

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

**Proposing rule making related to beginning farmer programs
and providing an opportunity for public comment**

The Iowa Finance Authority hereby proposes to amend Chapter 44, “Iowa Agricultural Development Division,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 16.5 and 2019 Iowa Acts, House File 768, section 7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 16, subchapter VIII, part 5, as amended by 2019 Iowa Acts, House File 768.

Purpose and Summary

2019 Iowa Acts, House File 768, creates a Beginning Farmer Tax Credit Program. Pursuant to 2019 Iowa Acts, House File 768, section 7, the authority is directed to adopt rules that are necessary for the administration of the program. This proposed rule making sets forth the eligibility criteria for eligible taxpayers and qualified beginning farmers, the requirements of an agricultural lease agreement upon which the tax credit is based, the process to be followed when a lease is amended, the application process and the required content of the tax credit application, and the procedure for calculating tax credit awards.

The rule making also updates outdated statutory references and amends the Beginning Farmer Loan Program’s eligibility criteria and related definitions to clarify the differences between the loan program and the tax credit program.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, a positive impact on jobs is expected. The Beginning Farmer Tax Credit Program is likely to create additional opportunities for individuals who wish to begin farming in Iowa.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on November 12, 2019. Comments should be directed to:

Kristin Hanks-Bents
Iowa Finance Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Email: kristin.hanks-bents@iowafinance.com

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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).

The following rule-making actions are proposed:

ITEM 1. Amend rule 265—44.1(16) as follows:

265—44.1(16) General.

44.1(1) *Description of Iowa agricultural development ~~division (IADD)~~ (IAD) board.* The ~~IADD~~ IAD board consists of five members appointed by the governor. The executive director of the Iowa finance authority or the executive director’s designee shall serve as an ex officio nonvoting member. Members are appointed for staggered six-year terms. The appointed members shall elect a chairperson and vice chairperson annually, and other officers as the appointed members determine.

44.1(2) *Division organization and personnel.* The executive director of the authority may organize the division and employ necessary qualified personnel.

44.1(2) 44.1(3) *General course and method of operations.* The ~~IADD~~ IAD board generally meets on a monthly basis or at the call of the chairperson or whenever two appointed members so request. The purpose of the meetings shall be to review progress in implementation and administration of programs, to consider and act upon proposals for assistance, and take other actions as necessary and appropriate.

44.1(3) 44.1(4) *Location where public may submit requests for assistance or obtain information.* Requests for assistance or information should be directed to the Iowa finance authority at the address set forth in rule 265—1.3(16); telephone (515)725-4900. Requests may be made personally, by telephone, U.S. mail or any other medium available, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Special arrangements for accessibility to the authority at other times will be provided as needed.

ITEM 2. Amend rule 265—44.2(16) as follows:

265—44.2(16) Definitions.

“Act” means Iowa Code chapter 16.

“Agricultural asset” means agricultural land, located in this state, including any agricultural improvements, machinery, equipment, and other depreciable agricultural property, ~~crops or livestock used for farming purposes.~~

“Agricultural development board” or “IAD board” means the agricultural development board created in Iowa Code section 16.2C and described in rule 265—44.1(16).

~~“Agricultural asset transfer agreement” means any commonly accepted written agreement which specifies the terms of the transfer of operation of the agricultural asset. The agreement may be made on a cash basis or a commodity share basis.~~

~~“Agricultural improvements” means any improvements, buildings, structures or fixtures suitable for use in farming which are located on agricultural land. “Agricultural improvements” includes a single-family dwelling located on agricultural land which is or will be occupied by the beginning farmer and structures attached to or incidental to the use of the dwelling.~~

~~“Agricultural land” means land located in Iowa suitable for use in farming and which is or will be operated as a farm.~~

~~“Agricultural lease agreement” or “agreement” means an agreement for the transfer of agricultural assets, that must at least include a lease of agricultural land, from an eligible taxpayer to a qualified beginning farmer as provided in 2019 Iowa Acts, House File 768, section 9.~~

~~“Application” means a completed instrument on a form approved by IADD.~~

~~“Authority” means the Iowa finance authority created in Iowa Code section 16.1A.~~

~~“Beginning farmer” means an individual, partnership, family farm corporation, or family farm limited liability company, with a low or moderate net worth that engages in farming or wishes to engage in farming.~~

