121 was proposed for public comment. No written comments were received.

The Air Quality Board proposed the following changes to R307-121:

1) To update the references to statute throughout R307-121.
2) To reference definitions in statute where applicable.
3) To require applicants to submit a copy of the current vehicle registration for each OEM or converted vehicle for which a tax credit is sought.
4) To require proof of the certification for converted vehicles and special mobile equipment.
5) To remove sections R307-121-3, 7, 8, and 9 because they are not currently required.

Staff Recommendations: Staff recommends that R307-121 be adopted as proposed.

As an additional item, staff also recommends that the Board approve the attached five-year review form to be filed with the Division of Administrative Rules.

State of Utah

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR file no:		Date filed:	
Utah Admin. Code ref. (R no.):	R307-121	Time filed:	

1. Agency: Environmental Quality/Air Quality
   Room no.:
   Building:
   Street address 1: 150 N 1950 W
   Street address 2:
   City,state,zip: SALT LAKE CITY, UT 84116-3085
   Mailing address 1: PO BOX 144820
   Mailing address 2:
   City,state,zip: SALT LAKE CITY, UT 84114-4820
   Contact person(s):

Name:	Phone:	Fax:	E-mail:	Remove:
Mat E. Carlile	801-536-4136	801-536-0085	MCARLILE@utah.gov	

(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)

2. **Title of rule or section (catchline):**
General Requirements: Clean Fuel Vehicle Tax Credits.

3. **A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require the rule:**
Sections 59-7-605 and 59-10-1009 authorize income tax credit for those purchasing a new vehicle that uses clean fuels and for those who retrofit a vehicle to use clean fuels. R307-121 sets forth conditions for eligibility and the process of application for corporate and individual income tax credits.

4. **A summary of written comments received during and since the last five-year review of the rule from interested persons supporting or opposing the rule:** R307-121has been amended twice 1) DAR No. 25495, effective 1/09/2003, and no comments were received during this comment period. 2) DAR No. 29797, and no comments were received during this comment period. No other comments were received about this rule since its last review.

5. **A reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any:**
R307-121 is authorized by 59-7-605 and 59-10-1009.

6. **Indexing information - keywords (maximum of four, in lower case):**
air pollution, tax exemptions, motor vehicles

7. **Attach an RTF document containing the text of this rule change (filename):**
There is currently a document associated with this filing. Rule Text

To the agency: Information requested on this form is required by Section 63-46a-9. Incomplete forms will be returned to the agency for completion, possibly delaying the effective date.

AGENCY AUTHORIZATION

Agency head or designee, and title:	**Date** (mm/dd/yyyy): 05/24/07

Non Printable

(i) If the applicant disagrees with a denial of the request or conditions placed on the approval, the applicant may appeal the Managing Agency's determination by delivering the written appeal and reasons for the disagreement to the Managing Agency.

(ii) Within three (3) working days after the Managing Agency receives the written appeal, the Managing Agency may modify or affirm the determination.

(iii) If the matter is still unresolved after the issuance of the Managing Agency's reconsideration determination, the applicant may appeal the matter, in writing, within ten (10) calendar days to the Executive Director of the Department of Administrative Services who will determine the process of the appeal and provides for a determination within five (5) working days.

(e) If the applicant for a free speech activity needs a more expeditious process of an appeal, upon written request of the applicant, the Attorney General or designee may advise the Executive Director of the Department of Administrative Services or the Managing Agency of the need to make an immediate consideration of the appeal.

R23-20-7. Expedited Review of Free Speech Concern.

If any person claims to be inhibited from the exercise of constitutionally protected free speech by a public officer, officer or other person at any state facilities and grounds, such person is advised to promptly notify the Managing Agency. The Managing Agency will then take reasonable steps in an attempt to resolve the matter.

