

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed**

**Rule making related to community attraction and tourism programs**

The Economic Development Authority hereby amends Chapter 211, “Community Attraction and Tourism Development (CATD) Programs,” and Chapter 213, “Vision Iowa Board: Uniform Waiver and Variance Rules,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 15.106A and 15F.104.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 15F.201 to 15F.206.

*Purpose and Summary*

Pursuant to Iowa Code section 17A.7(2), the Enhance Iowa Board and Authority staff reviewed the administrative rules for the Community Attraction and Tourism (CAT) program. Authority staff recommended amendments to Chapters 211 and 213 to clarify the rules and make the programs easier to use for CAT program applicants and award recipients.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 13, 2019, as **ARC 4329C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Economic Development Authority Board on May 17, 2019.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, 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 Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 213.

*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).

*Effective Date*

This rule making will become effective on July 24, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend **261—Chapter 211**, title, as follows:

COMMUNITY ATTRACTION AND  
TOURISM DEVELOPMENT (~~CATD~~) (CAT) PROGRAMS

ITEM 2. Amend rule 261—211.1(15F) as follows:

**261—211.1(15F) Purpose.** The community attraction and tourism development programs are designed to assist communities in the development and creation of multiple-purpose attraction and tourism facilities. The ~~CATD~~ CAT programs include the CAT fund and the RECAT fund. The rules in this division apply to all applications and awards from the CAT and RECAT funds.

ITEM 3. Amend rule 261—211.2(15F) as follows:

**261—211.2(15F) Definitions.** When used in this chapter, unless the context otherwise requires:

“*Attraction*” means a permanently located recreational, cultural, educational, or entertainment activity that is available to the general public.

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

“*Board*” means the ~~vision enhance~~ Iowa board established by Iowa Code section 15F.102.

“*CAT*” means the community attraction and tourism component of the ~~CATD~~ programs.

~~“*CATD*” means community attraction and tourism development.~~

~~“*CATD programs*” means the CAT fund and RECAT fund.~~

“*CAT fund*” means the community attraction and tourism fund established pursuant to Iowa Code section 15F.204.

~~“*Community*” or “*political subdivision*” means a city or county, or an entity established pursuant to Iowa Code chapter 28E.~~

~~“*Community attraction and tourism program review committee*” or “*CAT review committee*” means the committee established by Iowa Code section 15F.203(2) and identified as the following members of the ~~vision enhance~~ Iowa board: three members of the general public, one from each of the three tourism regions; the mayor of a city with a population of less than 20,000; and the county supervisor from a county that has a population ranking in the bottom 33 counties according to the 1990 census. The chair and vice chair of the ~~vision~~ Iowa board may serve as ex officio members of any subcommittee of the board one member from each congressional district and one member from the state at large.~~

~~“*Department*” or “*IDED*” means the Iowa department of economic development.~~

“*Economic development organization*” means an entity organized to position a community to take advantage of economic development opportunities and strengthen a community’s competitiveness as a place to work and live.

~~“*Float loan*” or “*interim financing*” means a short-term loan (maximum of 30 months) from obligated but unexpended funds.~~

“*Loan*” means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the award. A deferred loan is one for which the payment of principal, interest, or both is not required for some specified period. A forgivable loan is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions.

“*Local support*” means endorsement by local individuals, and organizations and political subdivisions that have a substantial interest in a project.

“*Nonfinancial support*” may include, but is not limited to, the value of labor and services which may not total more than 25 percent of a local match. Real property and personal property donated for purposes of the project are considered financial support at their fair market value.

~~“*Private organization*” means a corporation, partnership, or other organization that is operated for profit.~~

*“Public organization”* means a not-for-profit economic development organization or other not-for-profit organization, including ~~those that sponsor or support~~ one that sponsors or supports community or tourism attractions and activities.

*“RECAT”* means river enhancement community attraction and tourism.

*“RECAT fund”* means the river enhancement community attraction and tourism fund established pursuant to Iowa Code section 15F.205.

*“Recipient”* means the entity under contract with the ~~vision~~ enhance Iowa board to receive CAT or RECAT funds and undertake the funded activity.

~~*“Recreational and cultural attraction”* means an attraction that enhances the quality of life in the community.~~

~~*“River enhancement community attraction and tourism project”* means a project that creates or enhances recreational opportunities and community attractions on and near lakes or rivers or river corridors within cities across the state under the purview of the program.~~

*“School district”* means a school corporation organized under Iowa Code chapter 274.

