



State of Utah

GARY R. HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

Department of  
Environmental Quality

Alan Matheson  
*Executive Director*

DIVISION OF AIR QUALITY  
Bryce C. Bird  
*Director*

DAQ-039-16

**MEMORANDUM**

**TO:** Air Quality Board

**THROUGH:** Bryce C. Bird, Executive Secretary

**FROM:** Ryan Stephens, Rules Coordinator

**DATE:** August 24, 2016

**SUBJECT:** Five-Year Review: R307-121. General Requirements: Clean Air and Efficient Vehicle Tax Credit.

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Utah Code Section 63G-3-305 requires each agency to review and justify each of its rules within five years of a rule's original effective date or within five years of the filing of the last five-year review. This review process is not a time to revise or amend the rules. It is to verify that the rule is still necessary and allowed under state and federal statutes. As part of this process, the Division is required to identify any comments on the rule that were received since the last five-year review. This process is not the time to revisit those comments or to respond to them.

DAQ has completed a five year review for R307-121. The results of this review are found in the attached Five-Year Notice of Review and Statement of Continuation form.

Staff Recommendation: Staff recommends that the Board continue R307-121 by approving the attached form to be filed with the Division of Administrative Rules.

1 **R3407. Environmental Quality, Air Quality.**

2 **R307-121. General Requirements: Clean Air and Efficient Vehicle**  
3 **Tax Credit.**

4 **R307-121-1. Authorization and Purpose.**

5 (1) This rule is authorized by Sections 59-7-605 and 59-10-1009.  
6 These statutes establish criteria and definitions used to determine  
7 eligibility for an income tax credit.

8 (2) R307-121 establishes procedures to provide proof of  
9 purchase or lease, in accordance with 59-7-605(3)(b) or  
10 59-10-1009(3)(b), to the director for an OEM vehicle, qualifying  
11 electric motorcycle, or the conversion of a motor vehicle or special  
12 mobile equipment for which an income tax credit is allowed under  
13 Sections 59-7-605 or 59-10-1009.

14  
15 **R307-121-2. Definitions.**

16 The following additional definitions apply to R307-121.

17 "Air quality standards" means air quality standards as defined  
18 in Subsection 59-7-605(1)(a) and 59-10-1009(1)(a).

19 "Clean fuel" means clean fuel as defined in Subsection  
20 19-1-402(1).

21 "Clean fuel vehicle" means clean fuel vehicle as defined in  
22 Subsection 19-1-402(2).

23 "Conversion equipment" means a package that may include fuel,  
24 ignition, emissions control, and engine components that are modified,  
25 removed, or added to a motor vehicle or special mobile equipment to  
26 make that motor vehicle or equipment eligible for the tax credit.

27 "Motor Vehicle" means a motor vehicle as defined in 41-1a-102.

28 "Original equipment manufacturer(OEM) vehicle" means original  
29 equipment manufacturer(OEM) as defined in Subsection 19-1-402(8).

30 "Original purchase" means original purchase as defined in  
31 Subsection 59-7-605(1)(g) and 59-10-1009(1)(g).

32 "Qualifying electric motorcycle" means qualifying electric  
33 motorcycle as defined in 59-7-605(1)(h) or 59-10-1009(1)(h).

34 "Qualifying electric vehicle" means qualifying electric vehicle  
35 as defined in 59-7-605(1)(i) or 59-10-1009(1)(i).

36 "Qualifying plug-in hybrid vehicle" means qualifying plug-in  
37 hybrid vehicle as defined in 59-7-605(1)(j) or 59-10-1009(1)(j).

38 "Window Sticker" means the label required by United States Code  
39 Title 15 Sections 1231 and 1232, as effective January 3, 2012.

40  
41 **R307-121-3. Proof of Purchase to Demonstrate Eligibility for New**  
42 **OEM Natural Gas, Propane, Qualifying Electric or Qualifying Plug-in**  
43 **Hybrid Vehicles.**

44 To demonstrate that an OEM natural gas, propane, qualifying  
45 electric, or qualifying plug-in hybrid motor vehicle is eligible for  
46 the tax credit, proof of purchase shall be made in accordance with  
47 59-7-605(3)(b) or 59-10-1009(3)(b), by submitting the following  
48 documents to the director:

49 (1)(a) a copy of the motor vehicle's window sticker, which  
50 includes its Vehicle Identification Number (VIN), or equivalent  
51 manufacturer's documentation showing that the motor vehicle is an

1 OEM natural gas, propane, qualifying electric or qualifying plug-in  
2 hybrid vehicle, or

3 (b) a signed statement by either an Automotive Service  
4 Excellence (ASE)-certified technician or Canadian Standards  
5 Association (CSA) America CNG Fuel System Inspector that includes  
6 the VIN, the technician's ASE or CSA America certification number,  
7 and states that the motor vehicle is an OEM natural gas, propane,  
8 qualifying electric or qualifying plug-in hybrid vehicle;

9 (2) an original or copy of the purchase order, customer invoice,  
10 or receipt that includes the name of the taxpayer seeking the credit,  
11 the name of the seller of the motor vehicle, the VIN, purchase date,  
12 and price of the motor vehicle;

13 (3) a copy of the current Utah vehicle registration in the name  
14 of the taxpayer seeking the credit;

15 (4) an original or copy of the odometer disclosure statement  
16 required in Utah Code Annotated Title 41 Chapter 1a Section 902 for  
17 the motor vehicle that was acquired as an original purchase; and

18 (5) the underhood identification number or engine group of the  
19 motor vehicle.