KEY: rally, free speech, assembly
Date of Enactment or Last Substantive Amendment: June 7, 2007
Authorizing, and Implemented or Interpreted Law: 63A-5-103, 63A-5-204

Environmental Quality, Air Quality
R307-121
General Requirements: Eligibility of Expenditures for Purchase of Vehicles that Use Cleaner Burning Fuels for Corporate and Individual Income Tax Credits

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 29797
FILED: 04/05/2007, 08:52

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to clarify and simplify the language of the rule, and to incorporate the changes in Section 59-10-1009.

SUMMARY OF THE RULE OR CHANGE: The Air Quality Board is proposing the following changes to Rule R307-121: 1) the Board is proposing to update the references to statute throughout Rule R307-121; 2) the Board is proposing to reference statute to define terms that are already defined in the statutes; 3) the Board is proposing to require applicants to submit a copy of the current vehicle registration for each OEM or converted vehicle for which a tax credit is sought; 4) the Board is proposing to require proof of the certification for converted vehicles and special mobile equipment; and 5) the Board is proposing to remove Sections R307-121-3, R307-121-7, R307-121-8, and R307-121-9 because they are not currently required.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-2-104, 59-7-605, and 59-10-1009

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no change in costs for state government, because the new requirements detailed in these revisions would simply codify current administrative practices relating to the tax credit. Other changes to the rule clarified and simplified language.

❖ LOCAL GOVERNMENTS: Local governments are not affected by this change.

❖ OTHER PERSONS: There is no change in costs for other persons, because the new requirements detailed in these revisions would simply codify current administrative practices relating to the tax credit.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no change in costs for affected persons, because the new requirements detailed in these revisions would simply codify current administrative practices relating to the tax credit.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact is expected on businesses, because the new requirements detailed in these revisions would simply codify current administrative practices relating to the tax credit. Dianne R. Nielson, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

[~~R307-121. General Requirements: Eligibility of Expenditures for Purchase of Vehicles that Use Cleaner Burning Fuels for Corporate and Individual Income Tax Credits.~~

~~R307-121-1. Purpose.~~

~~This rule provides taxpayers with the criteria and procedures to obtain certification from the board that a vehicle is eligible for a credit under 59-7-605 and 59-10-127.~~

~~R307-121-2. Definitions.~~

~~Definitions. The following additional definitions apply to R307-121.~~

~~"Conversion System" means a package which may include fuel, ignition, emissions control, and engine components that are modified, removed, or added to a motor vehicle or a special mobile equipment to make that vehicle or equipment an eligible vehicle.~~

~~"Eligible" means that the vehicle or special mobile equipment:~~

~~(i) is fueled by propane, natural gas, or electricity;~~

~~(ii) is fueled by other fuel the Air Quality Board determines annually on or before July 1, to be at least as effective as fuels under (i) above in reducing air pollution; or~~

~~(iii) meets the clean fuel vehicle standards specified in Part C of Title II of the federal Clean Air Act.~~

~~"OEM vehicle" is defined in 63-34-202 to mean a vehicle manufactured by the original vehicle manufacturer or its contractor to use a clean fuel.~~

~~"Special Mobile Equipment" is defined in 59-7-605(1)(d) and 59-10-127(1)(d).~~

~~R307-121-3. Anti-Tampering Policy.~~

~~No person may convert a motor vehicle to use a clean fuel in a manner that violates Section 203(a) of the Act or the "Interim Tampering Enforcement Policy" of the Environmental Protection Agency, June 15, 1974.~~

~~R307-121-4. Proof of Purchase for OEM Vehicle.~~

~~To obtain certification from the board that a vehicle is eligible, proof of purchase shall be made by submitting the following documents to the executive secretary:~~

~~(1)(a) a copy of the Manufacturer's Statement of Origin or equivalent manufacturer's documentation showing that the vehicle is an OEM vehicle, or~~

~~(b) if within a county with an inspection and maintenance (I/M) program, a copy of the vehicle inspection report from an approved I/M station showing that the vehicle meets emission standards for all installed fuel systems, or~~

