

**567—213.6(455D) Exemptions.** The following packaging and packaging components are exempt from the requirements of Iowa Code section 455D.19:

1. Packaging or packaging components with a code indicating a date of manufacture prior to July 1, 1990, and packaging or packaging components used by the alcoholic beverage industry or the wine industry prior to July 1, 1992.

2. Packages or packaging components to which lead, cadmium, mercury, or hexavalent chromium have been added in the manufacturing, forming, printing, or distribution process in order to comply with health or safety requirements of federal law or for which there is no feasible alternative if the manufacturer of a packaging or packaging component petitions the department for an exemption from the provisions of this paragraph for a particular packaging or packaging component. The department may grant a two-year exemption, if warranted by the circumstances, and an exemption may, upon meeting either criterion of this paragraph, be renewed for two years. For purposes of this paragraph, a use for which there is no feasible alternative is one in which the regulated substance is essential to the protection, safe handling, or function of the package's contents.

3. Packages or packaging components that would not exceed the maximum contaminant levels established but for the addition of recycled materials.

4. Packages or packaging components that are reused, but exceed contaminant levels set forth in Iowa Code section 455D.19(4), paragraph "c," if all of the following criteria are met:

- The product being conveyed by the package, including any packaging component, is regulated under federal or state health or safety requirements.
- Transportation of the packaged product is regulated under federal or state transportation requirements.
- The disposal of the packages or packaging components is performed according to federal or state radioactive or hazardous waste disposal requirements.

The department may grant a two-year exemption if warranted by the circumstances and an exemption may, upon meeting the criteria of this paragraph, be renewed for additional two-year periods.

5. Packages or packaging components which qualify as reusable entities that exceed the contaminant levels set forth in Iowa Code section 455D.19(4), paragraph "c," if the manufacturers or distributors of such packages or packaging components petition the department for an exemption and receive approval from the department according to the following standards based upon a satisfactory demonstration that the environmental benefit of the controlled distribution and reuse is significantly greater than if the same package is manufactured in compliance with the contaminant levels set forth in Iowa Code section 455D.19(4), paragraph "c." The department may grant a two-year exemption, if warranted by the circumstances, and an exemption may, upon meeting the four criteria listed in paragraphs "1" to "4" of this rule, be renewed for additional two-year periods.

In order to receive an exemption, the application must ensure that reusable entities are used, transported, and disposed of in a manner consistent with the following criteria:

- A means of identifying in a permanent and visible manner those reusable entities containing regulated metals for which an exemption is sought.
- A method or regulatory and financial accountability so that a specified percentage of the reusable entities manufactured and distributed to another person are not discarded by the person after use, but are returned to the manufacturer or the manufacturer's designee.
- A system of inventory and record maintenance to account for the reusable entities placed in, and removed from, service.
- A means of transforming returned entities that are no longer reusable into recycled materials for manufacturing or into manufacturing wastes which are subject to existing federal or state laws or regulations governing manufacturing wastes to ensure that these wastes do not enter the commercial or municipal waste stream.

The application for an exemption must document the measures to be taken by the applicant as set out in Iowa Code section 455D.19(5), paragraph "e," subparagraphs (1) to (4).