

CHAPTER 44  
IOWA AGRICULTURAL DEVELOPMENT DIVISION

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

**265—44.1(16) General.**

**44.1(1)** *Description of Iowa agricultural development (IAD) board.* The 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(3)** *General course and method of operations.* The 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(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.

[ARC 1112C, IAB 10/16/13, effective 9/26/13; ARC 1400C, IAB 4/2/14, effective 5/7/14; ARC 2009C, IAB 5/27/15, effective 7/1/15; ARC 4319C, IAB 2/27/19, effective 4/3/19; ARC 4902C, IAB 2/12/20, effective 3/18/20]

**265—44.2(16) Definitions.**

*“Act”* means Iowa Code chapter 16.

*“Agricultural asset”* means agricultural land located in this state, any agricultural improvements, depreciable agricultural property, machinery, equipment, crops, or livestock.

*“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 improvement”* means any improvements, including buildings, structures or fixtures suitable for use in farming if located on any size parcel of agricultural land.

*“Agricultural land”* means land located in Iowa suitable for use in farming, any portion of which may include an agricultural improvement, and which is or will be operated as a farm.

*“Agricultural lease agreement”* or *“agreement”* means an agreement for the transfer of agricultural assets from an eligible taxpayer to a qualified beginning farmer as provided in Iowa Code section 16.79A.

*“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.

*“BFLP”* means beginning farmer loan program.

*“BFLP beginning farmer”* means 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.

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

“*Commodity share 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.

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

“*Maximum allowable net worth*” means the maximum allowable net worth for each calendar year, which shall be increased or decreased 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](http://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 Statistics Service.

[ARC 1112C, IAB 10/16/13, effective 9/26/13; ARC 1400C, IAB 4/2/14, effective 5/7/14; ARC 2009C, IAB 5/27/15, effective 7/1/15; ARC 2226C, IAB 10/28/15, effective 12/2/15; ARC 4902C, IAB 2/12/20, effective 3/18/20; ARC 6167C, IAB 2/9/22, effective 1/7/22]

**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.

[ARC 4902C, IAB 2/12/20, effective 3/18/20]

**265—44.4(16) Beginning farmer loan program.**

**44.4(1)** *Individual agricultural development bond program description.* This program is intended to allow BFLP beginning farmers to obtain lower interest rate loans for qualified purposes by obtaining loan funds from the proceeds of a tax-exempt bond issued by the authority and purchased by the bond purchaser. The authority will enter into a loan agreement with the BFLP beginning farmer and assign that BFLP loan to the bond purchaser. At the same time, the authority will issue a tax-exempt bond in the amount of the BFLP loan, and the bond purchaser will purchase that bond, which is used to fund the BFLP loan assigned to the bond purchaser. The bond which is issued by the authority and purchased by the bond purchaser is a nonrecourse obligation. The only security for the bond purchaser is the underlying security on the assigned BFLP loan.

**44.4(2)** *Application procedures.* The BFLP beginning farmer may apply for a BFLP loan with any bond purchaser. Any BFLP loan approved will be assigned to that bond purchaser. BFLP loan eligibility is determined by the requirements of the Act and the rules of the authority.

*a.* If a BFLP beginning farmer meets the BFLP loan eligibility requirements, the decision on whether to enter into the loan agreement is between the BFLP beginning farmer and the bond purchaser. The BFLP beginning farmer and bond purchaser must agree on the terms of the loan, such as interest rates, length of loan, down payment, service fees, origination charges and repayment schedule. The terms may not be more onerous than terms charged to similar customers for similar loans, taking into account the tax-exempt nature of interest on the BFLP loan.

*b.* Following completion of the BFLP loan application by the BFLP beginning farmer and approval by the bond purchaser, the BFLP loan application must be submitted to the authority for its review and approval.

- c. The authority's review will include, but not be limited to, whether:
  - (1) The BFLP loan applicant is a BFLP beginning farmer;
  - (2) The BFLP loan proceeds will be used for a qualified purpose under the Act, rules of the authority, and the Internal Revenue Code and IRS regulations relating to private activity bonds;
  - (3) The terms of the BFLP loan comply with these rules; and
  - (4) The bond purchaser meets the definition of a lender or bond purchaser.
- d. The authority may require that the bond purchaser furnish any information which the authority deems necessary to determine whether the bond purchaser qualifies as either a lender or bond purchaser. If the authority determines that the bond purchaser does not qualify as either a lender or bond purchaser, it may deny the application.
- e. The authority may charge fees as needed to defray its costs for processing the BFLP loan and bond.