~~“BFCF” means beginning farmer custom farming tax credit program.~~

~~“BFCF eligible applicant” means an individual, partnership, family farm corporation or family farm limited liability company that has a net worth of not more than the maximum allowable net worth. The applicant must also satisfy all of the criteria contained in Iowa Code sections 16.79 and 16.81 and the provisions of these rules relating to recipient eligibility.~~

~~“BFLP” means beginning farmer loan program.~~

~~“BFLP eligible applicant beginning farmer” means an individual who has a net worth of not more than the maximum allowable net worth. The applicant must also be a beginning farmer, as defined in Iowa Code section 16.75, who satisfies all of the criteria contained in the Act and provisions of these rules relating to recipient eligibility a beginning farmer who also meets the requirements of a first-time farmer as defined in Section 147(c) of the Internal Revenue Code.~~

~~“BFTC” means beginning farmer tax credit program.~~

~~“BFTC eligible applicant” means an individual, partnership, family farm corporation or family farm limited liability company that has a net worth of not more than the maximum allowable net worth. The applicant must also satisfy all of the criteria contained in Iowa Code sections 16.79 and 16.80 and the provisions of these rules relating to recipient eligibility.~~

~~“Bond purchaser” means any lender or any person, as defined in Iowa Code section 4.1(20), who purchases an authority bond under the individual agricultural development bond program.~~

~~“Cash basis rent agreement” means an agreement whereby operation of the agricultural asset is transferred via a fixed cash payment per annum.~~

~~“Commodity share basis agreement” means an agreement whereby operation of the agricultural asset is transferred via a risk-sharing mechanism, whereby the agricultural asset owner receives a portion of the production as payment for use of the agricultural asset.~~

~~“Custom farming contract” means any commonly accepted written contract which specifies the terms of the work to be performed by the beginning farmer for an Iowa landowner or tenant or livestock owner. The contract must provide for the production of crops or livestock located on agricultural land. The taxpayer will pay the BFCF eligible applicant on a cash basis, and the total amount paid for each tax year that the tax credit is claimed must equal at least \$1,000. The contract must be in writing for a term of not more than 24 months. A contract is not allowed if the taxpayer and BFCF eligible applicant are: persons who hold a legal or equitable interest in the same agricultural land or livestock; related family members, such as spouse, child, stepchild, brother, or sister; or partners in the same partnership which holds a legal or equitable interest.~~

~~“Eligible taxpayer” means a taxpayer who is eligible to participate in the beginning farmer tax credit program, including by meeting all the criteria provided in paragraph 44.6(1) “a.”~~

“Farm” means a farming enterprise which is generally recognized as a farm rather than a rural residence.

“Farming” means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing, the production of livestock, aquaculture, hydroponics, the production of forest products, or other activities designated by the authority.

“Flex lease agreement” means an agreement whereby operation of the agricultural asset is transferred via a combination of fixed cash payments and, at times, additional payment based on the production or other variables.

“IADD” means the Iowa agricultural development division of the Iowa finance authority.

“Lender” means any regulated bank, trust company, bank holding company, mortgage company, national banking association, savings and loan association, life insurance company, state or federal governmental agency or instrumentality, or other financial institution or entity authorized and able to make mortgage loans or secured loans in this state.

~~“Low-income farmer” means a farmer who cannot obtain financing to purchase agricultural property without the assistance of an LPP loan with the authority.~~

“Low or moderate net worth” means a net worth that does not exceed the maximum allowable net worth defined in this rule.

“LPP” means loan participation program.

~~“LPP eligible applicant” means an individual who has a net worth of not more than the maximum allowable net worth. The applicant must be a low-income farmer who cannot obtain financing to purchase agricultural property without the assistance of an LPP loan and who satisfies all of the criteria contained in the Act and the provisions of these rules relating to recipient eligibility.~~

“LPP loan” means the “last-in/last-out” loan participation requested by the lender from the authority.

~~“Maximum allowable net worth” for calendar year 2013 is \$691,172. The means the maximum allowable net worth for each calendar year which shall be increased or decreased as of January 1 of such calendar year from the previous year by an amount equal to the percentage increase or decrease (September to September) in the United States Department of Agriculture “Index of Prices Paid for Commodities and Services, Interest, Taxes, and Farm Wage Rates” reported as of October 1 of the immediately preceding calendar year. The maximum allowable net worth will be rounded to the nearest thousand dollars. The authority will post the maximum allowable net worth for each calendar year on its website at www.iowafinanceauthority.gov.~~

“Net worth” means total assets minus total liabilities as determined in accordance with generally accepted accounting principles with appropriate exceptions and exemptions reasonably related to an equitable determination of the net worth of the individual, partnership, limited liability company or corporation. Assets shall be valued at fair market value.

