

Purpose and Summary

The proposed rulemaking implements changes to the Renewable Chemical Production Tax Credit Program in 2023 Iowa Acts, Senate File 575. Changes in the legislation include:

- The maximum tax credit amount is now \$1 million for all businesses. Previously, businesses that have been in operation for more than five years were eligible for a maximum tax credit of \$500,000 and businesses in operation for five years or less were eligible for a maximum tax credit of \$1 million.
- The requirement that the Economic Development Authority (IEDA) maintains a wait list if demand for credits exceeds the annual allocation was eliminated.
- A requirement that IEDA award credits via a competitive process was created.
- The definition of “building block chemical” was amended to exclude serine, threonine, and lysine. Production of those chemicals will no longer be eligible for a tax credit.
- The credit will be allowed for renewable chemical production until 2035. Previously, the credit was allowed only for production until 2026.

The proposed amendments eliminate rule language that is duplicative of statutory language and Iowa Department of Revenue (IDR) rules. Other nonsubstantive clarifying amendments are also proposed.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

The rulemaking does not impose any meaningful additional costs on applicants for or recipients of the tax credit.

- Classes of persons that will benefit from the proposed rulemaking:

Businesses that apply for and are approved for the tax credit will benefit from clarity in the rules and consistency with Iowa Code.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

The rulemaking does not impose any meaningful additional costs on applicants for or recipients of the tax credit. Businesses interested in applying for the tax credit require staff time to complete an application and provide other documentation required by IEDA to receive the tax credit. Some businesses may also choose to rely on an external service provider, such as an accountant, to complete the application or submit other documents. The amount of the costs will vary, depending on the compensation of such staff or service provider. The existing application requires minimal time to complete. IEDA will require additional information from future applicants to facilitate a competitive application process as required by 2023 Iowa Acts, Senate File 575, but this is not expected to significantly increase the time to complete.

- Qualitative description of impact:

Updating rules to provide clarity about the division of administrative responsibilities between IEDA and IDR and consistency with Iowa Code will benefit those seeking information about the program.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

IEDA staff time will be required to update the application form, as well as review, score, and approve applications. Because IEDA has historically received only one to two applications per year for this tax credit, the additional time implementing a competitive process will not significantly increase staff time spent on administration of the program. The program changes are not expected to impact the time or cost for IDR to process tax credit claims.

- Anticipated effect on state revenues:

The amendments have no anticipated fiscal impact. Iowa Code section 15.119(1)“h” limits the aggregate amount of tax credits that the authority may approve to \$5 million per fiscal year.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Current rules are inconsistent with Iowa Code as amended by 2023 Iowa Acts, Senate File 575. The rulemaking does not impose any meaningful additional costs on applicants for or recipients of the tax credit. The only businesses that bear the costs of the current rules as well as the amendments are those that will potentially benefit from the tax credit.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

IEDA has not identified less costly methods or less intrusive methods of administering the tax credit.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency: IEDA did not consider any other methods.
- Reasons why alternative methods were rejected in favor of the proposed rulemaking: IEDA did not consider any other methods.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The rules do not have a substantial impact on small business. The compliance and reporting requirements relating to the tax credit are no more than is necessary to administer the program and are not impacted by the rulemaking. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 261—Chapter 81 and adopt the following new chapter in lieu thereof:

CHAPTER 81 RENEWABLE CHEMICAL PRODUCTION TAX CREDIT PROGRAM

261—81.1(15) Purpose. The purpose of this chapter is to encourage development of the renewable chemicals industry and stimulate job growth using the renewable chemical production tax credit program to incentivize new and existing businesses to produce high-value renewable chemicals in Iowa from biomass feedstock.

261—81.2(15) Definitions. As used in this chapter, unless the context otherwise requires:

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Authority's website*” means the information and related content found at www.iowaeda.com and may include integrated content at affiliate sites.

“*Biomass feedstock*” means the same as defined in Iowa Code section 15.316(2).