**44.4(3) Issuance of bond.** All bonds issued by the authority will conform to all applicable requirements of the United States Internal Revenue Code of 1986 as amended, and its regulations.

a. Public hearings may be held by a staff member, board member of the IADD, an appointee or employee of the authority, or other qualified hearing officer.

b. Following approval of the BFLP loan by the authority, and upon completion of a public hearing and approval of the bond issuance by the governor or another elected state official designated by the governor, the authority will issue a bond, to be purchased by the bond purchaser, in the amount and fitting the terms of the BFLP loan to the BFLP beginning farmer. The principal and interest on the bond are a limited obligation payable solely out of the revenues derived from the BFLP loan to the BFLP beginning farmer and the underlying collateral or other security furnished by or on behalf of the BFLP beginning farmer. The bond purchaser shall have no other recourse against the authority. The principal and interest on the bond do not constitute an indebtedness of the authority or a charge against its general credit or general fund.

**44.4(4) Priority of applications.** Applications shall be processed by the authority on a first-come, first-served basis, based upon the receipt of all completed documents by the authority.

**44.4(5) Procedures following bond issuance.** No bond proceeds may be used for a nonqualified purpose or by a nonqualified user. Following disbursement of the bond proceeds, the bond purchaser and BFLP beginning farmer may be required to certify to the authority that the proceeds were used by the BFLP beginning farmer for a qualified purpose.

**44.4(6) Assignment of BFLP loans by bond purchasers.** A bond purchaser may assign a BFLP loan in whole or in part to any person, as defined in Iowa Code section 4.1(20). Servicing of the BFLP loan may also be assigned. The authority must be notified in writing prior to assignment of the BFLP loan.

**44.4(7) Assumption of BFLP loans, substitution of collateral and transfer of property.** BFLP loans may not be assumed without the prior approval of the authority, and then only if the purchaser of the property is a BFLP beginning farmer for a BFLP loan. Equipment and other depreciable property may be exchanged or traded for similar property, and other property such as breeding livestock may be added or substituted as collateral at the discretion of the bond purchaser without the prior approval of the authority.

**44.4(8) Right to audit.** The authority shall have at any time the right to audit the records of the bond purchaser and the BFLP beginning farmer relating to the BFLP loan and bond to ensure that bond proceeds were used for a qualified purpose by a qualified user.

[ARC 1112C, IAB 10/16/13, effective 9/26/13; ARC 1400C, IAB 4/2/14, effective 5/7/14; ARC 2009C, IAB 5/27/15, effective 7/1/15; ARC 2226C, IAB 10/28/15, effective 12/2/15; ARC 4902C, IAB 2/12/20, effective 3/18/20]

## **265—44.5(16) Loan participation program.**

**44.5(1) Program summary.** The loan participation program is intended to assist lenders and beginning farmers by purchasing a portion of a loan made by a lender to a beginning farmer for the purchase of agricultural property.

a. *Supplement to beginning farmer's down payment.* The LPP loan can be used to supplement the beginning farmer's down payment so that the 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 beginning farmer, shall apply for the LPP loan on application forms provided by the authority.

*c. Lender’s certification.* The lender and the 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 beginning farmer meets the criteria for both programs.

**44.5(2) Underwriting criteria.** Commercial underwriting criteria will be used as determined by the authority.

**44.5(3) Eligible projects and activities.**

*a. Use of project.* LPP loans must be for new purchases or new construction. Assets purchased or constructed with LPP loan funds must be used for agricultural purposes.

*b. Agricultural land.* The participated loan can be used for the purchase of agricultural land, which may include small acreages on which sufficient agricultural improvements are located to conduct a livestock operation. If a house is located on land for which an LPP loan is requested, an appraisal of the house will be made. If the appraised value of the house exceeds 50 percent of the appraised value of the property or total collateral, then the property will not be eligible for an LPP loan.

*c. Agricultural improvements.* The participated loan can be used for the construction or purchase of improvements located on agricultural land (which is suitable for use in farming). Examples of such improvements include, but are not limited to, the following: confinement systems for swine, cattle, or poultry; barns or other outbuildings; and grain storage facilities and silos.