*“Subrecipient”* means a private organization or other entity operating under an agreement or contract with a recipient to carry out a funded CAT or RECAT activity.

*“Tourism opportunity”* means a facility that draws people into the community from at least 50 miles (one way) away from home.

*“Vertical infrastructure”* means land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site development, ~~and~~ recreational trails and water trails. “Vertical infrastructure” does not include routine, recurring maintenance or operational expenses or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement.

*“Vision Iowa program review committee”* means the committee established by Iowa Code section 15F.304(2) ~~as amended by 2009 Iowa Acts, House File 822,~~ and identified as the following members of the ~~vision~~ enhance Iowa board: ~~four members of the general public, the mayor of a city with a population of 20,000 or more, the director of the Iowa department of economic development or designee, the treasurer of state or designee, and the auditor of state or designee. The chairperson and vice chairperson of the vision Iowa board may serve as ex officio members of any subcommittee of the board~~ one member from each congressional district and two members from the state at large.

ITEM 4. Amend rule 261—211.3(15F) as follows:

~~**261—211.3(15F) Program components Forms of assistance.** There are four direct components of the CATD programs. The first component relates to community attraction, tourism or leisure projects that are sponsored by political subdivisions, public organizations, and school districts in cooperation with a city or county. This component is referred to as the community attraction component. The second component provides community attraction and tourism development funds for interim financing for eligible projects under the community attraction component. This component is referred to as the interim financing component. The third component relates to river enhancement community attraction and tourism projects. This component is referred to as the river enhancement component. The fourth component relates to marketing projects that have received funding from the vision Iowa or CATD programs. This component is referred to as the marketing component.~~

~~**211.3(1) Community attraction component and tourism—CAT.** The objective of the CAT component is to provide CAT program provides financial assistance for community-sponsored attraction and tourism projects. Community attraction projects may include but are not limited to the following: museums, theme parks, cultural and recreational centers, heritage attractions, sports arenas and other attractions.~~

~~**211.3(2) Interim financing component.**~~

~~*a.*—The objective of the interim financing component is to provide short term financial assistance for eligible community attraction and tourism projects. Financial assistance may be provided as a float loan. A float loan may only be made for projects that can provide the vision Iowa board with an irrevocable letter of credit or equivalent security instrument from a lending institution rated AA or better, in an amount equal to or greater than the principal amount of the loan.~~

~~b. Applications for float loans shall be processed, reviewed and considered on a first come, first served basis to the extent funds are available. Applications that are incomplete or require additional information, investigation or extended negotiation may lose funding priority. Applications for float loans shall meet all other criteria required for the community attraction component.~~

~~211.3(3) 211.3(2) River enhancement component community attraction and tourism—RECAT. The objective of the RECAT component is to provide program provides financial assistance for projects that are related to, closely connected with, and enhance rivers, lakes, or river corridors within cities. River enhancement projects may include but are not limited to pedestrian trails and walkways, amphitheaters, bike trails, water trails or white water courses for watercraft, and any modifications necessary for the safe mitigation of dams create or enhance recreational opportunities and community attractions on and near lakes or rivers or river corridors within cities.~~

~~211.3(4) 211.3(3) Marketing component. The objective of the CAT marketing component is to provide provides financial assistance for the marketing of vision Iowa or CATD, CAT and RECAT projects.~~

ITEM 5. Amend rule 261—211.4(15F) as follows:

**261—211.4(15F) Eligible applicants.** Eligible applicants for CAT and RECAT funds include political subdivisions, cities, counties, public organizations, and school districts in cooperation with a city or county. Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants. A school district must apply jointly with a city or county.