~~(c) a signed statement by an American Service Excellence (ASE) certified technician that includes the vehicle identification number and states that the vehicle is an eligible OEM vehicle, or~~

~~(d) if the vehicle is a government agency fleet vehicle, documentation from the appropriate motorpool or government agency representative that sold the vehicle that the vehicle is an OEM vehicle, and~~

~~(2) an original or copy of the purchase order, customer invoice, or receipt including the vehicle identification number (VIN).~~

~~R307-121-5. Proof of Purchase for Vehicle Converted to Alternate Fuels.~~

~~To obtain certification from the board that a conversion of a motor vehicle to be fueled by clean fuel is eligible, proof of purchase shall be made by submitting the following documentation to the executive secretary:~~

~~(1) VIN;~~

~~(2) fuel type before conversion;~~

~~(3) fuel type after conversion;~~

~~(4) either:~~

~~(a) if within a county with an I/M program, a copy of the vehicle inspection report from an approved station showing that the converted alternate fuel vehicle meets all county emissions requirements for all installed fuel systems, or~~

~~(b) a signed statement by an ASE certified technician that includes the VIN and states that the conversion is functional, or~~

~~(c) if the vehicle is a government agency fleet vehicle, documentation from the appropriate motor pool or government agency representative that sold the vehicle that the converted vehicle is eligible.~~

~~(5) If the vehicle is newly converted within one year of the tax year in which the credit is to be claimed:~~

~~(a) conversion system manufacturer;~~

~~(b) conversion system model number;~~

~~(c) date of the conversion;~~

~~(d) name, address, and phone number of the person that converted the vehicle.~~

~~R307-121-6. Procedures for Obtaining Certification by the Board for Special Mobile Equipment.~~

~~To obtain certification from the board that a conversion of special mobile equipment to be fueled by clean fuel is eligible, proof of purchase shall be made by submitting the following documentation to the executive secretary:~~

~~(1) description of special mobile equipment for which credit is to be claimed;~~

~~(2) fuel type before conversion;~~

~~(3) fuel type after conversion;~~

~~(4) the conversion system manufacturer and model number;~~

~~(5) the date of the conversion;~~

~~(6) the name, address and phone number of the person that converted the special mobile equipment; and~~

~~(7) if special mobile equipment is converted from one clean fuel to another, documentation that either carbon monoxide or hydrocarbon emissions were reduced as a result of the conversion to the new fuel.~~

~~R307-121-7. Procedures for Obtaining Certification by the Board for Fuel Conversion Systems.~~

~~(1) For vehicles.~~

~~(a) The executive secretary will issue a certificate, stating that the fuel conversion system for a specific fuel, vehicle class, and engine type has been certified by the Board, if the system manufacturer submits the following information to the executive secretary and if the executive secretary decides the conversion system has met all applicable requirements:~~

~~(i) description of each conversion system, fuel used, vehicle certification class (including vehicle type and vehicle weight class), and engine type;~~

~~(ii) Federal Test Procedure (FTP) mass emissions test data which:~~

~~(A) is collected in high altitude conditions as defined by the Environmental Protection Agency (EPA) using EPA approved~~

~~equipment, test procedures and practices, and meeting EPA emissions certification standards, as defined in 40 CFR Part 86;~~

~~(B) shows that tests conducted before and after installation of the conversion system demonstrate a reduction in total emissions and that there is no increase in emissions for each regulated pollutant compared to emission levels when operated on the original fuel prior to the conversion;~~

~~(C) is tested on two vehicles for each vehicle certification class which have accumulated at least 4,000 miles each;~~

~~(iii) system engineering specifications.~~

~~(b) The executive secretary will issue a certificate if the federal Environmental Protection Agency has certified the conversion system, or if the fuel conversion system has been certified by a state whose certification standards are recognized by the Board.~~

