

State of Utah
Administrative Rule Analysis
 Revised June 2022

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _x_; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Rule or Section Number:	R305-4	Filing ID: Office Use Only

Agency Information

1. Department:	Environmental Quality	
Agency:		
Room number:		
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state and zip:	Salt Lake City, Utah 84116	
Mailing address:	P.O. Box 144820	
City, state and zip:	Salt Lake City, Utah 84114-4820	
Contact persons:		
Name:	Phone:	Email:
Bo Wood	385-499-3416	rwood@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R305-4. Clean Fuels and [Vehicle] <u>Emission Reduction</u> Technology [Grant and Loan] Program
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Changes to Section 19-1-402, 19-1-403, and 19-1-404, passed during the 2022 General Session as SB188, expand and rename the Clean Fuels and Vehicle Technology Program to be the Clean Fuels and Emission Reduction Loan Program. These changes require the department to amend existing programs that incentivize, through grants and loans, the purchase of clean vehicles, conversions to clean vehicles, and the purchase of clean vehicle refueling equipment. They also require the department to develop processes for implementing a new grant program to incentivize home energy efficiency improvements. These changes and new provisions make it necessary to amend this rule.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
These changes clarify procedures for providing grants or loans to government agencies and private sector businesses under the provisions of Sections 19-1-404. The changes define "energy efficient building envelope improvements" and "qualified energy efficient residential dwellings" and establish eligibility criteria for grants in each category.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The fiscal impact of these changes on the state budget is unknown. The statute allows the fund to receive and distribute monies from federal, nonprofit, and private sources, but does not appropriate funds from the state budget. Many potential sources of funding require grant applications that could provide significant revenue to the state, but depend on many factors that cannot be accurately estimated at this time.
B) Local governments:
These changes will have no impact on local governments because it does not apply to them.
C) Small businesses ("small business" means a business employing 1-49 persons):
The fiscal impact of this rule on small businesses is unknown because the program has not been funded. The rule establishes the requirements and processes that would be used to determine eligibility for the program in the event that it receives funding.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The fiscal impact of this rule on non-small businesses is unknown because the program has not been funded. The rule establishes the requirements and processes that would be used to determine eligibility for the program in the event that it

receives funding.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The fiscal impact of this rule on persons other than small businesses, non-small businesses, state, or local governments is unknown because the program has not been funded. The rule establishes the requirements and processes that would be used to determine eligibility for the program in the event that it receives funding.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

No compliance costs are associated with this rule.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

Ex: The _____ of _____, _____, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 19-1-404	Ex 2: Subsection 63G-3-403(3)	

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables):

A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)		
A) Comments will be accepted until:		12/30/2022
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
12/28/2022	10:00am	Video call link: https://meet.google.com/mcq-cgpj-ekq Or dial: (US) +1 650-684-8323 PIN: 322 687 950#

9. This rule change MAY become effective on:	02/02/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> and delaying the first possible effective date.			
Agency head or designee and title:	Bryce C. Bird, Director	Date:	11/02/2022

R305. Environmental Quality, Administration.

R305-4. Clean Fuels and ~~[Vehicle]~~Emission Reduction Technology ~~[Fund Grant and Loan]~~ Program.

R305-4-1. Authorization and Purpose.

(1) As authorized by Section 19-1-404, this rule establishes procedures for:

(a) providing loans and grants to government agencies and private sector businesses:

(i) to convert vehicles to run on a clean fuel;~~[-or]~~

(ii) to purchase an OEM Clean fuel vehicle[s] to provide air pollution reduction benefits; or

(iii) to purchase clean fuel refueling equipment for a private sector business vehicle or government vehicle. [and

~~(b) providing loans and grants for the purchase of clean fuel refueling equipment for a private sector business vehicle or government vehicle as provided under Section 19-1-403.]~~

(b) providing grants to a person or persons for:

(i) the installation of energy efficient building envelope improvements at a dwelling; or

(ii) construction of a qualified energy-efficient residential dwelling as provided under Section 19-1-403(6).

(2) As authorized by Section 19-1-404, this rule establishes criteria and conditions for:

(a) awarding grant and loan program monies; and

(b) loan repayment and the collection of loans.

