

CHAPTER 314  
RENEWABLE FUEL INFRASTRUCTURE PROGRAM ADMINISTRATION

**261—314.1(15G) Allocation of awards by congressional district.** The board shall use the boundaries of the state's five congressional districts, and prorate and equally distribute the amount available each fiscal year for each district. The board shall have at its discretion a prorated amount (up to \$500,000) to distribute to any congressional district. On April 1 of each year, if funds allocated to a district have not been committed, the unobligated balance shall revert to the reserve fund and be available for other projects approved by the board.

**261—314.2(15G) Form of award available; award amount.**

**314.2(1) Form of award.** Eligible applicants may apply for financial incentives on a cost-share basis. Funding shall be available in the form of a grant.

**314.2(2) Prospective grants for projects not commenced.** A grant may be awarded for an eligible project not yet commenced.

**314.2(3) Amount of award.**

*a. Retail award site.*

(1) Three-year cost-share agreement for a retail site. The maximum award amount is 50 percent of the actual cost of making the improvements or \$30,000, whichever is less.

(2) Five-year cost-share agreement for a retail site. The maximum award amount is 70 percent of the actual cost of making the improvements or \$50,000, whichever is less.

(3) Supplemental financial incentives. A person may be granted supplemental financial incentives as an amendment to the cost-share agreement.

1. Supplemental award for Underwriter Laboratories upgrade. The purpose of an award for Underwriter Laboratories (UL) is to upgrade to UL-certified dispensers, blender pumps and dispensing infrastructure, UL-approved conversion kits and approved and insurable installation project(s). The maximum amount available as a supplemental financial incentive is 75 percent of the actual cost of making the improvements or \$30,000, whichever is less. The dispenser can be listed by an independent certified testing laboratory or Underwriter Laboratories (UL) as compatible with ethanol blended gasoline classified as E-9 or higher.

2. Supplemental award for additional tank and associated infrastructure. A person may request a supplemental financial incentive for tank and associated infrastructure, as an amendment to the subsequent cost-share agreement(s). The purpose of an award for an additional tank(s) and associated infrastructure is to accelerate the installation of an additional tank(s) and associated infrastructure at an additional retail motor fuel site after an initial grant award is provided. To be eligible, the initial grant award must be awarded to the person on or after May 12, 2008. The maximum award amount available as a supplemental financial incentive is \$6,000 per supplemental site. The person is limited to four supplemental financial incentive awards within the 12-month period following the completion of the initial retail motor fuel site project.

*b. Terminal facility award for biodiesel B2 through B98 and B99/B100 for year-round distribution.*

(1) Biodiesel fuel B2 through B98.

1. Duration. The duration of the cost-share agreement shall be five years.

2. Maximum award. The maximum award amount is 50 percent of the actual cost of making the improvements or \$50,000, whichever is less.

(2) Biodiesel fuel B99/B100 for year-round distribution.

1. Duration. The duration of a cost-share agreement is five years.

2. Maximum award amount. The maximum award amount is 50 percent of the actual cost of making the improvements or \$100,000, whichever is less.

3. Application acceptance begins January 1, 2009. Grant applications for B99/B100 projects will be accepted beginning January 1, 2009.

4. Lifetime cap amount. The maximum or lifetime cap for B99/B100 biodiesel terminal grants is \$800,000 per person.

*c. Tank vehicle.*

(1) December 31, 2008, deadline. A tank vehicle application must be postmarked no later than December 31, 2008, to be eligible.

(2) Duration. The duration of the cost-share agreement is three years. The maximum award amount is 50 percent of the actual cost of making the improvements or \$30,000, whichever is less.

(3) Limitation on number of grants. A person may receive one grant for one tank vehicle used to store and dispense E-85 gasoline and one grant for one tank vehicle used to store and dispense biodiesel or biodiesel blend. If a person received an award for a tank vehicle(s) prior to May 12, 2008, that person is eligible to apply for an additional tank vehicle.

**314.2(4) *Time of payment.*** The grant shall be paid only upon timely completion of the project and upon the board's receipt of records satisfying the board of the applicant's qualifying expenditures.

*a.* The applicant must deliver to the board prior to payment a certificate of completion on the board's form.

*b.* The certificate of completion must include the IDNR checklist completed and signed by an Iowa-certified installer showing review and approval of the completed project.

*c.* The certificate of completion must be accompanied by proof of financial responsibility as necessary to meet federal requirements for underground storage tank installation.

**314.2(5) *Deadline for completion.*** The project must be completed within eight months of the board's approval of the award. An extension may be granted by the board upon application showing demonstrable progress toward completion.