“Participated loan” means a loan or loans, any portion of which is participated to the authority by the lender.

“Qualified beginning farmer” means a beginning farmer who is eligible to participate in the beginning farmer tax credit program by meeting the criteria set forth in paragraph 44.6(1)“b.”

“Total assets” means all assets including but not limited to cash, crops or feed on hand, livestock held for sale, breeding stock, marketable bonds and securities, securities not readily marketable, accounts receivable, notes receivable, cash invested in growing crops, net cash value of life insurance, machinery, equipment, cars, trucks, farm and other real estate including life estates and personal residence, value of beneficial interest in a trust, government payments or grants, and any other assets.

“Total assets” shall not include items used for personal, family or household purposes by the applicant; but in no event shall any property be excluded, to the extent a deduction for depreciation is allowable for federal income tax purposes. All assets shall be valued at fair market value by the lender. The value shall be what a willing buyer would pay a willing seller in the locality. A deduction of 10 percent may be made from fair market value of farm and other real estate.

“Total liabilities” means all liabilities including but not limited to accounts payable, notes or other indebtedness owed, taxes, rent, amount owed on any real estate contract or real estate mortgage,

judgments, accrued interest payable, and any other liabilities. Liabilities shall be determined on the basis of generally accepted accounting principles.

In only those cases where the liabilities include an amount for deferred tax liability that causes the applicant's net worth to change from exceeding the maximum allowable net worth to an amount no greater than the maximum allowable net worth, the applicant is required to have a certified public accountant prepare the financial statement and provide supporting calculations and documentation acceptable to the board.

"USDA" means the United States Department of Agriculture.

"USDA-NASS" means the United States Department of Agriculture's National Agricultural Statistical Service.

~~"Veteran"~~ means the same as defined in Iowa Code section 35.1.

ITEM 3. Rescind rule 265—44.3(16) and adopt the following **new** rule in lieu thereof:

265—44.3(16) Beginning farmer loan program eligibility. A loan to or on behalf of a beginning farmer shall be provided only if the following criteria are satisfied:

1. The beginning farmer is an individual and a resident of Iowa.
2. The agricultural land and agricultural improvements or depreciable agricultural property the beginning farmer proposes to purchase will be located in the state.
3. The beginning farmer has sufficient education, training, or experience in the type of farming for which the beginning farmer requests the loan and must demonstrate that education, training, or experience to the satisfaction of the authority.
4. If the loan is for the acquisition of agricultural land, the beginning farmer has or will have access to adequate working capital, farm equipment, machinery, or livestock. If the loan is for the acquisition of depreciable agricultural property, the beginning farmer has or will have access to adequate working capital or agricultural land. In the loan application, the beginning farmer must demonstrate to the satisfaction of the authority that the beginning farmer has or will have access to adequate working capital, farm equipment, machinery, or livestock.
5. The beginning farmer shall materially and substantially participate in farming.
6. The agricultural land and agricultural improvements shall only be used for farming by the beginning farmer, the beginning farmer's spouse, or the beginning farmer's minor children.

ITEM 4. Strike "eligible applicant" and "eligible applicants" wherever they appear in rule **265—44.4(16)** and insert "beginning farmer" and "beginning farmers," respectively, in lieu thereof.

ITEM 5. Amend subrule 44.5(1) as follows:

44.5(1) Program summary. The loan participation program is intended to assist lenders and **LPP eligible applicants** (hereinafter referred to as "**borrower(s)**") **beginning farmers** by purchasing a portion of a loan made by a lender to a **borrower beginning farmer** for the purchase of agricultural property.

a. *Supplement to ~~borrower's~~ beginning farmer's down payment.* The LPP loan can be used to supplement the ~~borrower's~~ **beginning farmer's** down payment so that the ~~borrower~~ **beginning farmer** can more readily secure a loan (the "participated loan") from a lender.

b. *Last-in/last-out collateral position.* The program enables lenders to request a "last-in/last-out" LPP loan from the authority. The lender, on behalf of the ~~borrower~~ **beginning farmer**, shall apply for the LPP loan on application forms provided by the authority.

c. *Lender's certification.* The lender and the ~~borrower~~ **beginning farmer** shall certify that the information included in the application and any other documents submitted for consideration is true and correct to the best of their knowledge.

d. *LPP loan in conjunction with BFLP loan.* The loan participation program may be used in conjunction with the authority's beginning farmer loan program, provided the ~~borrower~~ **beginning farmer** meets the criteria for both programs.

