

ENVIRONMENTAL PROTECTION COMMISSION [567]
Notice of Intended Action

The Environmental Protection Commission (Commission) hereby proposes to rescind and replace Chapter 11, “Tax Certification of Pollution Control or Recycling Property” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 427.1(19)(d).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa code section 427.1(19).

Purpose and Summary

Chapter 11 clarifies the process and eligibility criteria for properties to obtain a pollution control or recycling certification from the Department of Natural Resources (DNR). This certification allows the owner to apply for a property tax exemption through their local county assessor’s office. Consistent with Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2)’s five-year rule review, Chapter 11 was edited for length and clarity.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 567-Chapter 10.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 17, 2024. Comments should be directed to Amie Davidson at amie.davidson@dnr.iowa.gov.

Public Hearing

Two public hearings at which persons may present their views orally will be held by conference call as follows. Persons who wish to attend the conference call should contact Amie Davidson at Amie.Davidson@dnr.iowa.gov. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Ms. Davidson prior to the hearing to facilitate an orderly hearing.

January 16, 2024 at 1:00 pm and

January 17, 2024 at 11:00 am

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action proposed:

ITEM 1. Rescind 567—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11

TAX CERTIFICATION OF POLLUTION CONTROL OR RECYCLING

PROPERTY

567—11.1(427) Form. All requests for the department to certify air or water pollution control recycling property pursuant to Iowa Code section 427.1(19) shall be submitted on a form prescribed by the department. Through these forms, the department may request any information necessary to make a determination under 567—11.5(427).

567—11.2(427) Time of submission. A request may be submitted at any time. Taxpayers are reminded that failure to dispatch a request sufficiently in advance of the February 1 deadline for filing with the assessing authority may cause the applicant to fail to qualify for the first possible annual exemption.

567—11.3(427) Notice. The department shall notify the taxpayer of the decision within ten days of receipt of a complete request. The notice shall include either the certificate if the decision is to certify the property as requested, or a concise statement of reasons for denial if the decision is to deny the request or to certify a

lesser portion of the property than requested. The determination of the department to deny or grant only a portion of the request may be appealed to the commission pursuant to 567—Chapter 7.

567—11.4(427) Issuance. Upon the decision of the department or the commission on appeal to certify all or any portion of the property for which a request has been made, two copies of the certificate will be signed by the director or the director's designee and mailed to the taxpayer. The certificate shall describe the property certified and state the date on which the department certified the property.

567—11.5(427) Criteria for determining eligibility.

11.5(1) General. Property which has been installed and is used primarily to meet an effluent standard, a water quality standard, an emission standard or to control hydrocarbons, fugitive dust, odors or other air contaminants in a reasonably adequate manner shall be considered to be used primarily to control or abate pollution of the water or air of the state. Property which has been installed to meet a standard more stringent than an emission or water quality standard shall be considered to be used primarily to enhance the quality of the water or air of the state. Personal property or improvements to real property as defined by Iowa Code section 427A.1 or any portion of the property used primarily in the manufacturing process and resulting directly in the conversion of waste plastic, wastepaper products, waste paperboard, waste glass, or waste wood into new raw materials or products composed primarily of recycled material shall be considered recycling property. Each request will be considered in the context of its particular circumstances.

In the event that such property also serves other purposes or uses of productive benefit to the owner of the property, only such portion of the assessed valuation thereof as may reasonably be calculated to be necessary for and devoted to the control or abatement of pollution, to the enhancement of the quality of the air or water of this state, or for recycling shall be exempt from taxation.

11.5(2) Denial. Property may be denied certification if it is not being operated in compliance with the rules of the department so as to effectively control or abate pollution or enhance the quality of the air or water of the state, or recycle property into new raw materials or products composed primarily of recycled material. Property which was constructed or installed without permits required from the department will be denied

certification unless and until such time as the property has received after-the-fact approval from the department.

These rules are intended to implement Iowa Code section 427.1(19).