~~(c) Special provisions.~~

~~(i) After conversion, dual fuel or flexible fuel vehicles shall be required to undergo at least one Federal Test Procedure on conventional fuel and must demonstrate that the EPA emissions certification standards in 40 CFR Part 86 for that vehicle type and model year on the conventional fuel are being met.~~

~~(ii) The executive secretary may waive the requirement for testing to be conducted at high altitude, specified in(1)(a)(ii)(A) above, if the manufacturer demonstrates that the conversion system provides an equivalent emission reduction.~~

~~(iii) Acceptability of Canadian data will be determined on a case-by-case basis after demonstrating to the satisfaction of the executive secretary that the test is equivalent to the Federal Test Procedure.~~

~~(iv) Vehicle conversions must comply with EPA Mobile Source Enforcement Memorandum No. 1A., dated June 25, 1974.~~

~~(2) For special fuel mobile equipment.~~

~~(a) The executive secretary will issue a certificate, stating that the fuel conversion system for a specific fuel and mobile equipment engine type has been certified by the Board, if the system manufacturer submits the following information to the executive secretary and if the executive secretary decides the conversion system has met all applicable requirements:~~

~~(i) description of each conversion system, fuel used, and mobile equipment engine type;~~

~~(ii) emissions test data showing that the conversion system results in an emission reduction of total emissions and that there is no increase in emissions for each regulated pollutant in comparison with emission levels when operated on the original fuel prior to the conversion; and~~

~~(iii) system engineering specifications.~~

~~(b) The executive secretary will issue a certificate if the federal Environmental Protection Agency has certified the conversion system or if the fuel conversion system has been certified by a state whose certification standards are recognized by the Board.~~

~~(c) The executive secretary shall evaluate the certification of conversion system for special fuel mobile equipment on a case-by-case basis as new technologies are improved.~~

~~(3) Certification by other states may be accepted by the executive secretary if it meets the requirements specified in (1) and (2) above.~~

~~R307-121-8. Revocation of Certification.~~

~~The executive secretary will revoke the certification of a conversion system if an investigation finds that a certified conversion system exceeds the level of emissions for which it was certified, taking into account deterioration because of age or other reasonable concern.~~

~~R307-121-9. Duty to Acknowledge Proof of Purchase.~~

~~The executive secretary will acknowledge receipt of proofs specified in R307-121 by signing the relevant written statement provided on forms prescribed by the State Tax Commission.~~]

R307-121. General Requirements: Clean Fuel Vehicle Tax Credits.

R307-121-1. Purpose and Authorization.

This rule is authorized by 59-7-605 and 59-10-1009. These statutes establish criteria and definitions used to determine eligibility for an income tax credit. R307-121 establishes procedures to provide proof of purchase to the board for an item for which an income tax credit is allowed under 59-7-605 and 59-10-1009.

R307-121-2. Definitions.

Definitions. The following additional definitions apply to R307-121.

"Conversion Equipment" means a package which may include fuel, ignition, emissions control, and engine components that are modified, removed, or added to a motor vehicle or special mobile equipment to make that vehicle or equipment eligible.

"Eligible" means:

(i) an OEM vehicle; or

(ii) a vehicle or special mobile equipment on which conversion equipment has been installed that meets the definition of "Certified by the Board" that is found in 59-7-605 and 59-10-1009.

"OEM vehicle" is defined in 19-1-402(8).

R307-121-3. Procedures for OEM Vehicles.

To demonstrate that a vehicle is eligible, proof of purchase shall be made by submitting the following documents to the executive secretary:

(1)(a) a copy of the Manufacturer's Statement of Origin or equivalent manufacturer's documentation showing that the vehicle is an OEM vehicle, or

(b) a signed statement by an American Service Excellence (ASE) certified technician that includes the vehicle identification number and states that the vehicle is an eligible OEM vehicle; and

(2) an original or copy of the purchase order, customer invoice, or receipt including the vehicle identification number (VIN); and

(3) a copy of the vehicle registration.