ITEM 6. Amend paragraph **44.5(3)"e"** as follows:

e. *Machinery and equipment.* The participated loan can be used for the purchase of agricultural machinery and equipment for which an income tax deduction for depreciation is allowed in computing

state and federal income taxes. This machinery and equipment must be used in the ~~borrower's~~ beginning farmer's farming operation.

ITEM 7. Amend subrule 44.5(5) as follows:

44.5(5) Program parameters.

a. *Purchase price impact.* Maximum LPP loan amount and loan terms will be determined by the ~~IADD~~ IAD board.

b. *LPP interest rate.* The ~~IADD~~ IAD board will set the interest rate on the LPP loan.

c. *LPP loans outstanding.* Loans under the program may be issued more than once, provided that the outstanding LPP loan totals do not exceed the maximum amount set by the ~~IADD~~ IAD board.

ITEM 8. Amend subrule 44.5(6) as follows:

44.5(6) LPP loan application procedures.

a. *Financial statement.* Lenders may use their own form of financial statement. The authority may require other forms deemed necessary and appropriate to document the eligibility of the ~~borrower~~ beginning farmer and the ~~borrower's~~ beginning farmer's ability to make principal and interest payments.

If the ~~borrower~~ beginning farmer or the ~~borrower's~~ beginning farmer's spouse is involved in a business, partnership, limited liability company, or corporation, either related or unrelated to the ~~borrower's~~ beginning farmer's farming operation, a financial statement from this entity must also be submitted with the application.

b. *Income statement.* A copy of the ~~borrower's~~ beginning farmer's prior three years' federal income tax returns (if available) shall be submitted.

c. *Background letter.* The application will also include a background letter on the ~~borrower~~ beginning farmer, documenting to the satisfaction of the authority sufficient training, experience and access to capital.

d. *Credit evaluation.* ~~The lender will submit a credit evaluation of the project for which an LPP loan is sought.~~ The lender will evaluate the ~~borrower's~~ beginning farmer's net worth and ability to pay principal and interest and certify the sufficiency of security for the participated loan. The authority will review the application and make its own credit evaluation prior to issuance of an LPP loan.

e. and f. No change.

g. *Recording documents and fees.* Any recording or filing fees or transfer taxes associated with the participated loan will be paid by the ~~borrower~~ beginning farmer or lender and not the authority. Also, the authority will have no responsibility with respect to the preparation, execution, or filing of any declaration of value or groundwater hazard statements.

ITEM 9. Amend subrule 44.5(7) as follows:

44.5(7) Loan administration procedures.

a. *Lender's responsibilities.* The lender is responsible for servicing the participated loan following accepted standards of loan servicing and for transferring LPP loan payments to the authority.

(1) At the request of ~~IADD~~ the authority, the lender shall:

1. On an annual basis, provide the authority with copies of a current financial statement or a current tax return, or both.

2. Provide copies of insurance to the authority with the lender named as loss payee. The lender will apply payments to the participated loan according to the IADD-approved amortization schedule(s) or on a pro-rata basis.

(2) The lender shall not, without prior consent of the authority:

1. Make or consent to any substantial alterations in the terms of any participated loan instrument;

2. Make or consent to releases of security or collateral unless replaced with collateral of equal value on the participated loan;

3. ~~Use the collateral purchased with funds from the participated loan as security for any other loan without prior written consent of the authority;~~

4. ~~3.~~ Accelerate the maturity of the participated loan;

5. ~~4.~~ Sue upon any participated loan instrument;

6. 5. Waive any claim against any ~~borrower~~ beginning farmer, cosignor, guarantor, obligor, or standby creditor arising out of any instruments.

b. to d. No change.

e. *Subsequent loans.* Any loan or advance made by a lender to a ~~borrower~~ beginning farmer subsequent to the beginning farmer's obtaining an LPP loan under the program and secured by collateral or security pledged for the participated loan will be subordinate to the participated loan.

f. *Events of loan default.*

(1) Default will occur when the participated loan payment is 30 days past due. Notice to cure will be sent by the lender to the ~~borrower~~ beginning farmer with a copy sent to the authority; and the lender will take appropriate steps to cure the default through mediation, liquidation, or foreclosure if needed.