20  
21 **R307-121-4. Proof of Purchase to Demonstrate Eligibility for New**  
22 **Qualifying Electric Motorcycle.**

23 To demonstrate that a qualifying electric motorcycle is eligible  
24 for the tax credit, proof of purchase shall be made in accordance  
25 with 59-7-605(3)(b) or 59-10-1009(3)(b), by submitting the following  
26 documents to the director:

27 (1)(a) a copy of the Manufacturer's Statement of Origin (MSO)  
28 or equivalent manufacturer's documentation showing that the motor  
29 vehicle is a qualifying electric motorcycle, or

30 (b) a signed statement by an Automotive Service Excellence  
31 (ASE)-certified technician that includes the VIN, the technician's  
32 ASE certification number, and states that the motorcycle is a  
33 qualifying electric motorcycle;

34 (2) an original or copy of the purchase order, customer invoice,  
35 or receipt that includes the name of the taxpayer seeking the credit,  
36 the name of the seller of the motor vehicle, the VIN, purchase date,  
37 and price of the motor vehicle;

38 (3) a copy of the current Utah vehicle registration in the name  
39 of the taxpayer seeking the credit; and

40 (4) an original or copy of the odometer disclosure statement  
41 required in Utah Code Annotated Title 41 Chapter 1a Section 902 for  
42 the motor vehicle that was acquired as an original purchase.

43  
44 **R307-121-5. Proof of Lease to Demonstrate Eligibility for New OEM**  
45 **Natural Gas, Propane, Qualifying Electric or Qualifying Plug-in Hybrid**  
46 **Vehicles.**

47 To demonstrate that an OEM natural gas, propane, qualifying  
48 electric or qualifying plug-in hybrid vehicle is eligible for the  
49 tax credit, proof of lease shall be made in accordance with  
50 59-7-605(3)(b) or 59-10-1009(3)(b), by submitting the following  
51 documents to the director:

1 (1)(a) a copy of the motor vehicle's window sticker, which  
2 includes its Vehicle Identification Number (VIN), or equivalent  
3 manufacturer's documentation showing that the motor vehicle is an  
4 OEM natural gas, propane, qualifying electric or qualifying plug-in  
5 hybrid vehicle; or

6 (b) a signed statement by either an Automotive Service  
7 Excellence (ASE)-certified technician or Canadian Standards  
8 Association (CSA) America CNG Fuel System Inspector that includes  
9 the VIN, the technician's ASE or CSA America certification number,  
10 and states that the motor vehicle is an OEM natural gas, propane,  
11 qualifying electric or qualifying plug-in hybrid vehicle;

12 (2) an original or copy of the lease agreement that includes  
13 the name of the taxpayer seeking the credit, the name of the lessor  
14 of the vehicle, the VIN, the beginning date of the lease, the value  
15 of the vehicle at the beginning of the lease, and the value of the  
16 vehicle at the end of the lease;

17 (3) a copy of the current Utah vehicle registration in the name  
18 of the taxpayer seeking the credit;

19 (4) an original or copy of the odometer disclosure statement  
20 required in Utah Code Annotated Title 41 Chapter 1a Section 902 for  
21 the motor vehicle that was acquired as an original purchase; and

22 (5) the underhood identification number or engine group of the  
23 motor vehicle.

24  
25 **R307-121-6. Proof of Lease to Demonstrate Eligibility for Qualifying**  
26 **Electric Motorcycle.**

27 To demonstrate that a qualifying electric motorcycle is eligible  
28 for the tax credit, proof of lease shall be made in accordance with  
29 59-7-605(3)(b) or 59-10-1009(3)(b), by submitting the following  
30 documents to the director:

31 (1)(a) a copy of the Manufacturer's Statement of Origin (MSO)  
32 or equivalent manufacturer's documentation showing that the motor  
33 vehicle is a qualifying electric motorcycle, or

34 (b) a signed statement by an Automotive Service Excellence  
35 (ASE)-certified technician that includes the VIN, the technician's  
36 ASE certification number, and states that the motorcycle is a  
37 qualifying electric motorcycle;

38 (2) an original or copy of the lease agreement that includes  
39 the name of the taxpayer seeking the credit, the name of the lessor  
40 of the vehicle, the VIN, the beginning date of the lease, the value  
41 of the vehicle at the beginning of the lease, and the value of the  
42 vehicle at the end of the lease;

43 (3) a copy of the current Utah vehicle registration in the name  
44 of the taxpayer seeking the credit; and

45 (4) an original or copy of the odometer disclosure statement  
46 required in Utah Code Annotated Title 41 Chapter 1a Section 902 for  
47 the motor vehicle that was acquired as an original purchase.