**314.2(6) *Multiple awards for multiple fuel types.***

*a. At a single fuel site.* A person must file a separate application form for an ethanol infrastructure improvement grant and a biodiesel infrastructure improvement grant, respectively, at a single fuel site. The infrastructure board may approve multiple improvements to the same retail motor fuel site for the full amount available for ethanol infrastructure and biodiesel infrastructure. Applications for ethanol and biodiesel infrastructure improvements must be written in separate cost-share agreements.

*b. At multiple fuel sites.* A person may receive multiple grants as described in paragraph 314.2(6) "a" for more than one motor fuel site. When considering multiple grants for multiple fuel sites, the infrastructure board will make awards fairly and properly among applicants and geographic areas.

**314.2(7) *Exhaustion of funds.*** In the event funding is exhausted at the end of the fiscal year or June 30, 2012, the board shall approve remaining applications based on criteria implemented by the board.

**261—314.3(15G) Application process.**

**314.3(1) *Application procedures.***

*a.* Applications may be submitted at any time, but will be reviewed on a first-come, first-served basis as established by the date stamp on the filed application.

*b.* Applications shall be submitted to: Renewable Fuel Infrastructure Board, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309. Application forms and instructions are available at this address.

**314.3(2) *Contents of application.***

*a.* Statutory requirements. An application shall include the information required in Iowa Code Supplement section 15G.203.

*b.* Other information required by the board:

(1) Assurance that the project will be for the purpose of installing, replacing, or converting equipment for the storage or dispensing of the renewable fuel under consideration.

(2) Assurance that all equipment funded by the grant is designed and will be used exclusively to store or dispense E-85 gasoline, biodiesel or biodiesel blended fuel, respectively, for the period specified in the agreement.

(3) An IDNR checklist indicating the current status of the site.

(4) Assurance of compliance with any and all federal requirements for financial responsibility.

(5) Assurance of compliance with any and all state and federal laws and regulations.

(6) A cost proposal from an Iowa-licensed underground storage tank installer (for underground storage projects) and a qualified aboveground storage tank installer (for aboveground storage projects).

(7) Documentation of initiation of the process of applying to an independent laboratory and the manufacturer's written statement that the dispenser is "not incompatible."

#### **261—314.4(15G) Review process.**

**314.4(1)** The underground storage tank fund board has chosen not to review the applications. The renewable fuel infrastructure board will review an application for final approval or disapproval. The renewable fuel infrastructure board shall determine the amount of financial incentives to be awarded to an applicant.

**314.4(2)** Completed applications, including supporting documentation of meeting eligibility requirements, will be reviewed on a first-come, first-served basis. If the amount of funding requests exceeds available funds, the board shall evaluate applications based upon criteria that include, but are not limited to, the following:

- a. Submittal of a completed application, including supporting documentation.
- b. Location factors such as demographics, proximity to major transportation corridors, and proximity to existing renewable fuel retail and storage facilities.
- c. Projected annual sales volume.
- d. Other sources of funding.
- e. Previous grants awarded.

#### **261—314.5(15G) Contract administration.**

**314.5(1)** *Notice of award.* The department shall notify approved applicants in writing of the board's award of grants, including any conditions and terms of the approval.

**314.5(2)** *Contract required.* The board shall direct the department to prepare a cost-share agreement which shall include terms and conditions of the grant established by the board. The agreement will:

- a. Describe the project in sufficient detail to demonstrate the eligibility of the project.
- b. State the total cost of the project expressed in a project budget included in sufficient detail to meet the requirements of the infrastructure board.
- c. State the project completion deadline.
- d. State the project completion requirements which are preconditions for payment of the grant by the board.
- e. Recite the penalty for the storage or dispensing of motor fuel other than the type of renewable fuel for which the grant was awarded.

(1) Awards for projects under construction or not yet started. The three- or five-year obligation to continue dispensing renewable fuel begins on the date the project is completed.

(2) Awards for projects already completed. The three- or five-year obligation to continue dispensing renewable fuel begins on the date the department issues the first disbursement of grant funds, not on the date of project completion.

f. Be amended to include a supplemental financial incentive, if a supplemental financial incentive is awarded by the board.

**314.5(3)** *Repayment penalty for nonexclusive renewable fuel use.* In the absence of a waiver from the board, the department may impose a 25 percent penalty due to a grant recipient's use of infrastructure equipment for which a grant was awarded, for the storage or dispensing, within the time frame stated in the agreement, of motor fuel other than the type of renewable fuel for which the grant was awarded.