(2) and (3) No change.

g. *Applying principal and interest payments.* Lenders shall receive all payments of principal and interest. All payments made prior to liquidation or foreclosure shall be made according to the IADD-approved amortization schedule(s) or on a pro-rata basis. All accrued interest must be paid to zero at least annually on the anniversary date of the note.

h. No change.

ITEM 10. Amend subrule 44.5(8) as follows:

44.5(8) Right to audit. The authority shall have, at any time, the right to audit records of the lender and the ~~borrower~~ beginning farmer relating to any participated loan made under the program.

ITEM 11. Amend rule 265—44.6(16) as follows:

265—44.6(16) Beginning farmer tax credit program.

44.6(1) Eligibility.

a. *Eligible taxpayer.* A taxpayer is eligible to participate in the beginning farmer tax credit program if the taxpayer meets all of the following requirements:

(1) The taxpayer is a person who may acquire or otherwise obtain or lease agricultural land in this state pursuant to Iowa Code chapter 9H or 9I. However, the taxpayer must not be a person who may acquire or otherwise obtain or lease agricultural land exclusively because of an exception provided in one of those chapters or in a provision of another chapter of the Iowa Code, including but not limited to Iowa Code chapter 10, 10D, or 501 or section 15E.207.

(2) The taxpayer has entered into an agricultural lease agreement with a qualified beginning farmer to lease agricultural land as provided in 2019 Iowa Acts, House File 768, section 9.

(3) The taxpayer has not been at fault for terminating a prior agreement under the program or another agreement in which the taxpayer was allowed to claim a tax credit under Iowa Code section 175.37 as it existed prior to January 1, 2015, or Iowa Code section 16.80 as it existed prior to January 1, 2018.

(4) If the agreement includes the lease of a confinement feeding operation structure as defined in Iowa Code section 459.102, the taxpayer is not a party to a pending administrative or judicial action, including a contested case proceeding under Iowa Code chapter 17A, relating to an alleged violation involving an animal feeding operation as regulated by the department of natural resources, regardless of whether the pending action is brought by the department or the attorney general.

(5) The taxpayer is not a partner of a partnership, shareholder of a family farm corporation, or member of a family farm limited liability company that is the lessee of an agricultural asset that is part of an agricultural lease agreement.

b. *Qualified beginning farmer.* A beginning farmer must meet all of the following criteria to be eligible for participation in the beginning farmer tax credit program:

(1) Is a resident of the state. If the beginning farmer is a partnership, all partners must be residents of the state. If the beginning farmer is a family farm corporation, all shareholders must be residents of the state. If the beginning farmer is a family farm limited liability company, all members must be residents of the state.

(2) Has sufficient education, training, or experience in farming. If the beginning farmer is a partnership, at least one partner who is not a minor must have sufficient education, training, or experience in farming. If the beginning farmer is a family farm corporation, at least one shareholder who is not a minor must have sufficient education, training, or experience in farming. If the beginning farmer is a family farm limited liability company, at least one member who is not a minor must have sufficient education, training, or experience in farming.

(3) Has access to adequate working capital and production items.

(4) Will materially and substantially participate in farming. If the beginning farmer is a partnership, family farm corporation, or family farm limited liability company, at least one of the partners, shareholders, or members who is not a minor must materially and substantially participate in farming.

(5) Does not own more than 10 percent ownership interest in an agricultural asset included in the agreement.

(6) Is of majority age pursuant to Iowa Code section 599.1 and is legally able to enter into a contract.

~~44.6(1)~~ **44.6(2)** *General provisions.*

a. A beginning farmer tax credit is allowed only for agricultural assets that are subject to an agricultural lease agreement entered into by an eligible taxpayer and a qualifying beginning farmer participating in the beginning farmer tax credit program established pursuant to 2019 Iowa Acts, House File 768, section 7.

a. b. Term. The term of the credit shall be equal to the term of the agricultural ~~assets transfer lease~~ agreement, except that any unused credit may be carried forward for a period of ~~ten years~~ set forth in 2019 Iowa Acts, House File 768, section 11, if unused in the tax year the credits are earned. Credits may not be carried back to past tax years.

