

21—13.23(159A) Contract administration.

13.23(1) Notice of award. The department will notify approved applicants in writing of the board's award of grants, including any conditions and terms of the approval.

13.23(2) Contract required. The board will direct the department to prepare a cost-share agreement that includes the terms and conditions of the grant established by the board. The agreement shall:

- 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 that contains sufficient detail to meet the requirements of the infrastructure board.
- c. State the project completion deadline.
- d. State the project completion requirements that 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 five-year obligation to continue dispensing renewable fuel begins on the date the project is completed.

(2) Awards for projects already completed. The 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.

13.23(3) Disbursement of funds.

a. Beginning January 1, 2023, the department shall only reimburse an applicant for qualifying expenditures that comply with Iowa Code sections 455G.32 and 455G.33 unless a grant was awarded to the applicant with moneys appropriated in the 2022 fiscal year budget or prior.

b. In cases where both state and federal incentives are being utilized for a project at a retail motor fuel site, and those incentives, when combined, would exceed the total cost of the project at the retail motor fuel site, the department will reduce the state financial incentive to an amount that would not exceed the total cost of the project.

13.23(4) 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.

13.23(5) 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.

13.23(6) 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-15 or 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 shall be repaid at 100 percent for months one through ten of a cost-share agreement or 2 percent of the grant amount for each month remaining on the cost-share agreement after month ten.

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 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 five-year duration of the cost-share agreement will not be extended by the length of the temporary waiver.

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