

214A.35 Waiver of alternative E-15 access standard by order issued by secretary of agriculture — E-15 incompatible infrastructure.

1. The secretary of agriculture shall issue an administrative order that temporarily waives the requirement in [section 214A.32](#) that a retail dealer comply with the alternative E-15 access standard at a retail motor fuel site owned or operated by the retail dealer, if the retail motor fuel site qualifies under [this section](#) based on the incompatibility of the motor fuel storage and dispensing infrastructure to store and dispense E-15 gasoline.

2. A retail dealer may apply for an E-15 incompatible infrastructure waiver order as described in [subsection 1](#) by submitting an application to the department in a manner and according to procedures required by the department.

a. The application must be supported by credible evidence that the retail dealer is unable to comply with the alternative E-15 access standard because the gasoline storage and dispensing infrastructure located at the retail motor fuel site is not compatible with the use of E-15 gasoline and that the retail dealer is eligible for a class 1 or class 2 waiver as provided in [this section](#).

b. The application must provide information required to be completed by the retail dealer, which must include an inventory and description of gasoline storage and dispensing infrastructure located at the retail motor fuel site.

c. The department may require a retail dealer to attach any supporting documentation to the application, which may include an inspection report completed by a person certified by the department as a professional retail motor fuel site installer. The certified professional retail motor fuel site installer may be a licensed engineer or other person who the department determines is qualified by education, testing, or experience to oversee a project involving the installation, replacement, or conversion of gasoline storage and dispensing infrastructure, and who is able to provide a reliable estimate of the project's costs.

d. The department shall review and evaluate an application to determine whether it is supported by credible evidence sufficient for the secretary to issue an order granting a waiver under [this section](#). The department shall approve or disapprove a completed application within one hundred twenty days following the date that the application was delivered to the department for filing.

e. The retail dealer must sign the application which shall include a statement that the retail dealer swears and affirms that all information in the application completed by the retail dealer is true and correct. If a certified professional retail motor fuel site installer completes an inspection report to support an application, the installer shall sign a statement that the installer swears and affirms that all information in the inspection report completed by the installer is true and correct.

f. The department may inspect the premises of a retail motor fuel site during normal business hours to administer and enforce the provisions of [this section](#).

g. The department of agriculture and land stewardship may cooperate with the department of natural resources and the department of inspections, appeals, and licensing in administering and enforcing the provisions of [this section](#).

3. The department shall publish a copy of the E-15 incompatible infrastructure waiver order on the department's internet site within ten days after the order's issuance. The order shall take effect on its date of publication, unless the order specifies a later date.

4. a. The secretary of agriculture shall terminate the E-15 incompatible infrastructure waiver order if a terminable event has occurred. A terminable event occurs on the date that any of the following apply:

(1) The failure of a retail dealer to be licensed as required under [section 214.2](#) to use a commercial weighing and measuring device when dispensing gasoline.

(2) The cessation of the retail dealer's business of advertising for sale or selling gasoline at the retail motor fuel site.

(3) The installation, replacement, or conversion of a motor fuel storage tank located at the retail motor fuel site.

b. The department may require that a retail dealer notify the department that a terminable event as described in paragraph "a" is planned to occur, is occurring, or has occurred.

5. a. The secretary of agriculture shall issue an E-15 incompatible infrastructure class 1 waiver order as provided in [this subsection](#). If the department determines an inspection of the retail motor fuel site is necessary, it may either conduct the inspection or accept an inspection report completed by a certified professional retail motor fuel site installer.

b. The order must be supported by credible evidence that all gasoline storage tanks that are located at the retail motor fuel site fall within any number of the following categories:

(1) Each gasoline storage tank not constructed of fiberglass was installed during or prior to 1985.

(2) Each gasoline storage tank constructed of fiberglass was installed during or prior to the following years:

(a) For a double-wall fiberglass underground gasoline storage tank, 1991.

(b) For a single-wall fiberglass underground gasoline storage tank, 1996.

6. The secretary of agriculture shall issue an E-15 incompatible infrastructure class 2 waiver order as provided in [this subsection](#). The order shall be based on an inspection of the retail motor fuel site. The department shall file and analyze a completed inspection report submitted by a certified professional retail motor fuel site installer.

a. The inspection report must be supported by credible evidence and include all of the following:

(1) A completed checklist of items adopted as part of a form used by the department to confirm that the gasoline storage and dispensing infrastructure located at the retail motor fuel site is not compatible with E-15 gasoline.

(2) The total estimated cost of improving the retail motor fuel site to comply with the alternative E-15 access standard by installing, replacing, or converting the gasoline storage and dispensing infrastructure located at the retail motor fuel site.

b. (1) The department shall determine whether to issue an E-15 incompatible infrastructure class 2 waiver order based on an eligibility assessment which shall calculate all of the following:

(a) The total estimated cost of improvement which equals the sum of all of the following:

(i) The reasonable cost of assessing the retail motor fuel site to determine the estimated cost of improving the retail motor fuel site as described in subparagraph subdivision (ii).

(ii) The estimated cost of improving the retail motor fuel site to comply with the alternative E-15 access standard based on the department's analysis of the inspection report described in paragraph "a". The estimated cost of improving the retail motor fuel site shall only include costs used to calculate the amount of standard financial incentives that could be awarded by the renewable fuel infrastructure board to a retail dealer participating in the renewable fuel infrastructure program for retail motor fuel sites as provided in [section 159A.14](#).

(b) The E-15 infrastructure base amount which equals the maximum cost necessary to be incurred by the retail dealer in order to receive the total amount of standard financial incentives that could be awarded to the retail dealer under tier III of the renewable fuel infrastructure program for retail motor fuel sites as provided in [section 159A.14](#) in order to comply with the alternative E-15 access standard. The department's calculation shall not include any of the following:

(i) The amount of any prior financial incentives awarded to the retail dealer under the renewable fuel infrastructure program for retail motor fuel sites.

(ii) Whether the retail dealer may apply for, is applying for, or may be awarded any future financial incentives under the renewable fuel infrastructure program for retail motor fuel sites.

(2) A retail dealer is only eligible to be issued an E-15 incompatible infrastructure class 2 waiver order if the department determines that the total estimated cost of improvement as described in subparagraph (1), subparagraph division (a), exceeds the E-15 infrastructure base amount as described in subparagraph (1), subparagraph division (b).

7. [This section](#) is repealed January 1, 2041.

[2022 Acts, ch 1067, §5](#); [2023 Acts, ch 19, §1638](#)

Referred to in [§159A.14](#), [214A.11](#), [214A.32](#)

Subsection 2, paragraph g amended

Subsection 7 stricken per its own terms on January 2, 2023, and former subsection 8 renumbered as 7