“*Board*” means the members of the economic development authority board appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Building block chemical*” means the same as defined in Iowa Code section 15.316(3) as amended by 2023 Iowa Acts, Senate File 575, and also includes benzene, toluene, xylene, ethylbenzene, butanoic acid, hexanoic acid, octanoic acid, pentanoic acid, heptanoic acid, ethylene glycol, and 1,4 butanediol, or such additional molecules as may be included by the authority following the procedure in rule 261—81.8(15).

“*Director*” means the director of the authority.

“*Eligible business*” means the same as defined in Iowa Code section 15.316(5).

“*Pre-eligibility production threshold*” means the same as defined in Iowa Code section 15.316(8).

“Production year” means any calendar year after the year in which the eligible business’s pre-eligibility production threshold was established and in which the eligible business produces renewable chemicals.

“Program” means the renewable chemical production tax credit program administered pursuant to Iowa Code sections 15.315 through 15.322 and this chapter.

“Renewable chemical” means the same as defined in Iowa Code section 15.316(10).

261—81.3(15) Eligibility requirements. To be eligible to receive the renewable chemical production tax credit pursuant to the program, a business shall meet all of the eligibility requirements in Iowa Code section 15.317.

261—81.4(15) Application process and review.

81.4(1) Applications for tax credits may be submitted to the authority electronically by eligible businesses from February 15 to March 15 of each calendar year. The authority may adjust the annual filing window dates under extenuating circumstances and will provide notice of adjustments on the authority’s website.

81.4(2) The application shall include all information required by Iowa Code section 15.318(1) “e” and all of the following information:

a. The name of the qualifying building block chemical produced by the eligible business for which the business is claiming a tax credit.

b. The amount of renewable chemicals produced in the state from biomass feedstock by the eligible business during the calendar year prior to the year in which the business first qualified as an eligible business under the program.

c. The city or county where the plant producing renewable chemicals is located.

d. The type of feedstock used to produce the renewable chemicals.

e. The date on which the eligible business organized, expanded or located in the state.

f. Any other information reasonably required by the authority in order to establish and verify the amount of the tax credit under the program.

81.4(3) Applications will be reviewed and scored on a competitive basis by a review committee established by the authority with relevant expertise and experience. If the authority deems that additional information is needed before reviewing and scoring can be completed, and the authority makes a written request for additional information from the applicant, the applicant must provide the requested information within 30 days of the date that the written request from the authority was made. If an applicant does not provide the requested information within 30 days, the application may be rejected by the authority.

81.4(4) Applications determined by the authority to be complete and eligible will be reviewed and scored using criteria established by the authority to evaluate the economic impact of an eligible business’s production of renewable chemicals.

81.4(5) The authority will notify an applicant when the applicant has been approved by the director to receive a tax credit.

261—81.5(15) Agreement and fees. An eligible business approved to receive a tax credit shall enter into an agreement and pay applicable fees pursuant to Iowa Code section 15.318(2) as amended by 2023 Iowa Acts, Senate File 575. Eligible businesses must sign the agreement within 60 days of being notified of approval for the tax credit. Upon request by an eligible business, the authority may extend the time period for signing the agreement by an additional 30 days.

261—81.6(15) Renewable chemical production tax credit.

81.6(1) *Calculation of tax credit amount.*

a. An eligible business that has entered into an agreement pursuant to rule 261—81.5(15) may be issued a tax credit certificate in an amount calculated as described in Iowa Code section 15.319(1). For example, if an eligible business produced 3 million pounds of renewable chemicals during calendar year 2016 and first became an eligible business under this chapter in calendar year 2017, the pre-eligibility production threshold for the business is 3 million pounds. If the same eligible business produced 10 million pounds of renewable chemicals during calendar year 2017, the eligible business could receive a tax credit for the amount produced over the pre-eligibility production threshold, which in this example equals 7 million pounds.

b. If a business has facilities located in more than one state, only those renewable chemicals produced at facilities physically located in the state of Iowa may be counted for the purpose of calculating the tax credit.

