

199—15.12(476C) Certification of eligibility for wind energy and renewable energy tax credits under Iowa Code chapter 476C. Any person applying for certification of eligibility for state tax credits for wind energy or renewable energy pursuant to Iowa Code section 476C.3 is subject to this rule.

15.12(1) Filing. Any person applying for certification of eligibility for wind energy or renewable energy tax credits must file with the commission an application that contains substantially all of the following:

a. Information regarding the applicant, including the legal name, address, telephone number, and, as applicable, facsimile transmission number and email address of the applicant.

b. Information regarding the ownership of the facility, including the legal name of each owner, information demonstrating the legal status of each owner, and the percentage of equity interest held by each owner. The “legal status of each owner” refers to either ownership of a small wind energy system operating in a small wind innovation zone as defined in Iowa Code section 476.48(1) “*c*” and as described in rule 199—15.14(476), or, alternatively, the ownership requirements as described in Iowa Code section 476C.1(6) “*b*.”

c. A statement attesting that each owner meeting the eligibility requirements of Iowa Code section 476C.1(6) “*b*” does not have an ownership interest in more than two eligible renewable energy facilities.

d. For any owner meeting the eligibility requirements of Iowa Code section 476C.1(6) “*b*” with an equity interest in the facility equal to or greater than 51 percent, a statement attesting that the owner does not have an equity interest greater than 10 percent in any other eligible renewable energy facility.

e. For any owner meeting the eligibility requirements of Iowa Code section 476C.1(6) “*b*” with an equity interest in the facility greater than 10 percent and less than 51 percent, a statement attesting that the owner does not have an equity interest equal to or greater than 51 percent in any other eligible renewable energy facility.

f. A description of the facility, including at a minimum the following information:

(1) Type of facility (that is, a qualified facility as defined in Iowa Code section 476C.1);

(2) Total nameplate generating capacity rating, plus maximum hourly output capability for any energy production capacity equivalent as defined in Iowa Code section 476C.1(7). For applications filed on or after July 1, 2011, the facility’s combined nameplate capacity or energy production capacity equivalent must be no less than three-fourths of a MW if all or part of the facility’s renewable energy production is used for the owners’ on-site consumption, and no more than 60 MW if the facility is not a wind energy conversion facility;

(3) A description of the location of the facility in Iowa, including an address or other geographic identifier;

(4) The date the facility was placed in service; that is, placed in service on or after July 1, 2005, but before January 1, 2018, for eligibility under Iowa Code chapter 476C; and

(5) For eligibility under Iowa Code chapter 476C, demonstration that the facility’s combined MW nameplate generating capacity and maximum hourly output capability of energy production capacity equivalent as defined in Iowa Code section 476C.1(7), divided by the number of separate owners who meet the requirements of Iowa Code chapter 476C, equals no more than 2.5 MW of capacity per eligible owner.

g. A signed statement from the owners attesting that the owners intend to either sell all the renewable energy produced by the facility, consume all the renewable energy on site, or use all the renewable energy through a combination of sale and consumption. For purposes of the signed statement, renewable energy consumed on site means any renewable energy produced by the facility and not sold.

h. If the owners intend to sell renewable energy produced by the facility, 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 the purchaser as eligible to apply for the renewable energy tax credit. If the power purchase agreement or other agreement has not yet been finalized and executed, the commission will accept a binding statement from the applicant that designates which party will be eligible to apply for the renewable energy tax credit; that designation shall not be subject to change.

i. A statement indicating the type of tax credit being sought; that is, indicating that the applicant is applying for tax credits pursuant to Iowa Code chapter 476C (1.5 cents per kWh, wind and other renewable energy tax credits).

15.12(2) *Review.* Upon receipt of a complete application, the commission will review the eligibility of the facility in accordance with Iowa Code section 476C.3(2).

15.12(3) *Loss of eligibility status.*

a. Within 30 months following commission approval of eligibility, the applicant shall file information demonstrating that the eligible facility is operational and producing usable energy. If the commission determines that the eligible facility was not operational within 18 months of commission approval, the facility will lose eligibility status.

b. If the facility is a wind energy conversion facility and is not operational within 18 months due to the unavailability of necessary equipment, the applicant may apply for a 12-month extension of the 30-month limit, attesting to the unavailability of necessary equipment. After granting the 12-month extension, if the commission determines that the facility was not operational within 42 months of commission approval, the facility will lose eligibility status.

c. Prior to expiration of the time periods specified in paragraphs 15.12(3)“*a*” and “*b*,” the applicant may apply for a further 12-month extension if the facility is still expected to become operational. Extensions may be renewed for succeeding 12-month periods if the applicant applies for the extension prior to expiration of the current extension period. If the applicant does not apply for further extension, the facility will lose eligibility status.

d. If the owners of a facility discontinue efforts to achieve operational status, the owners shall notify the commission. Upon the commission’s receipt of such notification, the facility will lose eligibility status.

e. If the facility loses eligibility status, the applicant may reapply to the commission for new eligibility.

15.12(4) *Allocation of capacity among eligible applicants.* In the event the commission receives applications for tax credits that, in total, exceed the statutory limits found in Iowa Code section 476C.3(4), the commission will rule on the applications in the order the applications are received, based upon the date of receipt. If such a petition is submitted, the commission will notify all applicants who filed on that particular date, allowing each applicant to opt into the allocation within 45 days of the date of the filing of the petition.

15.12(5) *Waiting lists for excess applications.* The commission will maintain waiting lists of excess eligibility applications for facilities that might have received preliminary eligibility under subrule 15.12(2). The priorities of the waiting lists will be in the order the applications were received, based upon the dates of receipt. If additional capacity becomes available within the capacity restrictions under subrule 15.12(4), the commission will review the applications on the waiting lists based on each application’s priorities, before reviewing new applications. Applications will be removed from the waiting lists after the applications are either approved or denied. Each applicant on a waiting list shall annually provide the commission a statement of verification attesting that the information contained in the applicant’s eligibility application remains true and correct, or stating that the information has changed and providing the new information.

This rule is intended to implement Iowa Code chapter 476C.

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