48  
49 **R307-121-7. Proof of Purchase to Demonstrate Eligibility for Motor**  
50 **Vehicles Converted to a Clean Fuel.**

51 To demonstrate that a conversion of a motor vehicle to be fueled

1 by a clean fuel is eligible for the tax credit, proof of purchase  
2 shall be made, in accordance with 59-7-605(3)(b) or 59-10-1009(3)(b),  
3 by submitting the following documentation to the director:

4 (1) an original or copy of the purchase order, customer invoice,  
5 or receipt that includes the name of the taxpayer seeking the credit;  
6 the name, address, and phone number of the person that converted the  
7 motor vehicle to run on a clean fuel; the VIN; the date of conversion;  
8 and the price of the conversion equipment installed on the motor  
9 vehicle;

10 (2) a copy of the current Utah vehicle registration in the name  
11 of the taxpayer seeking the credit; and

12 (3) a signed statement by the person who converted the motor  
13 vehicle certifying that the conversion does not tamper with,  
14 circumvent, or otherwise affect the vehicle's on-board diagnostic  
15 system, in accordance with 19-1-406(2).  
16

17 **R307-121-8. Proof of Purchase to Demonstrate Eligibility for Special**  
18 **Mobile Equipment Converted to Clean Fuels.**

19 To demonstrate that a conversion of special mobile equipment  
20 to be fueled by clean fuel is eligible for the tax credit, proof of  
21 purchase shall be made, in accordance with 59-7-605(3)(b) or  
22 59-10-1009(3)(b), by submitting the following documentation to the  
23 director:

24 (1) a description, including serial number, of the special  
25 mobile equipment for which credit is to be claimed; and

26 (2) an original or copy of the purchase order, customer invoice,  
27 or receipt that includes the name of the taxpayer seeking the credit,  
28 the serial number, the date of conversion, and the price of the  
29 conversion equipment installed on the special mobile equipment.  
30

31 **KEY: air pollution, alternative fuels, tax credits, motor vehicles**  
32 **Date of Enactment or Last Substantive Amendment: September 3, 2015**  
33 **Notice of Continuation: January 23, 2012**  
34 **Authorizing, and Implemented or Interpreted Law: 19-2-104; 19-1-402;**  
35 **59-7-605; 59-10-1009**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Information	
DAR file no:	Date filed:
State Admin Rule Filing Key: 157691	
Utah Admin. Code ref. (R no.): R307-121	

Agency Information				
1. Agency:	ENVIRONMENTAL QUALITY - Air Quality			
Room no.:	Fourth Floor			
Building:				
Street address 1:	195 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 Carlile	801-536-4116	801-536-4136	mcarlile@utah.gov	
(Interested persons may inspect this filing at the above address or at DAR during business hours)				

Rule Title	
2. Title of rule or section (catchline):	General Requirements: Clean Air and Efficient Vehicle Tax Credit.

Rule Provisions	
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 an income tax credit for those purchasing a new vehicle that uses natural gas, propane, or electricity. Rule R307-121 sets forth conditions for eligibility and the process of application for corporate and individual income tax credits, as required under Utah Code Section 19-2-104(3)(b)(vi).

Content Summary	
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: Rule R307-121 has been amended five times since the last five-year review, DAR No. 35718 (nonsubstantive change), DAR No. 36809 (nonsubstantive change), DAR No. 37990 (Effective 1/1/2014), DAR No. 38837 (Effective 1/1/2015), and DAR No. 39353 (Effective 9/3/2015). One comment was received in relation to changes made to DAR No. 38837. The comment was about concerns that the proposed rule did not require any evidence that the system meets state emission requirements or is safe according to NFPA 52 code. Instead it puts the responsibility on the taxpayer to know those requirements and to certify that the installation complies with them. DAQ Response: The person commenting is correct when stating that the responsibility to ensure that the system meets emission and safety requirements falls on the taxpayer. Utah Code 19-2-406(1) states that the owner of the converted vehicle is responsible to ensure that the vehicle is inspected by a CSA America Inspector and tested to ensure that the vehicle satisfies emission standards. No other comments have been received since the last five-year review.

Justification Information

5. A reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any:  
Rule R307-121 should be continued because it provides necessary guidance in the administration of the Utah Clean Fuel Tax Credit program, which is required by Utah Code Section 19-2-104(3)(b)(vi).

Indexing Information

6. Indexing information - keywords (maximum of four, one term per field, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):  
air pollution, alternative fuels, tax credits, motor vehicles

File Information

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

To the Agency

Information requested on this form is required by Section 63G-3-305. Incomplete forms will be returned to the agency for completion, possibly delaying the effective date.

Agency Authorization

Agency head or designee, and title: Bryce Bird  
Director

Date (mm/dd/yyyy): 08/23/2016