c. If the same eligible business has an ownership or equity interest in multiple facilities at which renewable chemicals are produced, the facilities under common ownership will be considered a single eligible business for purposes of calculating the maximum tax credit amount. In calculating the maximum tax credit amount, only the pro rata share of each eligible business's ownership in a facility will be attributed to that eligible business.

d. The maximum amount of tax credit that may be issued under the program to an eligible business for the production of renewable chemicals in a calendar year shall not exceed the amount authorized by Iowa Code section 15.318(3) "a" as amended by 2023 Iowa Acts, Senate File 575.

81.6(2) *Eligible business only.* An eligible business shall not receive a tax credit for renewable chemicals produced before the date the business first qualified as an eligible business pursuant to rule 261—81.3(15).

81.6(3) *Maximum number of credits.* An eligible business shall not receive more tax credit certificates under the program than specified in Iowa Code section 15.318(3) "d" as amended by 2023 Iowa Acts, Senate File 575. Each tax credit must be applied for separately, and each application will be reviewed independently of past tax credits. Receipt of a tax credit in one year does not guarantee receipt of a tax credit in a subsequent year.

81.6(4) *Termination and repayment.* Tax credits may be reduced, terminated, or rescinded pursuant to Iowa Code section 15.318(4).

261—81.7(15) Claiming the tax credit.

81.7(1) *Maximum tax credit claimed.* An eligible business that has entered into an agreement pursuant to rule 261—81.5(15) and been issued a tax credit certificate pursuant to subrule 81.6(1) may claim a tax credit as described in Iowa Code section 15.319(1) as amended by 2023 Iowa Acts, Senate File 575.

81.7(2) *Claiming the credit.* To receive the tax credit, an eligible business shall file a claim in accordance with any applicable administrative rules adopted by the department of revenue.

261—81.8(15) Process to add building block chemicals.

81.8(1) *General process.* The authority may add additional molecules to the definition of "building block chemical" in rule 261—81.2(15) pursuant to Iowa Code section 15.316(3) as amended by 2023 Iowa Acts, Senate File 575. The authority may initiate the administrative rulemaking process for the addition of such molecules to this chapter.

81.8(2) *Request to include additional molecules.* Any individual or business may request that an additional molecule be added to the definition of "building block chemical" by submitting a written request to the authority. Such requests shall be made in the form prescribed by the authority and may be submitted to the authority between April 1 and May 1 of each calendar year and October 1 and November 1 of each calendar year. The authority may adjust these dates under extenuating circumstances and will provide notice of adjustments on the authority's website.

81.8(3) *Consultation with experts.* Prior to initiating a rulemaking to add molecules to the definition of "building block chemical" in rule 261—81.2(15), the authority shall consult with appropriate experts from Iowa state university, including but not limited to the Iowa state university center for biorenewable chemicals. The authority shall conduct an initial staff review of any requests received by the authority pursuant to subrule 81.8(2). Following the initial staff review, the authority shall consult with the experts at Iowa state university regarding the molecules that the authority believes are consistent with the definitions under this chapter. The experts at Iowa state university shall provide a written recommendation to the authority indicating which chemicals, in the experts' opinion, meet the definition of "building block chemical" consistent with this chapter.

81.8(4) *Initiation of rulemaking proceedings.* Following the consultation and review process set forth in subrule 81.8(3), the authority may initiate the administrative rulemaking process to amend the definition of "building block chemical" to add molecules that the authority, in the authority's sole discretion, finds to be consistent with the definitions in this chapter.

261—81.9(15) Additional information. The authority may at any time request additional information and documentation from an eligible business regarding the operations, job creation, and economic impact of the eligible business, and the authority may use the information in preparing and publishing any reports

to be provided to the governor and the general assembly to the extent consistent with Iowa Code section 15.318(5).

These rules are intended to implement Iowa Code sections 15.315 through 15.322 as amended by 2023 Iowa Acts, Senate File 575.