R305-4-2. Definitions.

"Clean fuel" means clean fuel as defined in Subsection 19-1-402(~~[1]~~2).

"Clean~~[-fuel]~~ vehicle" means clean-fuel vehicle as defined in Subsection 19-1-402(~~[2]~~3).

"Dwelling" means dwelling as defined in Subsection 19-1-402(4).

"Department" means the Utah Department of Environmental

Quality.

"Energy-efficient building envelope improvements" means energy-efficient building envelope improvements as defined in Subsection 19-1-402(7).

"Fund" means fund as defined in Subsection 19-1-40[3]2(8).

"Government vehicle" means government vehicle as defined in Subsection 19-1-402([5]9).

"Grant" means monies awarded to an applicant from the fund that do not have to be repaid.

~~["Electric hybrid vehicle" means electric hybrid vehicle as defined in Subsection 19-1-402(3)].~~

"OEM vehicle" means OEM vehicle as defined in Subsection 19-1-402([7]12).

"Private sector business vehicle" means private sector business vehicle as defined in Subsection 19-1-402([8]13).

"Qualified energy-efficient residential dwelling" means a newly-constructed residential dwelling with an energy rating index (ERI) score equal to or below 51 in climate zone 3, 55 in climate zone 5, and 54 in climate zone 6. Energy rating index scores shall be calculated in accordance with ANSI/RESNET/ICC 301 and certified by an EPA-approved ENERGY STAR Home Certification Organization (HCO) such as RESNET.

"Refueling equipment" means refueling equipment as defined in Subsection 19-1-402([9]15).

R305-4-3. Grant and Loan Eligibility.

(1) Eligibility for grants ~~and loans~~ from the fund is limited to projects for:

(a) government vehicles and private sector business vehicles that meet the eligibility requirements set forth in Rule R307-123~~, and for~~;

(b) refueling equipment dispensing a clean fuel as provided for in Subsections 19-1-403-23(a)(ii) and(d) within the state of Utah; and

(c) installation of energy-efficient building envelope improvements and construction of a qualified energy-efficient residential dwelling as provided in Subsection 19-1-403(6).

(2) Eligibility for loans from the fund is limited to projects for:

(a) government vehicles and private sector business vehicles that meet the eligibility requirements set forth in R307-123;

(b) refueling equipment dispensing a clean fuel as provided for in Subsections 19-1-403-3(a)(ii) and(d) within the state of Utah.

R305-4-4. Preliminary Approval Application Procedure.

(1) All grant and loan applicants shall apply on forms provided by the [D]department as required by Subsection 19-1-404(1)(b)(vi[±])(A), and shall provide additional project information as requested by the [D]department.

(2) All private sector businesses applying for a ~~grant or~~ loan shall also complete a financial application that includes the following information:

(a) a current credit report from a reporting bureau authorized by the [D]department;

(b) a completed balance sheet of the personal or real property that will be used to secure the loan;

(c) copies of federal and state income tax returns for the last two years for the ~~corporation and the~~ applicant; and

(d) additional information as requested by the [D]department.

(3) All a[A]pplicants:

(a) may be charged an application fee of \$140 for vehicle loans, \$280 for grants, and \$350 for infrastructure loans as authorized in Subsection 19-1-403(~~3~~4)(a);

(b) shall sign a statement acknowledging that:

(i) approved projects must meet all the eligibility requirements listed in Rule R307-123; and

(ii) applicants that are pre-approved are not guaranteed project reimbursement by the [D]department; and

(c) shall agree in writing to the provisions in Subsections 19-1-404(1)(b)(vi~~+~~)(B) through (E), and

(d) shall, in the event that a vehicle converted or purchased using loan or grant proceeds becomes inoperable through mechanical failure or accident:

(i) continue to repay the loan whether or not the vehicle is repairable; or

(ii) appeal to the [D]department for a resolution as provided for in Subsection 19-1-404(1)(b)(vi~~+~~)(C).

