476C.3 Determination of eligibility.

1. A producer or purchaser of renewable energy may apply to the board for a written determination regarding whether a facility is an eligible renewable energy facility by submitting to the board a written application containing all of the following:

a. Information regarding the ownership of the facility including the percentage of equity interest held by each owner.

b. The nameplate generating capacity of the facility or energy production capacity equivalent.

c. Information regarding the facility's initial placement in service.

d. Information regarding the type of facility and what type of renewable energy the facility will produce.

e. Except when the renewable energy is produced for on-site consumption by the producer, a copy of the power purchase agreement or other agreement to purchase electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose which shall designate either the producer or purchaser of renewable energy as eligible to apply for the renewable energy tax credit.

f. Any other information the board may require.

2. The board shall review the application and supporting information and shall make a preliminary determination regarding whether the facility is an eligible renewable energy facility. The board shall notify the applicant of the approval or denial of the application within thirty days of receipt of the application and information required. If the board fails to notify the applicant of the approval or denial within thirty days, the application shall be deemed denied unless the application is placed on a waiting list as described in subsection 6. An applicant who receives a determination denying an application may file an appeal with the board within thirty days from the date of the denial pursuant to the provisions of chapter 17A. In the absence of a timely appeal, the preliminary determination shall be final. If the application is incomplete, the board may grant an extension of time for the provision of additional information.

3. *a.* A facility that is not operational within thirty months after issuance of an approval for the facility by the board shall cease to be an eligible renewable energy facility. However, a wind energy conversion facility that is approved as eligible under this section but is not operational within eighteen months due to the unavailability of necessary equipment shall be granted an additional twenty-four months to become operational.

b. A facility which notifies the board prior to the expiration of the time periods specified in paragraph "*a*" that the facility intends to become operational and wishes to preserve its eligibility shall be granted a twelve-month extension. An extension may be renewed for succeeding twelve-month periods if the board is notified prior to the expiration of the extension of the continued intention to become operational during the succeeding period of extension.

c. If the owner of a facility discontinues efforts to achieve operational status, the owner shall notify the board. Upon receipt of such notification, the board shall no longer consider the facility as an eligible renewable energy facility under this chapter.

d. A facility that is granted and thereafter loses approval may reapply to the board for a new determination.

4. *a.* The maximum amount of nameplate generating capacity of all wind energy conversion facilities the board may find eligible under this chapter shall not exceed three hundred sixty-three megawatts of nameplate generating capacity.

b. The maximum amount of energy production capacity equivalent of all other facilities the board may find eligible under this chapter shall not exceed a combined output of sixty-three megawatts of nameplate generating capacity and, annually, one hundred sixty-seven billion British thermal units of heat for a commercial purpose.

(1) Of the maximum amount of energy production capacity equivalent of all other facilities found eligible under this chapter, no more than ten megawatts of nameplate generating capacity or energy production capacity equivalent shall be allocated to any one facility.

(2) Of the maximum amount of energy production capacity equivalent of all other

facilities found eligible under this chapter, fifty-five billion British thermal units of heat for a commercial purpose shall be reserved annually for an eligible facility that is a refuse conversion facility for processed, engineered fuel from a multicounty solid waste management planning area. The maximum amount of energy production capacity the board may find eligible for a single refuse conversion facility is, annually, fifty-five billion British thermal units of heat for a commercial purpose.

(3) (a) Of the maximum amount of energy production capacity equivalent of all other facilities found eligible under this chapter, ten megawatts of nameplate generating capacity or energy production equivalent shall be reserved for solar energy conversion facilities that meet all of the following requirements:

(i) The facility has a generating capacity of one and one-half megawatts or less.

(ii) The facility is owned, in whole or in part, directly or indirectly, or is contracted for, by utilities described in section 476C.1, subsection 6, paragraph *"b"*, subparagraphs (4) and (5).

(iii) The facility is located in this state.