R307-121-4. Procedures for Vehicles Converted to Clean Fuels.

To demonstrate that a conversion of a motor vehicle to be fueled by clean fuel is eligible, proof of purchase shall be made by submitting the following documentation to the executive secretary:

(1) VIN;

(2) fuel type before conversion;

(3) fuel type after conversion;

(4)(a) if within a county with an I/M program, a copy of the vehicle inspection report from an approved station showing that the converted alternate fuel vehicle meets all county emissions requirements for all installed fuel systems, or

(b) a signed statement by an ASE certified technician that includes the VIN and states that the conversion is functional;

(5) each of the following:

(a) conversion system manufacturer,

(b) conversion system model number,

(c) date of the conversion, and

(d) name, address, and phone number of the person that converted the vehicle;
(6) proof of certification required in 59-10-1009(1)(b) or 59-7-605(1)(b); and
(7) a copy of the vehicle registration.

R307-121-5. Procedures for Special Mobile Equipment Converted to Clean Fuels.
To demonstrate that a conversion of special mobile equipment to be fueled by clean fuel is eligible, proof of purchase shall be made by submitting the following documentation to the executive secretary:
(1) description, including serial number, of the special mobile equipment for which credit is to be claimed;
(2) fuel type before conversion;
(3) fuel type after conversion;
(4) the conversion system manufacturer and model number;
(5) the date of the conversion;
(6) the name, address and phone number of the person that converted the special mobile equipment; and
(7) proof of certification required in 59-10-1009(1)(b) or 59-7-605(1)(b).

KEY: air pollution, alternative fuels, [~~tax exemptions~~]tax credits, motor vehicles
Date of Enactment or Last Substantive Amendment: [~~January 9, 2003~~]2007
Notice of Continuation: March 26, 2002
Authorizing, and Implemented or Interpreted Law: 19-2-104; 19-1-402; 59-7-605; [~~59-10-127~~]59-10-1009

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Environmental Quality, Air Quality
R307-122
General Requirements: Eligibility of Expenditures for Purchase and Installation Costs of Fireplaces and Wood Stoves that Use Cleaner Burning Fuels

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 29798
FILED: 04/05/2007, 08:53

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Air Quality Board is proposing to repeal Rule R307-122 because it is no longer authorized under Sections 59-10-128 and 59-7-606. Section 59-10-128 was repealed in 2006 and Section 59-7-606 was limited to tax years 1992 through 2002; therefore, Rule R307-122 is no longer authorized under Utah Statute.

SUMMARY OF THE RULE OR CHANGE: The Air Quality Board is proposing to repeal Rule R307-122 because it is no longer authorized under Sections 59-10-128 and 59-7-606.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-2-104, 59-10-128, and 59-7-606

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: No change is expected to the state budget, because there was no tax credit authorized.
❖ LOCAL GOVERNMENTS: This rule did not apply to local governments.
❖ OTHER PERSONS: There is no change in costs for other persons, because there was no tax credit authorized.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no change in costs for affected persons, because there was no tax credit authorized.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact is expected for businesses, because there was no tax credit authorized. Dianne R. Nielson, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

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R307. Environmental Quality, Air Quality.
[~~R307-122. General Requirements: Eligibility of Expenditures for Purchase and Installation Costs of Fireplaces and Wood Stoves that Use Cleaner Burning Fuels.~~
~~R307-122-1. Definitions.~~
~~Definitions. The following additional definitions apply to R307-122:~~
~~"Fireplaces and wood stoves" using clean burning fuels are:~~
~~(1) continual-feed wood pellet stoves~~
~~(2) high mass wood stoves~~
~~(3) natural gas or propane free-standing fireplaces or inserts, but not including fireplace log systems, or~~
~~(4) any wood burning stove, fireplace, or fireplace insert that is certified by the Environmental Protection Agency in accordance with test procedures prescribed in 40 CFR Section 60.534.~~