~~211.4(1) Any eligible applicant may apply directly or on behalf of a subrecipient.~~

~~211.4(2) Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.~~

ITEM 6. Amend rule 261—211.5(15F) as follows:

**261—211.5(15F) Eligible projects and forms of assistance.**

~~211.5(1) Eligible projects include those which are related to a community or tourism attraction, and which would provide recreational, cultural, entertainment and educational opportunities. Funded projects must position a community to take advantage of economic development opportunities in tourism and strengthen a community's competitiveness as a place to work and live. Eligible projects include building construction or reconstruction, rehabilitation, conversion, acquisition, demolition for the purpose of clearing lots for development, site improvement, equipment purchases, and other projects as may be deemed appropriate by the vision Iowa board. Completed projects must be open to the public for general use.~~

~~211.5(2) Eligible forms of assistance include grants, interest bearing loans, non-interest bearing loans, float loans under the interim financing component, interest subsidies, deferred payment loans, forgivable loans, or other forms of assistance as may be approved by the vision Iowa board. Eligible CAT and RECAT projects must be primarily vertical infrastructure projects.~~

~~211.5(3) Financial assistance for an eligible project may be provided in the form of a multiyear award to be paid in increments over a period of years, subject to the availability of funds. The enhance Iowa board has the option of funding a component of a proposed project.~~

~~211.5(4) IDEED, with the approval of the chair or vice chair of the vision Iowa board, reserves the right to make technical corrections which are within the intent of the terms of a board approved award.~~

~~211.5(5) Applicants must report other sources of funding or pending funding, public or private, for the project including the local recreation infrastructure grants program administered by the Iowa department of natural resources and the Iowa historic site preservation grant program administered by the historical division of the Iowa department of cultural affairs. IDEED may consult with appropriate staff from the department of cultural affairs and the department of natural resources to coordinate the review of applications under the programs.~~

ITEM 7. Amend rule 261—211.6(15F) as follows:

**261—211.6(15F) Ineligible projects.**

**211.6(1)** ~~The vision enhance Iowa board shall not approve an application for assistance under this program to refinance an existing loan.~~

**211.6(2)** ~~An applicant~~ A recipient may not receive more than one CAT or RECAT award under the CATD programs for a single project. However, previously funded projects may receive an additional award(s) if the applicant demonstrates that the funding is to be used for a significant expansion of the project, or a new project, or a project that results from previous project development assistance.

**211.6(3)** ~~The vision enhance Iowa board shall not approve an application for assistance in which the combination of RECAT and CAT funding~~ CAT or RECAT funding plus other state funds would constitute more than 50 percent of the total project costs. RECAT funding may constitute up to one-third of the total project cost. A portion of the resources provided by the applicant for project costs may be in the form of in-kind or nonfinancial contributions.

**211.6(4)** Work completed and costs incurred, except the acquisition of real estate, prior to the date of a potential CAT or RECAT award are ineligible for funding under the CAT programs.

ITEM 8. Amend rule 261—211.7(15F) as follows:

**261—211.7(15F) ~~Threshold application~~ Application requirements.** ~~To be considered for funding under the CATD programs, an application must meet the following threshold requirements~~ At a minimum, CAT and RECAT applications must contain the following information:

**211.7(1)** ~~There must be demonstrated local support for the proposed activity.~~ The total capital investment of the project, including but not limited to costs for construction, site acquisition, and infrastructure improvement.

**211.7(2)** ~~A need for the CAT or RECAT funds must exist after other financial resources have been identified for the proposed project.~~ The amount or percentage of local and private matching moneys which will be or have been provided for the project. Moneys raised at any time and not yet spent may be considered as local match. Up to 25 percent of the local match may be nonfinancial support.

**211.7(3)** ~~The proposed project must primarily involve the creation or renovation of vertical infrastructure with demonstrated substantial regional or statewide economic impact.~~ The total number of jobs to be created or retained by the project.

**211.7(4)** ~~The project must provide and pay at least 50 percent of the cost of a standard medical insurance plan for all full-time employees working at the project after the completion of the project for which financial assistance was received.~~ The long-term tax-generating impact of the project.

**211.7(5)** A joint application from a school district in cooperation with a city or county must demonstrate that the intended future use of the project shall be by both joint applicants.

ITEM 9. Rescind rule 261—211.8(15F) and adopt the following **new** rule in lieu thereof:

**261—211.8(15F) Application review.**

**211.8(1)** Authority staff will review CAT and RECAT applications to ensure the applications meet the threshold requirements set forth in subrule 211.8(2). All eligible applications will be forwarded to and reviewed by the enhance Iowa board. Applications that do not meet the threshold requirements will not be forwarded to the enhance Iowa board for review.