(A) Applicants that wish to appeal to the [D]department shall:

1. provide reasonable documentation that the vehicle converted or purchased is inoperable through mechanical failure or accident; and

2. propose a course of action that may include adjusting the loan repayment schedule or terms of the loan or grant.

(B) Any remedy pursued by the [D]department will be handled on a case-by-case basis and at the discretion of the [D]department.

(4) Once the [D]department has deemed that the application is complete and the proposed project complies with this rule, the application shall be reviewed by a committee consisting of at least the following:

(a) the Division of Air Quality (DAQ) Grant and Loan Program Coordinator or designee;

(b) ~~the~~a [DAQ-Mobile] Section Manager from the DAQ or designee;

(c) two DAQ technical specialists chosen by the [D]department; and

(d) other members as designated at the discretion of the [D]department.

(5) The committee will evaluate each application according to the criteria provided in Sections R305-4-6 and 7.

(6) When considering grant and loan applications, the [D]department may modify the dollar amount or project scope for which a grant or loan is awarded.

(7) Submission of an application under this program and this rule constitutes the applicant's acceptance of the criteria and procedures of this rule.

R305-4-5. Final Approval Procedure and Payment Process.

(1) Once an applicant's project has been pre-approved to receive a grant or loan, the applicant shall provide:

(a) for vehicles, the demonstration of eligibility requirements in Sections R307-123-3 through 5; and

(b) for refueling equipment, the following documentation:

(i) the name of the facility (including facility and/or unit number, if applicable) where refueling equipment will be installed and used;

(ii) the address of the facility where refueling equipment will be installed and used;

- (iii) the government-issued building permit for the site at which the refueling equipment will be installed and used; and
- (iv) an original or copy of the bill of sale or sales contract from the purchase of the refueling equipment;
- (c) for installation of energy-efficient building envelope improvements, the following documentation:
 - (i) the date of installation;
 - (ii) address of dwelling that was improved;
 - (iii) an original or copy of the purchase order, customer invoice, or receipt itemizing the energy-efficient building envelope improvements, the rating of the improvements, and the costs of the improvements;
 - (iv) documentation of the total square footage of the dwelling; and.
 - (v) additional information as requested by the department.
- (d) for construction of a qualified energy-efficient residential dwelling, the following documentation:
 - (i) construction completion date;
 - (ii) address of dwelling;
 - (iii) an original or copy of the purchase order, customer invoice, or receipt showing that the residence meets the qualified energy-efficiency rating requirements defined in Section R305-4-2;
 - (iv) documentation of the total square footage of the dwelling; and
 - (v) additional information as requested by the department.

(2) Once an applicant has obtained final approval to receive a grant or loan, including signed contract documents, monies from the fund will be issued as reimbursements for the applicant's project costs.

(3) The approved applicant shall continue to comply with the provisions of this rule.

R305-4-6. Prioritization of Awards for Grant Applications.

As required by Subsection 19-1-404(1)(b)([±]v), the [D]department shall[will] consider the following criteria in prioritizing and awarding grants:

- (1) The feasibility and practicality of the project;
- (2) The financial need of the applicant including its financial condition and the availability of other grants, rebates, or low-interest loans for the project; and
- (3) Whether and to what extent the project is leveraged; and
- (4) The environmental and other benefits to the state and local community attributable to the project.
- (5) When determining feasibility, the committee established in Subsection R305-4-4(4) may consider [~~but are not limited to~~] the following criteria:
 - (a) information regarding the cost of the project relative to market cost [~~information~~]; and
 - (b) the length of time proposed to complete the project.
- (6) When determining practicality, the committee established in Subsection R305-4-4(4) may consider [~~but are not limited to~~] the following criteria:
 - (i) the technology selected for the project; and
 - (ii) the location of the project.
- (7) When determining the environmental and other benefits to the state and local community attributable to the project, the committee established in Subsection R305-4-4(4) may consider but is not limited to the following criteria:
 - (a) the pollution reduction benefits attributable to the project;

- (b) the location of the project;
- (c) the ratio of the total project cost to the environmental and other benefits attributable to the project; and
- (d) the accessibility and openness of any refueling equipment to the public, if applicable.

R305-4-7. Prioritization of Awards for Loan Applications.

