

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rulemaking related to tax certification of pollution control or recycling property

The Environmental Protection Commission (Commission) hereby rescinds Chapter 11, “Tax Certification of Pollution Control or Recycling Property,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 427.1(19)“d.”

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 427.1(19).

Purpose and Summary

Chapter 11 clarifies the process and eligibility criteria for properties to obtain a pollution control or recycling certification from the Department of Natural Resources (Department). This certification allows the owner to apply for a property tax exemption through their local county assessor’s office.

Consistent with Executive Order 10 (January 10, 2023) and the five-year review of rules in Iowa Code section 17A.7(2), Chapter 11 was edited for length and clarity.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 27, 2023, as **ARC 7222C**. Public hearings were held on January 16, 2024, at 1 p.m. and January 17, 2024, at 11 a.m. via video/conference call. No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commission on April 16, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 567—Chapter 10.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on June 19, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 567—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11

TAX CERTIFICATION OF POLLUTION CONTROL OR RECYCLING PROPERTY

567—11.1(427) Form. All requests for the department to certify air or water pollution control recycling property pursuant to Iowa Code section 427.1(19) shall be submitted on a form prescribed by the department. Through these forms, the department may request any information necessary to make a determination under 567—11.5(427).

567—11.2(427) Time of submission. A request may be submitted at any time. Taxpayers are reminded that failure to dispatch a request sufficiently in advance of the February 1 deadline for filing with the assessing authority may cause the applicant to fail to qualify for the first possible annual exemption.

567—11.3(427) Notice. The department shall notify the taxpayer of the decision within ten days of receipt of a complete request. The notice shall include either the certificate if the decision is to certify the property as requested, or a concise statement of reasons for denial if the decision is to deny the request or to certify a lesser portion of the property than requested. The determination of the department to deny or grant only a portion of the request may be appealed to the commission pursuant to 567—Chapter 7.

567—11.4(427) Issuance. Upon the decision of the department or the commission on appeal to certify all or any portion of the property for which a request has been made, two copies of the certificate will be signed by the director or the director's designee and mailed to the taxpayer. The certificate shall describe the property certified and state the date on which the department certified the property.

567—11.5(427) Criteria for determining eligibility.

11.5(1) General. Property that has been installed and is used primarily to meet an effluent standard, a water quality standard, or an emission standard or to control hydrocarbons, fugitive dust, odors or other air contaminants in a reasonably adequate manner shall be considered to be used primarily to control or abate pollution of the water or air of the state. Property that has been installed to meet a standard more stringent than an emission or water quality standard shall be considered to be used primarily to enhance the quality of the water or air of the state. Personal property or improvements to real property as defined by Iowa Code section 427A.1 or any portion of the property used primarily in the manufacturing process and resulting directly in the conversion of waste plastic, wastepaper products, waste paperboard, waste glass, or waste wood into new raw materials or products composed primarily of recycled material shall be considered recycling property. Each request will be considered in the context of its particular circumstances.

In the event that such property also serves other purposes or uses of productive benefit to the owner of the property, only such portion of the assessed valuation thereof as may reasonably be calculated to be necessary for and devoted to the control or abatement of pollution, to the enhancement of the quality of the air or water of this state, or for recycling shall be exempt from taxation.

11.5(2) Denial. Property may be denied certification if it is not being operated in compliance with the rules of the department so as to effectively control or abate pollution or enhance the quality of the air or water of the state, or recycle property into new raw materials or products composed primarily of recycled material. Property that was constructed or installed without permits required from the department will be

denied certification unless and until such time as the property has received after-the-fact approval from the department.

These rules are intended to implement Iowa Code section 427.1(19).

[Filed 4/16/24, effective 6/19/24]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/15/24.