**211.8(2)** Authority staff will review each application for the following information:

- a. Local support for the proposed activity.
- b. Whether the proposed project is primarily a vertical infrastructure project.
- c. Certification from the applicant that the applicant will provide and pay for at least 50 percent of the cost of a standard medical insurance plan for all full-time employees working at the project after the completion of the project for which financial assistance was received.
- d. At least 65 percent of the funds needed to complete the proposed project have been raised or pledged. Other state funds cannot be counted as match until the applicant can document that at least 50 percent of the funds have been raised.

**211.8(3)** The CAT and vision Iowa program review committees shall consider, at a minimum, the following:

- a. Whether the wages, benefits, including health benefits, safety, and other attributes of the project would improve the quality of life or the quality of the attraction or tourism employment in the community.
- b. The extent to which such a project would generate additional recreational and cultural attractions or tourism opportunities.
- c. The ability of the project to produce a long-term tax-generating economic impact.
- d. The location of the projects and geographic diversity of the applications.
- e. The project is primarily a vertical infrastructure project with demonstrated substantial regional or statewide economic impact.
- f. Whether the applicant has received financial assistance under the program for the same project.
- g. The extent to which the project has taken the following planning principles into consideration:
  - (1) Efficient and effective use of land resources and existing infrastructure by encouraging development in areas with existing infrastructure or capacity to avoid costly duplication of services and costly use of land.
  - (2) Provision for a variety of transportation choices, including pedestrian traffic.
  - (3) Maintenance of a unique sense of place by respecting local cultural and natural environmental features.
  - (4) Conservation of open space and farmland and preservation of critical environmental areas.
  - (5) Promotion of safety, livability, and revitalization of existing urban and rural communities.

ITEM 10. Amend rule 261—211.9(15F) as follows:

**261—211.9(15F) Application procedure.** Subject to availability of funds, applications ~~are reviewed by IDED staff on an ongoing basis and reviewed at least quarterly~~ will be accepted by the board quarterly. ~~Applications will be reviewed by staff~~ Authority staff will review applications for completeness and eligibility. ~~If additional information is required, the applicant shall be provided with notice, in writing, to submit additional information.~~ A review, analysis and evaluation from the ~~IDEED~~ authority staff will be submitted to the CAT and vision Iowa program review committees of the board, ~~who~~ which will then make a final recommendation to the complete board for final approval, denial or deferral. ~~The vision Iowa board has the option of funding a component of a proposed project if the entire project does not qualify for funding.~~

**211.9(1)** ~~Application forms shall be available upon request from IDEED, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3197; and on IDEED's Web site at [www.iowalifechanging.com](http://www.iowalifechanging.com).~~ Applicants must submit a notice of intent to apply on a form provided by the authority. The authority will send standard application forms to those applicants who have submitted a notice of intent to apply. The notice of intent to apply form will be available on the enhance Iowa web page. The authority can waive this requirement for good cause.

**211.9(2)** ~~IDEED Authority staff~~ may provide technical assistance to applicants as necessary. IDEED Authority staff and board members may conduct on-site evaluations of proposed projects.

**211.9(3)** ~~Applications shall include, at a minimum, the information detailed in rule 211.8(15F), application review criteria requirements.~~

**211.9(4)** Incomplete or ineligible applications will not be forwarded to the board for review.

ITEM 11. Amend subrules 211.10(1) to 211.10(6) as follows:

**211.10(1)** *Administration of awards.*

a. A contract shall be executed between the recipient and the ~~vision~~ enhance Iowa board. These rules and applicable state laws and regulations shall be part of the contract. The board reserves the right to negotiate ~~wage rates as well as other~~ terms and conditions of the contract.

b. The recipient must execute and return the contract to the ~~vision~~ enhance Iowa board within 45 days of transmittal of the final contract from the ~~vision~~ enhance Iowa board. Failure to do so may be cause for the ~~vision~~ enhance Iowa board to terminate the award.

c. Certain projects may require that permits or clearances be obtained from other state or local agencies before the project may proceed. Awards may be conditioned upon the timely completion of these requirements.

d. Awards may be conditioned upon commitment of other sources of funds necessary to complete the project.

e. Awards may be conditioned upon ~~IDED~~ the authority's receipt and board approval of an implementation plan for the funded project.

f. The authority, with the approval of the chair or vice chair of the enhance Iowa board, reserves the right to make technical corrections that are within the intent of the terms of a board-approved award.

**211.10(2) ~~Requests for Disbursement of funds.~~** Recipients shall submit requests for funds in the manner and on forms prescribed by ~~IDED~~ the authority. Individual requests for funds shall be made in an amount equal to or greater than \$500 per request, except for the final draw of funds.