~~b. Fees.~~ The authority may charge reasonable and necessary fees to defray the costs of this program.

~~c. Expiration of lease.~~ The BFTC eligible applicant will continue to be eligible for the term of the lease. Upon expiration of the lease, both the taxpayer and BFTC eligible applicant must reapply to continue the tax credit.

~~44.6(2)~~ **44.6(3)** *Application procedures.*

a. The authority shall prepare and make available appropriate forms to be used in making application for the tax credit, including forms for both the taxpayer and the BFTC eligible applicant qualified beginning farmer.

b. Each application shall include, but not be limited to, the following:

(1) Taxpayer information: name, and address, email address if available, and social security number, length of the lease, type of lease, and location of the agricultural asset to be leased or tax identification number. In addition, the application shall have attached to it a copy of the lease agreement between the parties. The taxpayer shall also indicate the length of the lease, the type of lease, and the location of the agricultural asset to be leased.

(2) BFTC eligible applicant Qualified beginning farmer information: name and address, email address if available, and location of the asset to be leased. In addition, the application shall have attached to it a copy of the BFTC eligible applicant's most recent qualified beginning farmer's current financial statement (generally prepared one month preceding application submission). The application will also include a background letter on the BFTC eligible applicant qualified beginning farmer documenting to the satisfaction of the authority that the beginning farmer has sufficient education, training, or experience in farming and has access to adequate working capital and production items. This letter may be submitted by one or more of the following: the BFTC eligible applicant qualified beginning farmer, the taxpayer or another third party.

(3) A copy of the agricultural lease agreement that conforms to the requirements set forth in subrule 44.6(4).

c. Complete applications shall be processed in the order they are received by the authority.

d. Authority staff will review applications for completeness and eligibility and make recommendations to the IAD board. The IAD board will review applications and recommendations

from authority staff and make recommendations to the authority. Upon review of the recommendations of the IAD board, the authority will approve, defer, or deny each application.

44.6(3) Execution of an agricultural assets transfer agreement. In addition to the requirements of rule 265—44.6(16), both the taxpayer and the BFTC eligible applicant shall execute an agricultural assets transfer agreement. The form used shall be a commonly accepted form and signed by all parties.

44.6(4) Procedures following tax credit approval. Either the BFTC eligible applicant or the taxpayer shall immediately notify the authority of any material changes in the agricultural assets transfer agreement. Written approval from the authority is required if the change impacts the amount of the tax credit awarded. The authority shall act upon these changes pursuant to Iowa Code section 16.80.

44.6(4) Requirements of an agricultural lease agreement.

a. The agricultural lease agreement must meet the following requirements:

(1) The agreement must include the lease of agricultural land located in this state, including any improvements, and may provide for the rental of agricultural equipment as defined in Iowa Code section 322F.1.

(2) The agreement must include provisions which describe the consideration paid for the agreement in a manner that allows the authority to calculate the value of the lease in order to determine the tax credit amount as provided in 2019 Iowa Acts, House File 768, section 11.

(3) The agreement must be in writing and signed by all parties.

(4) The agreement must be for at least two years, but not more than five years. The agreement may be renewed by the eligible taxpayer and qualified beginning farmer for a term of at least two years, but not more than five years.

(5) The agreement shall not include a lease or rental of equipment intended as a security.

b. The agreement cannot be assigned, and the agricultural land subject to the agreement shall not be subleased.

c. The agricultural assets shall not be leased or rented at a rate that is substantially higher than the market rate for similar agricultural assets leased or rented within the same community. As used in this paragraph, when referring to an agricultural asset that is cropland, “substantially higher” means not more than 30 percent above the average cash rent paid for cropland rented in the same county according to the most recent cash rent survey for cropland published by a unit of Iowa State University of Science and Technology recognized by the authority.

44.6(5) Changes to an agricultural lease agreement.

a. The underlying lease for agricultural land may only be amended without submitting a new application if any of the following apply:

(1) The terms of the amended lease are more favorable to the qualified beginning farmer, including but not limited to the rent payment being reduced.

(2) A party has changed their name.

(3) The owner of an agricultural asset is changed to the owner’s estate or trust upon the eligible taxpayer’s death.

b. If the eligible taxpayer and the qualified beginning farmer are amending an agricultural lease agreement but none of the conditions of paragraph 44.6(5) “a” apply, then the eligible taxpayer must submit a new application for a tax credit.

c. If an amendment to an agreement changes the total amount that will be paid to the eligible taxpayer under the agreement, the eligible taxpayer shall notify the authority in a manner and form prescribed by the authority within 30 days of the date the amendment is executed by the parties.