**314.5(4)** *Repayment or board waiver.* A grant recipient may not use the infrastructure to store and dispense motor fuel other than the type approved by the board, unless one of the following applies: (1) the grantee is granted a waiver by the board, or (2) the grantee pays back the moneys awarded including a 25 percent penalty.

**314.5(5)** *Waiver criteria.* The board may waive repayment of grant funds plus the 25 percent penalty. A grant recipient seeking a waiver during the time period in which a cost-share agreement is in effect

shall submit a written waiver request to the board. The board will consider waiver requests under the following circumstances:

*a. Permanent waiver.*

(1) Waiver due to demonstration of good cause (no repayment and no 25 percent penalty). A grant recipient may request a permanent waiver during the time period in which a cost-share grant agreement is in effect if the grant recipient can demonstrate good cause for failure to continue using the approved renewable fuel. “Good cause” includes, but is not limited to, events such as the following:

1. Permanent business closure due to bankruptcy.
2. Permanent closure of underground or aboveground storage tanks.

(2) Waiver due to demonstration of financial hardship (repayment on a sliding scale and no 25 percent penalty). A grant recipient may seek a permanent waiver of exclusive use of the approved renewable fuel during the time period in which a cost-share agreement is in effect due to financial hardship. The grant recipient must demonstrate that continuing to dispense the renewable fuel at a project site will cause a financial hardship. A request for waiver due to financial hardship shall include documentation to show a “good faith” effort to market the fuel, specifically the most recent six-month history of gallons of approved renewable fuel sold by month, marketing/advertising efforts, retail price comparison of E-85 to E-10 (or regular gasoline) or of biodiesel to regular diesel. If a waiver is granted, the 25 percent penalty will not be assessed, but the grant funds will be repaid as follows:

1. Three-year cost-share agreement: Months 1 through 11 of the cost-share agreement, 100 percent of grant amount. Months 12 through 36 of cost-share agreement, 4 percent of grant amount for each month remaining on the cost-share agreement.

2. Five-year cost-share agreement: Months 1 through 10 of the cost-share agreement, 100 percent of grant amount. Months 11 through 60 of the cost-share agreement, 2 percent of grant amount for each month remaining on the cost-share agreement.

*b. Temporary waiver (temporary suspension of repayment and 25 percent penalty).* A grant recipient may request a temporary suspension of the obligation to use only the approved renewable fuel and a temporary waiver of the repayment plus penalty requirement. A request for a temporary waiver, or an extension of a temporary waiver, will only be considered by the board if the recipient can document to the board’s satisfaction that market forces are not allowing for advantageous sales of the approved renewable fuel. A grant recipient shall submit documentation of the previous six-month sales history and marketing attempts to substantiate the grant recipient’s request for a temporary waiver. The following conditions apply to requests for a temporary waiver:

(1) A temporary waiver will not be granted during the first six months of a cost-share agreement.

(2) A temporary waiver will not shorten the grant recipient’s obligation to use the infrastructure to store and dispense the approved renewable fuel for a minimum of three years or five years. If the board approves a temporary waiver, the duration of the cost-share agreement will be extended by the length of the approved waiver period.

(3) A grant recipient may request a temporary waiver of up to six months. The board may approve one or more six-month waivers, provided the total cumulative time period allowed for temporary waivers shall not exceed two years.

(4) If a state executive order suspending the Iowa Renewable Fuel Standard (RFS) schedule is issued, the board may decide to grant a temporary waiver to all grant recipients. The board will establish the duration of the waiver and provide written notice to all grant recipients of the board’s action. When the board determines that a temporary waiver is necessary due to suspension of the Iowa RFS schedule, the three-year or five-year duration of the cost-share agreement will not be extended by the length of the temporary waiver.

[ARC 7949B, IAB 7/15/09, effective 6/19/09]

These rules are intended to implement Iowa Code sections 15G.201, 15G.202 and 15G.205, Iowa Code Supplement sections 15G.203 and 15G.204, and 2008 Iowa Acts, House File 2689, and House File 2450, section 6(9) “f.”

[Filed emergency 11/16/06 after Notice 6/21/06—published 12/20/06, effective 11/16/06]

[Filed emergency 12/21/06—published 1/17/07, effective 12/21/06]

[Filed 3/21/07, Notice 1/17/07—published 4/11/07, effective 5/16/07]

[Filed 5/17/07, Notice 4/11/07—published 6/20/07, effective 7/25/07]

[Filed 12/19/08, Notice 8/13/08—published 1/14/09, effective 2/18/09]

[Filed Emergency After Notice ARC 7949B (Notice ARC 7763B, IAB 5/6/09), IAB 7/15/09, effective 6/19/09]