As required by Subsection 19-1-404(1)(b)(~~iii~~), the [D]department ~~shall~~ consider the following criteria in prioritizing and awarding loans:

- (1) The feasibility and practicality of the project;
 - (2) The financial need of applicant including its financial condition and the availability of other grants, rebates, or low-interest loans for the project;
 - (3) Whether and to what extent the project is leveraged;
 - (4) The environmental and other benefits to the state and local community attributable to the project; and
 - (5) The applicant's creditworthiness.
- (6) When determining feasibility, the committee established in Subsection R305-4-4(4) may consider ~~but are not limited to~~ the following criteria:
- (a) information regarding the cost of the project relative to market cost ~~information~~; and
 - (b) the length of time proposed to complete the project.
- (7) When determining practicality, the committee established in Subsection R305-4-4(4) may consider ~~but are not limited to~~ the following criteria:
- (a) the technology selected for the project; and
 - (b) the location of the project.
- (8) When determining the environmental and other benefits to the state and local community attributable to the project, the committee established in Subsection R305-4-4(4) may consider ~~but are not limited to~~ the following criteria:
- (a) pollution reduction benefits attributable to the project;
 - (b) the location of the project;
 - (c) the accessibility and openness of any refueling equipment to the public, if applicable; and
 - (d) the ratio of the total project cost to the environmental and other benefits attributable to the project.

R305-4-8. Grant Program Limitations.

- (1) Grant applications shall not be approved if:
 - (a) awarding a grant to an applicant would result in the [D]department's inability to fulfill its obligations under this program or this rule;
 - (b) the applicant does not meet the approval requirements of Sections R305-4-4 and 5, and the project eligibility requirements of Rule R307-123;
 - (c) the fund balance is zero;
 - (d) awarding a grant to an applicant would result in the fund balance being less than zero;
 - (e) the OEM clean vehicle purchased with the grant funds has previously been titled, registered, or driven more than 7,500 miles by a person or entity other than the applicant.
 - (f) the amount of a grant for any vehicle will exceed the requirements~~provisions~~ in Subsections 19-1-403(~~2~~3)(c); ~~or~~
 - (g) the total amount awarded for the purchase of vehicle refueling equipment will exceed the actual cost of the refueling equipment~~-~~or

(h) the amount provided per dwelling for installation of energy-efficient building envelope improvements at a dwelling, or construction of a qualified energy-efficient residential dwelling exceeds the requirement in 19-1-403(6)(b).

(2) The annual combined total for all grants approved shall not exceed a maximum of \$~~500,000~~20,000,000 as authorized by Subsection 19-1-404(1)(b)(i).

(3) The maximum number of vehicles purchased, or converted~~[, or retrofitted]~~ using grant funds by any fleet operator shall not exceed 100 vehicles, as authorized by Subsection 19-1-404(1)(b) (ii~~[±]~~).

(4) The maximum amount that may be approved by the [D]department for a grant for energy-efficient building practices is \$2,000,000 and for all other grants is \$100,000.~~[÷]~~

(5) ~~[±]~~The minimum amount that may be approved is \$5,000.

~~[5]~~6) Awards for applicants for both a grant and loan will not exceed the actual cost of the approved project, minus the amount of any tax credit claimed under Sections 59-7-6~~[05]~~18.1 or 59-10-10~~[09]~~33.1.

R305-4-9. Loan Program Limitations.

(1) Loan application shall not be approved if:

(a) awarding a loan to an applicant would result in the [D]department's inability to fulfill its obligations under this program or this rule;

(b) the applicant does not meet the approval requirements of Sections

R305-4-4 and 5, and the project eligibility requirements of Rule R307-123;

(c) the fund balance is zero;

(d) awarding a loan to an applicant would result in the fund balance being less than zero;

(e) the OEM clean vehicle purchased with the loan funds has previously been titled, registered, or driven more than 7,500 miles by a person or entity other than the applicant;

(f) the amount of a loan for any vehicle will exceed the ~~[provisions]~~requirements in Subsection 19-1-403~~([2]3)~~(b) minus the amount of any tax credit claimed under Sections 59-7-6~~[05]~~18.1 or 59-10-10~~[09]~~33.1; or

(g) the amount to be loaned for the purchase of vehicle refueling equipment will exceed the ~~[provisions]~~requirements in Subsection 19-1-403~~([2]3)~~(d)(ii).