*d. Livestock used for breeding purposes.* The participated loan can be used for the purchase of livestock for which an income tax deduction for depreciation is allowed in computing state and federal income taxes.

*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 beginning farmer’s farming operation.

*f. Interim financing by lender.* Interim financing by the lender is allowed.

**44.5(4) Ineligible projects and activities.** The following program activities are ineligible:

*a. Refinancing of existing debt.* Refinancing of existing debt or new purchases which have been incurred by the borrower more than 60 days prior to approval of the LPP loan by the authority.

*b. Financing personal expenses.* Financing personal or living expenses and working capital to purchase such items as feed, seed, fertilizer, fuel, and feeder livestock.

*c. Down payment funds for contract sale.* Down payment for a contract sale, or in connection with a loan from a nonregulated lender.

**44.5(5) Program parameters.**

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

*b. LPP interest rate.* The 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 IAD board.

**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 beginning farmer and the beginning farmer’s ability to make principal and interest payments.

If the beginning farmer or the beginning farmer’s spouse is involved in a business, partnership, limited liability company, or corporation, either related or unrelated to the 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 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 beginning farmer, documenting to the satisfaction of the authority sufficient training, experience and access to capital.

d. *Credit evaluation.* The lender will evaluate the 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. *Processing LPP loan applications.* Applications for the program will be taken and processed by the authority on a first-come, first-served basis. The authority reserves the right to change the program or terminate the approval of LPP loans under the program at any time. Grounds for termination/suspension of the program would include, but not be limited to, reaching the maximum allowable limit for total outstanding LPP loans as established by the authority or changing the program by order of the Iowa general assembly or by rules promulgated by the authority.

f. *Security for participated loans and use of security documents.* The lender shall take any security, cosignatures, guarantees or sureties that are deemed necessary for any participated loan. Any guarantee of repayment or pledge of additional collateral required by the lender to secure the participated loan shall secure the entire participated loan.

g. *Recording documents and fees.* Any recording or filing fees or transfer taxes associated with the participated loan will be paid by the 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.

**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 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. Accelerate the maturity of the participated loan;

4. Sue upon any participated loan instrument;

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

b. *Payment due dates.* Payment due dates for the LPP loan will be the same as for the lender's share of the loan.

c. *Prepayment penalty.* There is no penalty for early repayment of principal or interest.

d. *Repayment proceeds and collateral.* Without limitation, the repayment of proceeds and collateral shall include rights of setoff and counterclaim, which the lender or the authority jointly or severally may at any time recover on any participated loan.

e. *Subsequent loans.* Any loan or advance made by a lender to a 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 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) After a participated loan is in default for a period of 30 days, the lender shall file with the authority monthly reports regarding the status of the participated loan.

(3) The authority may, anytime a participated loan is in default, purchase the unpaid portion of the participated loan from the lender including the note, security agreements, additional guarantees, and other documents. The authority would become the servicer of the participated loan in such case.

*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. Application of proceeds of loan liquidation.* Application of proceeds of loan liquidation will be determined after a written liquidation plan is approved by the authority or the authority's loan committee. All amounts recovered upon liquidation or foreclosure will be applied first to the unpaid balance of the lender's portion and then to the unpaid portion of the LPP loan's portion. All funds received from liquidation or foreclosure procedures shall be applied in the following order of priority:

First Priority: To the payment of the outstanding principal of and accrued interest on the lender's portion of the participated loan;

Second Priority: To the payment of the outstanding principal of and accrued interest on the authority's LPP loan;

Third Priority: To the payment on a pro-rata basis of all reasonable and necessary expenses incurred by the lender or the authority in connection with such liquidation or foreclosure procedures.

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

[ARC 1112C, IAB 10/16/13, effective 9/26/13; ARC 1400C, IAB 4/2/14, effective 5/7/14; ARC 2009C, IAB 5/27/15, effective 7/1/15; ARC 2226C, IAB 10/28/15, effective 12/2/15; ARC 4902C, IAB 2/12/20, effective 3/18/20]

## **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. If a beginning farmer has an ownership interest in the agricultural asset that does not exceed 10 percent, the tax credit award is reduced by an amount equivalent to the beginning farmer's ownership percentage. For example, if a beginning farmer owns 9 percent of an agricultural asset that is the subject of the agricultural lease agreement, the tax credit award is reduced by 9 percent.