**211.10(3) ~~Record keeping and retention.~~** The recipient shall retain all financial records, supporting documents and all other records pertinent to the ~~community attraction and tourism development activity~~ funded CAT or RECAT project for three years after contract closeout. Representatives of ~~IDED~~ the authority shall have access to all records belonging to or in use by recipients pertaining to ~~community attraction and tourism development~~ CAT and RECAT funds.

**211.10(4) ~~Performance reports and reviews.~~** Recipients Upon request of the authority or the enhance Iowa board, recipients shall submit performance reports ~~to IDEE~~ in the manner and on forms prescribed by ~~IDED~~ the authority. Reports shall assess the use of funds and progress of activities. ~~IDED~~ The authority may perform any reviews or field inspections necessary to ensure ~~recipient~~ each recipient's performance.

**211.10(5) ~~Amendments to contracts.~~** Any substantive change to a contract shall be considered an amendment. ~~Changes~~ Substantive changes include time extensions, budget revisions and significant ~~alteration~~ alterations of the funded project that change the scope, location, objectives or scale of the approved project. Amendments must be requested in writing by the recipient and are not considered valid until approved by the ~~vision~~ enhance Iowa board and confirmed in writing by ~~IDED~~ following the procedure specified in the contract between the recipient and IDEE.

**211.10(6) ~~Contract closeout.~~** Upon ~~contract expiration,~~ IDED project completion, the authority shall initiate contract closeout procedures.

ITEM 12. Amend rule 261—211.51(15F) as follows:

**261—211.51(15F) Allocation of funds.**

**211.51(1) ~~Except as otherwise noted in this rule, all CAT funds shall be awarded for projects as specified in rule 211.3(15F).~~**

**211.51(2) 211.51(1)** One-third of the moneys shall be allocated to provide assistance to projects located in cities and counties which meet the following criteria:

a. A city which has a population of 10,000 or less according to the most recently published census.

b. A county which has a population that ranks in the bottom 33 counties according to the most recently published census.

**211.51(3) 211.51(2)** Two-thirds of the moneys shall be allocated to provide assistance to projects in any city and county in the state, which may include a city or county included under subrule 211.51(2) 211.51(1).

**211.51(4) 211.51(3)** If two or more cities or counties submit a joint project application for financial assistance from the CAT fund, all joint applicants must meet the criteria of subrule ~~211.51(2)~~ 211.51(1) in order to receive any moneys allocated under that subrule.

**211.51(5) 211.51(4)** If any portion of the allocated moneys under subrule ~~211.51(2)~~ 211.51(1) has not been awarded by April 1 of the fiscal year for which the allocation is made, the portion which has not been awarded may be utilized by the ~~vision~~ enhance Iowa board to provide financial assistance from the CAT fund to projects located in any city or county in the state.

ITEM 13. Amend rule 261—211.102(15F) as follows:

**261—211.102(15F) Allocation of funds Application contents.**

~~211.102(1)~~ Except as otherwise noted in this rule, all river enhancement community attraction and tourism funds shall be awarded for projects as specified in rule 211.3(15F).

~~211.102(2)~~ Application contents. Applications for river enhancement RECAT projects shall include, as an exhibit to the standard CATD program application, information about the project’s connection and interaction with a river, lake or river corridor. “Lake” means a lake of which the state or a political subdivision owns the lake bed up to the ordinary high water line and which is open to the use of the general public.

~~211.102(3)~~ Application review criteria. In addition to the application review criteria in rule 211.8(15F), river enhancement projects shall be reviewed using the following additional criteria:

*a.*—Connection and interaction with a river, lake or river corridor. The extent that the project relates to, connects with, and enhances a body of water. An explanation of the relevance of the body of water with regard to the project overall (0-5 points).

*b.*—A description of the green sustainable design and construction practices, including storm water best management practices, such as permeable pavement, bioretention cells, and bioswales that will be utilized on the project to protect from pollution the body of water enhanced by the project (0-5 points).

ITEM 14. Rescind and reserve rule **261—211.103(15F)**.