(2) The maximum amount that may be approved by the [D]department for a loan is \$200,000; the minimum amount that may be approved is \$5,000.

(3) Awards for applicants applying for both a grant and loan will not exceed the actual cost of the approved project, minus the amount of any tax credit claimed under Sections 59-7-6~~[05]~~18.1 or 59-10-10~~[09]~~33.1.

R305-4-10. Servicing the Loans and Loan Repayment.

(1) Loan repayment schedules shall:

(a) not exceed ten years, as required by Subsection 19-1-404(2)(b);

(b) be based on the financial situation and income circumstances of each borrower;

(c) be amortized with equal payment amounts;

(d) be of such amount to pay all interest and principal in full; and

(e) consider projected savings from the use of the clean ~~[fuel-]~~vehicle as required by Subsection 19-1-404(2)(a). In determining projected savings, the [D]department may use all current and relevant market cost information.

(2) The initial installment payment is due on a date established by the [D]department.

(3) Subsequent installment payments are due:

(a) on the first day of each month for private sector businesses; or

(b) as determined by the [D]department for government entities.

(4) A notice of payment and due date shall be sent for each subsequent payment. Non-receipt of the statement of account or notice of payment shall not be a defense for non-payment or late payment.

(5) Loans made from the fund for a government vehicle shall be made with no interest rate as required by Subsection 19-1-404(2)(d).

(6) Loans made from the fund for a private sector vehicle shall be made at an interest rate provided by Subsection 19-1-404(2)(c).

(7) Any changes in interest rates, re-negotiation of contract terms, or elimination of debt must be approved~~[receive approval]~~ by the [D]department.

(8) Loan payments received shall be applied first to penalty, next to interest, and then to principal.

(9) Loan payments may be made in advance or the remaining principal balance of the loan may be paid in full at any time without penalty.

(10) Penalties for late loan payments shall be:

(a) ten percent of the payment due;

(b) assessed and payable on payments received by the [D]department more than 15 days after the due date;

(c) assessed only once per scheduled payment; and

(d) noticed to the borrower with the amounts of penalty and the total payment due.

(11) Payments shall be considered received on the day of the U.S. Postal Service post mark date or receipted date for payments delivered to the [D]department by methods other than the U.S. Postal Service.

(12) If a loan payment check is returned due to insufficient funds, a service charge in the amount allowed by law shall be added to the payment amount due.

(13) Notice of loans paid in full shall be sent after all penalties, interest, and principal have been paid.

R305-4-11. Recovering on Defaulted Loans.

(1) Loans may be considered in default when three consecutive payments are past due by 30 days or more.

(2) If the loan is determined to be in default under Subsection R305-4-11(1), the [D]department or Division of Finance may declare the full amount of the defaulted loan, penalty, and interest immediately due.

(3) The [D]department or Division of Finance need not give notice of default prior to declaring the full amount due and payable.

(4) The borrower shall be liable for attorney's fees and collection costs for defaulted loans, whether incurred before or after court action.

R305-4-12. Review.

The [D]department reserves the right to review all data and applicants for continued compliance with this rule during the period the approved applicant has an outstanding loan obligation. The [D]department further reserves the right to request supplemental information it may deem necessary from an applicant ~~[in order]~~ to effectively administer the program and this rule.

R305-4-13. Indemnification.

The state government of Utah, any subdivision, or any agent of state government with responsibility for or obligation to the program cannot be held liable for injury or damage to persons, vehicles or other property caused by or involved with any equipment or vehicle purchased or converted to use a clean fuel [~~or retrofitted~~]in this program.

KEY: air pollution, [~~alternative~~]clean fuels, grants and loans, motor vehicles

Date of Enactment or Last Substantive Amendment: [~~July 8, 2014~~]

Notice of Continuation: June 13, 2018

Authorizing, and Implemented or Interpreted Law: 19-1-40[1]2 through 19-1-404