



State of Utah

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Governor

SPENCER J. COX
Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

DIVISION OF AIR QUALITY
Bryce C. Bird
Director

DAQ-005-15

MEMORANDUM

TO: Air Quality Board

THROUGH: Bryce C. Bird, Executive Secretary

FROM: Alan Humpherys, Minor New Source Review Section Manager

DATE: February 17, 2015

SUBJECT: FINAL ADOPTION: Amend R307-120. General Requirements: Tax Exemption for Air Pollution Control Equipment.

On December 3, 2014, the Air Quality Board proposed amendments to R307-120, General Requirements: Tax Exemption for Air Pollution Control Equipment. Changes were made to R307-120 to be consistent with House Bill 31. A 30-day public comment period was held from January 1 through February 2, 2015. No public comments were received and a public hearing was not requested.

Staff Recommendation: Staff recommends the Board adopt R307-120 as proposed.

1 **R307. Environmental Quality, Air Quality.**

2 **R307-120. General Requirements: Tax Exemption for Air Pollution**
3 **Control Equipment.**

4 **R307-120-1. Applicability.**

5 This rule shall apply to purchases described in Section
6 19-12-201.

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8 **R307-120-2. Definitions.**

9 The following definitions apply to R307-120:

10 "Freestanding pollution control property" means freestanding
11 pollution control property as defined in Section 19-12-102.

12 "Pollution control facility" means pollution control facility
13 as defined in Section 19-12-102.

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15 **R307-120-3. Application for Certification.**

16 (1) An application for certification shall be made on the form
17 provided by the director.

18 (2) The application shall include all information requested
19 thereon and such additional information as is requested by the
20 director. At a minimum, the application shall contain:

21 (a) a description of the pollution control facility or the
22 freestanding pollution control property;

23 (b) a description of the property, part, product, or service
24 for a purchase or lease of property, a part, a product or a service
25 for which a person seeks to claim a sales and use tax exemption under
26 Section 19-12-201;

27 (c) the existing or proposed operation procedure for the
28 pollution control facility or freestanding pollution control
29 property; and

30 (d) a statement of the purpose served or to be served by the
31 pollution control facility or freestanding pollution control
32 property.

33 (3) Applications for certification shall include:

34 (a) a reference to the approval order issued under R307-401-8
35 that requires the pollution control facility or the freestanding
36 pollution control property; or

37 (b) a reference to the section of the State Implementation Plan
38 that requires the pollution control facility or the freestanding
39 pollution control property; or

40 (c) an estimate of emission reductions (in tons per year)
41 resulting from the use of the pollution control facility or the
42 freestanding pollution control property.

43 (4) The director may require an application to contain
44 additional information that the director finds necessary to determine
45 whether to grant certification under Section 19-12-303.

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48 **R307-120-4. Issuance of Certification.**

49 (1) The filing date of the application shall be the date the
50 director receives a complete application with all of the information
51 as described in R307-120-3. Within 120 days of the filing date of

1 the application, the director will:

2 (a) issue a written certification of the pollution control
3 facility or the freestanding pollution control property; or

4 (b) provide a written statement of the reason for the denial
5 of certification.

6 (2) The director shall issue a certification of a pollution
7 control facility or a freestanding pollution control property to the
8 applicant if the director determines that:

9 (a) the application meets the requirements of Section
10 19-12-301(3) or 19-12-302(2);

11 (b) the facility or property that is the subject of the
12 application is a pollution control facility or a freestanding
13 pollution control property.

14 (c) the person who files the application is a person described
15 in Section 19-12-301(1) or 19-12-302(1); and

16 (d) the purchases or leases for which the person seeks to claim
17 a sales and use tax exemption are exempt under Section 19-12-201.

18 (3) The director may issue one certification for one or more
19 pollution control facilities or freestanding pollution control
20 properties that constitute an operational unit.

21 (4) If the director does not issue or deny a certification within
22 120 days after the date a person files an application, the director
23 shall issue a certification to the person at the person's request.

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26 **R307-120-5. Exemptions from Certification.**

27 The director shall not issue a certification for the following:

28 (1) a replacement of freestanding pollution control property;
29 or

30 (2) property, a part, a product, or a service described in
31 Sections 19-12-201(1)(b) through (e) used or performed in a repair
32 or replacement related to:

33 (a) a pollution control facility; or

34 (b) a freestanding pollution control property.

35 (3) a pollution control facility or a freestanding pollution
36 control property that has already received a certification under
37 R307-120-5.

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39 **R307-120-6. Appeal and Revocation.**

40 (1) A decision of the director may be reviewed by filing a
41 Request for Agency Action as provided in R305-7.

42 (2) The director may revoke a certification issued under Section
43 19-12-303 if the director makes a determination as contained in Section
44 19-12-304.

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46 **KEY: air pollution, tax exemptions, equipment**

47 **Date of Enactment or Last Substantive Amendment: 2015**

48 **Notice of Continuation: February 1, 2012**

49 **Authorizing, and Implemented or Interpreted Law: 19-12-101;**
50 **19-12-102; 19-12-201; 19-12-202; 19-12-203; 19-12-301; 19-12-302;**
51 **19-12-303; 19-12-304; 19-12-305**