(1) If the amendment will reduce the total amount paid to the eligible taxpayer under the agreement, the authority shall recalculate and reduce the eligible taxpayer’s tax credit award under 2019 Iowa Acts, House File 768, section 12.

(2) If the amendment will increase the total amount paid to the eligible taxpayer under the agreement, the tax credit award shall not be increased unless the eligible taxpayer submits an amended application to the authority on the relevant form available on the authority’s website and that meets the requirements of 2019 Iowa Acts, House File 768, section 10. If the amended application is approved under 2019 Iowa Acts, House File 768, section 10, the authority may increase the amount of the tax

credit award. The increased amount of the tax credit award shall be subject to the aggregate award limitation in 2019 Iowa Acts, House File 768, section 12, for the calendar year in which the increased award is made.

d. Paragraph 44.6(5) "c" does not apply to an amendment to an agreement that requires a new application under paragraph 44.6(5) "b" in order to be valid.

e. An eligible taxpayer or qualified beginning farmer may terminate an agreement as provided in the agreement or by law. The eligible taxpayer must notify the authority of the termination within 30 days of the date of termination in the manner and form prescribed by the authority.

f. Expiration of lease. Prior to the expiration of the lease, the qualified beginning farmer will continue to be eligible for the term of the lease. Upon expiration of the lease, both the taxpayer and qualified beginning farmer must reapply to continue the tax credit.

44.6(6) Procedure for calculating tax credit awards.

a. The amount of the tax credit for a cash rent agreement equals 5 percent of the amount of rent received for each year.

b. For a commodity share agreement, the amount of the tax credit shall equal 15 percent of the gross amount that the eligible taxpayer would receive as a rent payment from the sale of the eligible taxpayer's share of the crop in each harvest year.

c. To calculate the credit for a commodity share agreement, the authority will use the following assumptions:

(1) Fifty percent of the leased land is allocated to corn and 50 percent of the leased land is allocated to soybeans, unless the lease specifies a different allocation of corn and soybeans. If the lease specifies a different allocation of corn and soybeans, then the leased land will be allocated proportionally, in accordance with the terms of the lease.

(2) For all years of the lease, the prices used for corn and soybeans will be the average prices for the last five years excluding the highest and lowest prices based on the USDA-NASS statewide data calculated at the time the application is approved.

(3) For all years of the lease, the commodity yields used for corn and soybeans will be the past ten-year average per-bushel yields for the same county where the leased land is located excluding the years of highest and lowest per-bushel yields based on the USDA-NASS data calculated at the time the application is approved.

(4) If the lease specifies a crop other than corn and soybeans, the relevant price and yield data from USDA-NASS for that crop will be used.

d. To calculate the credit for a commodity share agreement, the authority will use the following formula: (1/2 acres leased multiplied by corn yield multiplied by corn price multiplied by percentage of owner's share multiplied by .15) plus (1/2 acres leased multiplied by soybean yield multiplied by soybean price multiplied by owner's share multiplied by .15) = the amount of the tax credit. If the lease specifies a different allocation of corn and soybeans, then the leased acres will be in accordance with the terms of the lease.

e. The amount of the tax credit for a flex lease agreement equals the sum of the following amounts:

(1) The portion of the lease that is based on rent will be calculated as a cash rent agreement.

(2) The portion of the lease that is based on crop yield will be calculated as a commodity share agreement.

(3) If the flexible or bonus portion of the lease is based on crop production, the annual yield used to calculate the bonus will be the yield defined in subparagraph 44.6(6) "c"(3). If the annual yield is above the yield needed to trigger the bonus, the taxpayer will be awarded additional tax credits. The formula for calculating the tax credit will be yield above lease bonus trigger multiplied by price multiplied by percentage of owner's share multiplied by 0.15.

(4) For other factors used in a flex lease agreement, the relevant data used will be the past ten-year average per-bushel yield for the same county where the leased land is located excluding the highest and lowest years based on the USDA-NASS data.

f. The amount of the tax credit shall be reduced by the percent ownership interest of the qualifying beginning farmer in the agricultural asset.

ITEM 12. Rescind and reserve rule ~~265—44.7(16)~~.