ITEM 15. Amend **261—Chapter 213**, title, as follows:

VISION ENHANCE IOWA BOARD: UNIFORM WAIVER  
AND VARIANCE RULES

ITEM 16. Amend subrule **213.1(1)**, definition of “Board,” as follows:

“Board” or “~~vision enhance Iowa board~~” means the vision enhance Iowa board established by 2000 Iowa Acts, chapter 1174 Iowa Code section 15F.102.

ITEM 17. Amend subrule 213.3(1) as follows:

**213.3(1) Application.** All petitions for waiver or variance must be submitted in writing to the Vision Enhance Iowa Board, 200 East Grand Avenue, Des Moines, Iowa 50309-1819. If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

ITEM 18. Amend rule 261—213.6(17A,ExecOrd11) as follows:

**261—213.6(17A,ExecOrd11) Public availability.** Subject to the provisions of Iowa Code section 17A.3(1) “e,” the board shall maintain a record of all orders granting or denying waivers and variances under this chapter. All final rulings in response to requests for waivers or variances shall be indexed and available to members of the public at the Vision Enhance Iowa Board, 200 East Grand Avenue, Des Moines, Iowa 50309-1819.

ITEM 19. Amend rule 261—213.10(17A,ExecOrd11) as follows:

**261—213.10(17A,ExecOrd11) Appeals.** Granting or denying a request for waiver or variance is final agency action under Iowa Code chapter 17A. An appeal to district court shall be taken within 30 days of the issuance of the ruling in response to the request unless a contrary time is provided by rule or statute.

Exhibit A

Sample Petition (Request) for Waiver/Variance

BEFORE THE VISION ENHANCE IOWA BOARD

Petition by (insert name of petitioner)  
for the waiver of (insert rule citation)  
relating to (insert the subject matter).



PETITION FOR  
WAIVER



Requests for waiver or variance from a board rule shall include the following information in the petition for waiver or variance where applicable and known:

- a. Provide the petitioner's (person asking for a waiver or variance) name, address, and telephone number.
- b. Describe and cite the specific rule from which a waiver or variance is requested.
- c. Describe the specific waiver or variance requested; include the exact scope and time period that the waiver or variance will extend.
- d. Explain the important facts that the petitioner believes justify a waiver or variance. Include in your answer why (1) applying the rule will result in hardship or injustice to the petitioner; and (2) granting a waiver or variance to the petitioner is consistent with the public interest; and (3) granting the waiver or variance will not prejudice the substantial legal rights of any person; and (4) where applicable, how substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver or variance is requested.
- e. Provide history of prior contacts between the board and petitioner relating to the regulated activity, license, grant, loan or other financial assistance that would be affected by the waiver or variance; include a description of each affected license, grant, loan or other financial assistance held by the petitioner, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity, license, grant or loan within the past five years.
- f. Provide information known to the petitioner regarding the board's treatment of similar cases.
- g. Provide the name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question, or which might be affected by the grant of a waiver or variance.
- h. Provide the name, address, and telephone number of any person or entity that would be adversely affected or disadvantaged by the grant of the waiver or variance.
- i. Provide the name, address, and telephone number of any person with knowledge of the relevant or important facts relating to the requested waiver or variance.
- j. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver or variance.

I hereby attest to the accuracy and truthfulness of the above information.

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Petitioner's signature \_\_\_\_\_ Date \_\_\_\_\_

- Petitioner should note the following when requesting or petitioning for a waiver or variance:
1. The petitioner has the burden of proving to the board, by clear and convincing evidence, the following: (a) application of the rule to the petitioner would result in hardship or injustice to the petitioner; and (b) waiver or variance on the basis of the particular circumstances relative to the petitioner would be consistent with the public interest; and (c) waiver or variance in the specific case would not prejudice the substantial legal rights of any person; and (d) where applicable, how substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver or variance is requested.
  2. The board may request additional information from or request an informal meeting with the petitioner prior to issuing a ruling granting or denying a request for waiver or variance.
  3. All petitions for waiver or variance must be submitted in writing to the Vision Enhance Iowa Board, 200 East Grand Avenue, Des Moines, Iowa 50309-1819. If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

ITEM 20. Amend ~~261~~—**Chapter 213**, implementation sentence, as follows:  
These rules are intended to implement Executive Order Number 11, Iowa Code chapter 17A, and ~~2000 Iowa Acts, chapter 1174~~ Iowa Code section 15F.102.

[Filed 5/28/19, effective 7/24/19]

[Published 6/19/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/19/19.