

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

Proposing rule making related to choose Iowa promotional program and value-added agricultural grant program and providing an opportunity for public comment

The Agriculture and Land Stewardship Department hereby proposes to adopt new Chapter 52, “Marketing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 159.29 as enacted by 2022 Iowa Acts, House File 2581, and 2022 Iowa Acts, House File 2560.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 159.29 as enacted by 2022 Iowa Acts, House File 2581, and 2022 Iowa Acts, House File 2560.

Purpose and Summary

This proposed rule making establishes rules for the Choose Iowa Promotional Program. The rules establish qualifications for various types of products grown and raised in Iowa, provide application procedures for participation in the program, establish fees and membership classifications, and set standards for use of the Choose Iowa logo and departmental procedure for enforcement of proper standards.

This proposed rule making also establishes processes and procedures for the Value-Added Agriculture Grant Program. The rules provide for application and application review procedures and establish eligibility for applying, ineligible uses of grant funds, and scoring criteria used to evaluate applications.

Fiscal Impact

The Department will collect fee revenue from program participants. At this time, the Department does not have a good estimate on how much revenue this may generate. All fee revenue is deposited into the Choose Iowa Fund (Iowa Code section 159.31A as enacted by 2022 Iowa Acts, House File 2581, section 7) and will be used to further support the program.

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 Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Public Comment

Any interested person may submit written 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 August 26, 2022. Comments should be directed to:

Colin Tadlock
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Phone: 515.281.7609
Email: colin.tadlock@iowaagriculture.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

August 24, 2022
1 p.m.

Second Floor Conference Room
Wallace State Office Building
Des Moines, Iowa

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 public 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 is proposed:

Adopt the following **new** 21—Chapter 52:

CHAPTER 52
MARKETING

CHOOSE IOWA PROMOTIONAL PROGRAM

21—52.1(159) Definitions.

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

“*Food item*” means any of the following:

1. A perishable item derived from an agricultural commodity, or processed from an agricultural commodity, that is fit for human consumption.
2. Honey produced from bees in a managed beehive.

“*Iowa farm*” means land in this state used to produce an agricultural commodity.

“*Member*” means a person who has applied for and been accepted to participate in the choose Iowa promotional program.

“*Process*” means to prepare a food item in a manner that allows it to be fit for human consumption.

“*Processor*” is a membership classification that means a person preparing a food item in a manner that allows it to be fit for human consumption.

“*Producer*” is a membership classification that means a person growing, raising, or harvesting agricultural commodities in the state of Iowa.

“*Retailer*” is a membership classification that means a person engaged in the business of selling agricultural products to consumers, including food service and restaurants.

“Wholesaler” is a membership classification that means a person engaged in the business of selling agricultural products to retailers.

21—52.2(159) Product qualification.

52.2(1) Authority of determination. The department has the sole authority in determining the eligibility of a product for participation in the program.

52.2(2) General product qualifications. Except as specified in this chapter, products must meet or exceed the following criteria:

a. Fresh produce and commodities bearing the choose Iowa logo shall be 100 percent grown or raised in Iowa.

b. Meat and meat products bearing the choose Iowa logo shall be derived from animals born, raised, and finished in Iowa. Slaughter and processing must take place in a state- or federally inspected plant within the state of Iowa.

c. Dairy products bearing the choose Iowa logo shall be derived from animals in Iowa. Processing must take place in a state-inspected plant within the state of Iowa.

d. Eggs bearing the choose Iowa logo shall be derived from animals in Iowa.

e. Apicultural products produced by honey bees, including honey, wax, pollen, and propolis, bearing the choose Iowa logo shall be 100 percent of Iowa origin. Processed honey shall be 80 percent of Iowa origin.

f. Beer bearing the choose Iowa logo shall be brewed in Iowa and contain at least one Iowa agricultural product, such as Iowa malt, hops, or soluble remnant, excluding water.

g. Wine bearing the choose Iowa logo shall contain a minimum of 95 percent Iowa grapes.

h. Spirits bearing the choose Iowa logo shall be distilled in Iowa and contain at least one Iowa agricultural product, excluding water.

52.2(3) Exceptions. The department has the authority to establish product qualification requirements specific to individual products and commodities by written order.

21—52.3(159) Application for membership.

52.3(1) Application requirement. Persons interested in becoming a member in the choose Iowa promotional program shall do so by making application to the department. New applications may be submitted at any time throughout the year.

52.3(2) Application review and compliance verification. The department, upon receipt of an application, will verify the applicant’s compliance with this chapter and approve or deny the application. The department will notify the applicant in writing of the approval or denial.

52.3(3) Duration of membership. Membership is on an annual basis, coinciding with the calendar year beginning January 1 and ending December 31.

52.3(4) Membership revocation and termination. Program membership may be revoked if the member company:

a. No longer meets the qualifications for membership;

b. Violates any applicable statute or rule;

c. Violates any agreement between the department and the member company;

d. Acts in a manner that may damage the reputation of the program.

21—52.4(159) Fees.

52.4(1) Membership fees. Membership fees will be listed in the membership application and will be charged at the following rates:

Producer	\$100
Processor	\$100
Wholesaler/distributor	\$100
Retailer	\$100
Supporting organization	\$100

52.4(2) *New member fees.* New member agreements issued during the program year will be assessed at 100 percent of the annual fee regardless of when an application for membership is submitted.