(iv) The facility meets the requirements of section 476C.1, subsection 6, paragraphs *"d"* through *"f"*.

(b) A solar energy conversion facility that meets the requirements of and is found eligible under subparagraph division (a) shall be considered an *"eligible renewable energy facility"* for purposes of this chapter, notwithstanding any contrary provisions of section 476C.1, subsection 6.

5. *a.* Notwithstanding the definition of *"eligible renewable energy facility"* in section 476C.1, subsection 6, unnumbered paragraph 1, of the maximum amount of energy production capacity equivalent of all other facilities found eligible pursuant to subsection 4, paragraph *"b"*, an amount equivalent to ten megawatts of nameplate generating capacity shall be reserved for natural gas, methane and landfill gas, or biogas cogeneration facilities incorporated within or associated with an ethanol plant to assist the ethanol plant in meeting a low carbon fuel standard. Thermal heat generated by the cogeneration facility and used for a commercial purpose may be counted toward satisfying the ten megawatt reservation requirement.

b. A facility that has been granted eligibility pursuant to paragraph *"a"* for a natural gas cogeneration facility incorporated within or associated with an ethanol plant prior to July 1, 2014, shall not be required to submit a new application if the facility constructs or utilizes methane and landfill gas or biogas cogeneration facilities on or after that date and does not make any other significant changes to the facility or to its status as an eligible facility under paragraph *"a"*.

6. The board shall maintain a waiting list of facilities that may have been found eligible under this section but for the maximum capacity restrictions of subsection 4. The priority of the waiting list shall be maintained in the order the applications were received by the board. The board shall remove from the waiting list any facility that has subsequently been found ineligible under this chapter. If additional capacity becomes available within the capacity restrictions of subsection 4, the board shall grant approval to facilities according to the priority of the waiting list before granting approval to new applications. An owner of a facility on the waiting list shall provide the board each year by August 31 with a sworn statement of verification stating that the information contained in the application for eligibility remains true and correct or stating that the information has changed and providing the new information.

7. *a.* An owner meeting the requirements of section 476C.1, subsection 6, paragraph *"b"*, shall not be an owner of more than two eligible renewable energy facilities. A person that has an equity interest equal to or greater than fifty-one percent in an eligible renewable energy facility shall not have an equity interest greater than ten percent in any other eligible renewable energy facility. This paragraph *"a"* shall not apply to facilities described in subsection 4, paragraph *"b"*, subparagraph (3).

b. An entity described in section 476C.1, subsection 6, paragraph *"b"*, subparagraphs (4)

or (5), shall not have an ownership interest in more than four facilities described in subsection 4, paragraph *"b"*, subparagraph (3).

2005 Acts, ch 160, §9, 14; 2006 Acts, ch 1135, §9, 12, 13; 2006 Acts, ch 1171, §8, 9; 2009 Acts, ch 80, §5, 6; 2011 Acts, ch 115, §7 – 9; 2011 Acts, ch 118, §34, 89; 2012 Acts, ch 1138, §32, 33; 2014 Acts, ch 1122, §2; 2015 Acts, ch 124, §6, 9, 10; 2016 Acts, ch 1128, §11, 12, 16, 22, 23

Referred to in §476C.4

2015 amendment to subsection 4, paragraph b, takes effect June 26, 2015, and applies retroactively to January 1, 2015, for tax years beginning on or after that date; 2015 Acts, ch 124, §9, 10

2015 amendment to subsection 4, paragraph b, subparagraphs (1) and (2), takes effect June 26, 2015, and applies retroactively to January 1, 2014, for tax years beginning on or after that date; 2015 Acts, ch 124, §9, 10

2016 amendments to subsection 4, paragraph b, subparagraph (3), and subsection 7 take effect May 27, 2016, and apply retroactively to January 1, 2015, for tax years beginning on or after that date, and apply retroactively to applications for the renewable energy tax credit made on or after June 26, 2015; 2016 Acts, ch 1128, §16, 22, 23