*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(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 Iowa Code section 16.78. The tax credit is allowed regardless of whether the principal agricultural asset is soil, pasture, or a building or other structure used in farming.

*b.* A tax credit in excess of the eligible taxpayer's tax liability for the tax year is not refundable but may be credited to the tax liability for a period set forth in Iowa Code section 16.82, if unused in the tax year the credits are earned. A tax credit shall not be carried back to a tax year prior to the tax year in which the eligible taxpayer redeems the tax credit. The term of the credit shall begin in the crop year in which the IAD board approves the award. The maximum term of the credit shall not exceed the term of the agricultural lease agreement.

**44.6(3)** *Application.*

*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 qualified beginning farmer.

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

(1) Taxpayer information: name, address, and social security number or tax identification number. 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) Qualified beginning farmer information: name and address. In addition, the application shall have attached to it a copy of the qualified beginning farmer's current financial statement (generally prepared one month preceding application submission). The application will also include a background letter on the 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 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.

*e.* Any applicant wishing to appeal a decision of the IAD board can appeal directly to the IAD board.

f. Upon submission of the application or a request to amend an agricultural lease agreement, the authority shall collect the application fee. The authority shall collect fees in the amounts based upon the acreage of the land that is the subject of the agreement and the length of the lease, as indicated in the chart below.

**Application Fees Chart**

Leased Acres	Length of Lease in Years			
	2	3	4	5
100 or fewer	\$300	\$350	\$400	\$450
101 to 250	\$400	\$450	\$500	\$550
251 or more	\$500	\$550	\$600	\$650

g. For any amendment to a previously approved agricultural lease agreement, an amendment fee of \$100 shall be paid at the time the amendment is submitted.

**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 or agricultural improvements located in this state 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 Iowa Code section 16.82.

(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 any number of times by the eligible taxpayer and qualified beginning farmer for a term of at least two years, but not more than five years. At the end of the approved agricultural lease agreement term, a new application must be submitted to the authority. However, an eligible taxpayer shall not participate in the program for more than 15 years. For the purposes of this subparagraph, an eligible taxpayer first participating in the beginning farmer tax credit program on or after January 1, 2019, as provided in 2019 Iowa Acts, chapter 161, for a tax year beginning on or after that date, may also participate in the program for not more than 15 years.

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

b. An eligible taxpayer may apply and be approved to enter into agreements with different qualified beginning farmers.

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

d. 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:  $(1/2 \text{ acres leased multiplied by corn yield multiplied by corn price multiplied by percentage of owner's share multiplied by } .15) \text{ plus } (1/2 \text{ acres leased multiplied by soybean yield multiplied by soybean price multiplied by owner's share multiplied by } .15) = \text{the amount of the tax credit.}$  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.

[ARC 1112C, IAB 10/16/13, effective 9/26/13; ARC 1400C, IAB 4/2/14, effective 5/7/14; ARC 2009C, IAB 5/27/15, effective 7/1/15; ARC 2226C, IAB 10/28/15, effective 12/2/15; ARC 4902C, IAB 2/12/20, effective 3/18/20; ARC 6167C, IAB 2/9/22, effective 1/7/22]

**265—44.7(16) Beginning farmer custom farming tax credit program.** Rescinded ARC 4902C, IAB 2/12/20, effective 3/18/20.

These rules are intended to implement Iowa Code sections 16.4A, 16.4B, 16.5D, and 16.75 to 16.84.

[Filed Emergency ARC 1112C, IAB 10/16/13, effective 9/26/13]

[Filed ARC 1400C (Notice ARC 1113C, IAB 10/16/13), IAB 4/2/14, effective 5/7/14]

[Filed ARC 2009C (Notice ARC 1905C, IAB 3/4/15), IAB 5/27/15, effective 7/1/15]

[Filed ARC 2226C (Notice ARC 2127C, IAB 9/2/15), IAB 10/28/15, effective 12/2/15]

[Filed ARC 4319C (Notice ARC 4196C, IAB 1/2/19), IAB 2/27/19, effective 4/3/19]

[Filed ARC 4902C (Notice ARC 4729C, IAB 10/23/19), IAB 2/12/20, effective 3/18/20]

[Filed Emergency After Notice ARC 6167C (Notice ARC 6067C, IAB 12/1/21), IAB 2/9/22, effective 1/7/22]