

CHAPTER 86
E-15 ACCESS STANDARD

21—86.1(214A) Definitions.

“*Class 1 waiver*” means an incompatible infrastructure class 1 waiver order.

“*Class 2 waiver*” means an incompatible infrastructure class 2 waiver order.

“*Department*” means the department of agriculture and land stewardship.

“*Motor fuel storage and dispensing infrastructure*” means the same as defined in Iowa Code section 214A.1 as amended by 2022 Iowa Acts, House File 2128, section 14.

“*Retail dealer*” means the same as defined in Iowa Code section 455G.30 as enacted by 2022 Iowa Acts, House File 2128, section 25.

“*Retail motor fuel site*” means a geographic location in this state where a retail dealer sells and dispenses motor fuel on a retail basis.

“*Special status*” means a status assigned to a retail dealer who is ineligible for an incompatible infrastructure class 2 waiver order pursuant to Iowa Code section 214A.35(6) as enacted by 2022 Iowa Acts, House File 2128, section 5.

[ARC 6732C, IAB 12/14/22, effective 1/18/23]

21—86.2(214A) E-15 access standard—retail dealer compliance.

86.2(1) A retail dealer shall advertise for sale and sell E-15 gasoline pursuant to Iowa Code section 214A.32 as enacted by 2022 Iowa Acts, House File 2128, section 2, unless any of the following apply:

- a. The retail dealer has been granted an incompatible infrastructure class 1 waiver order;
- b. The retail dealer has been granted an incompatible infrastructure class 2 waiver order;
- c. The retail dealer has been granted a small retail motor fuel site exemption.

86.2(2) Failure to comply with this rule may result in the suspension or revocation of the retail dealer’s license.

[ARC 6732C, IAB 12/14/22, effective 1/18/23]

21—86.3(214A) Incompatible infrastructure waivers.

86.3(1) *Class 1 waiver.* A retail dealer may apply for a class 1 waiver from the E-15 access standard by submitting a completed application to the department. The retail dealer shall include supporting documentation with the application regarding the retail motor fuel site’s gasoline storage tanks including but not limited to the date of installation and the material that the tank is constructed from. The department may consult with the department of natural resources to confirm documentation submitted by the retail dealer.

86.3(2) *Class 2 waiver.* A retail dealer may apply for a class 2 waiver from the E-15 access standard by submitting a completed application to the department. The retail dealer shall include supporting documentation with the application including a completed inspection report prepared by a certified professional retail motor fuel site installer regarding the compatibility of the retail motor fuel site’s motor fuel storage and dispensing infrastructure to store and dispense E-15 gasoline. The inspection report shall include an inventory of all motor fuel storage and dispensing infrastructure at the retail motor fuel site. The inspection report shall also include 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.

86.3(3) *Special status.* If it is determined that a retail dealer is ineligible for a class 2 waiver, the department shall assign the retail dealer special status and shall forward the designation to the renewable fuel infrastructure fund board and relevant department staff.

[ARC 6732C, IAB 12/14/22, effective 1/18/23]

21—86.4(214A) Small retail motor fuel site exemption.

86.4(1) A retail dealer may apply for a small retail motor fuel site exemption from the E-15 access standard by submitting a completed application to the department. The retail dealer shall provide the department with the retail motor fuel site’s total gasoline gallonage for calendar years 2020, 2021, and

2022 at the time of application. The department shall share the information provided by the retail dealer with the department of revenue to certify that the total gasoline gallonage is accurate. Once the gasoline gallonage is certified, the department shall grant an exemption if the average annual gasoline gallonage is less than 300,000 gallons for the qualifying phase.

86.4(2) The department will use the following methodology to determine the average annual gasoline gallonage:

a. For a retail dealer who has operated a retail motor fuel site for less than three years, all available sales data will be used to determine eligibility.

b. In cases where three full years of sales data are unavailable, the available sales data will be divided by the time frame the data represents to determine average annual sales.

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21—86.5(214A) Terminable events.

86.5(1) A retail dealer shall notify the department when a terminable event is planned to occur, is occurring, or has occurred. Failure to notify the department may result in the termination of a class 1 waiver, class 2 waiver, or small retail motor fuel site exemption. The department may also suspend or revoke the retail dealer's license.

86.5(2) A terminable event includes:

a. The failure of a retail dealer to be licensed as required under Iowa Code section 214.2 to use a commercial weighing and measuring device when dispensing gasoline at the retail motor fuel site;

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

c. The installation, replacement, or conversion of a gasoline storage tank located at the retail motor fuel site.

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These rules are intended to implement Iowa Code chapter 214A and 2022 Iowa Acts, House File 2128.

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