21—52.5(159) Approval for use of logo. Members who wish to use the choose Iowa logo on packaging, labels, flyers, promotional materials, or any other materials that will be viewed by the public must submit a proof of text and design to the department for approval. Requests for approval must be submitted to the department not less than five working days prior to the proposed date of use. Written approval from the department for logo use must be issued prior to use of the logo.

21—52.6(159) Self-certification. All members shall self-certify that all products marked with the choose Iowa logo meet the qualification criteria as set forth in this chapter. Self-certification is subject to verification through the application and compliance processes.

21—52.7(159) Compliance.

52.7(1) *Authority of department.* The department may enter upon the premises of any member to examine any records or materials necessary to ensure compliance with these rules.

52.7(2) *Random compliance inspection.* The department may annually perform random compliance inspections.

52.7(3) *Samples.* Upon request of the department, a member shall provide samples of the labels, packaging, merchandising, and promotional materials featuring the choose Iowa logo.

21—52.8(159) Violations. Any person found in violation of these rules is subject to termination of membership privileges.

21—52.9 to 52.19 Reserved.

This division is intended to implement Iowa Code section 159.29 as amended by 2022 Iowa Acts, House File 2581.

VALUE-ADDED AGRICULTURE GRANT PROGRAM

21—52.20(159) Definitions. For purposes of this division:

“Agreement” means a contract for financial assistance under the program describing the terms on which the financial assistance is to be provided.

“Applicant” means a person applying for assistance under the program. This includes but is not limited to an individual, business, agricultural cooperative, nonprofit organization, or local government.

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

“Grant” means an award of assistance with the expectation that, with the fulfillment of the conditions, terms and obligations of the agreement with the department for the project, repayment of funds is not required.

“Program” means the value-added agriculture grant program established under this chapter.

“Project” means an activity or activities undertaken by the applicant to be carried out to meet the goals of the program.

21—52.21(159) Eligibility.

52.21(1) *Eligible applicants.* To be eligible for a grant under the program, an applicant shall meet all of the following requirements:

a. Be an individual, business, agricultural cooperative, nonprofit organization, or local government.

b. Be in good standing with the state of Iowa.

c. Currently reside or conduct business in Iowa.

52.21(2) *Eligible projects.* To be eligible for a grant under the program, a project shall:

a. Increase sales of Iowa agricultural products by increasing production capacity or expanding market access for value-added projects.

- b. Not be in progress until a grant is awarded.
- c. Be completed in 18 months or less.
- d. Be conducted in Iowa.

52.21(3) Ineligible expenses. The following items are not eligible expenses under the program:

- a. Equipment and infrastructure for meat processing;
- b. Infrastructure for renewable fuels;
- c. Expenses incurred prior to the awarding of a grant;
- d. Start-up costs including but not limited to inventory, license fees, or working capital;
- e. Advertising, public relations, or entertainment costs;
- f. Employee benefits and wages;
- g. Paying off existing debt, related collection costs, or legal costs;
- h. Paying off existing fines, penalties, or settlements from failure to comply with any applicable law or regulations.

52.21(4) Grant amount and terms.

- a. The maximum amount of financial assistance awarded to an eligible applicant under the program shall not exceed \$25,000.
- b. An applicant must demonstrate the ability to provide matching support for the project on a one-to-one basis. The matching financial support shall be from private sources.

21—52.22(159) Application and review process.

52.22(1) The department will establish a uniform application process and make information about applying available on its website.

52.22(2) Applications will only be accepted during the times established by the department. Late submissions will not be accepted.

52.22(3) A scoring committee established by the department will review and evaluate applications based on the scoring criteria described in rule 21—52.23(159).

52.22(4) The department, after considering the recommendations made by the scoring committee, will determine which applications to fund and how much should be awarded to each applicant. The department has final decision-making authority on requests for financial assistance for the program.

21—52.23(159) Scoring criteria.

52.23(1) Application scoring. A scoring committee will be established by the department to evaluate applications on a scale of 0 to 100. Projects receiving a score below 70 will not be considered.

52.23(2) Scoring criteria. The department will use the following criteria to evaluate each application:

- a. The extent to which the project addresses the goals of the program to increase the sale of Iowa agricultural products, increase market access, diversify markets, or increase processing capacity: 25 points.
- b. The extent to which the project benefits Iowa including the potential to impact many farmers, both short-term and long-term impacts, and the possibility of creating jobs and investments: 20 points.
- c. The ability of the applicant to demonstrate sound business management, financial aptitude, and stability: 15 points.
- d. The sufficiency of the project's budget and financing structure: 15 points.
- e. The sufficiency of the project's proposed work plan and timeline including a detailed description of the steps the applicant will take to complete the project as well as estimated dates: 15 points.
- f. The extent to which measurable objectives can be determined that demonstrate the proposed project's benefit to the agriculture community: 10 points.

21—52.24(159) Disbursement of funds. The department will disburse funds for a project only after an agreement has been executed between the applicant and the department and all applicable conditions for disbursement have been met, including the submission of documentation pertaining to the eligible

expenditures. Disbursement of funds under the agreement will be on a reimbursement basis for expenses incurred by the applicant.

This division is intended to implement 2022 Iowa Acts, House File 2560.