

199—3.9(17A,474) Rule-making decisions.

3.9(1) *Adoption, amendment, or repeal.* The board shall by written order adopt, amend, or repeal the rule pursuant to the rule-making proceeding, or dismiss the proceeding in accordance with Iowa Code section 17A.4. The written order shall include a preamble to the adopted rules explaining the principal reasons for the action taken and, if applicable, a brief explanation of any decision not to permit waiver of the adopted rules. The board may, by order, specify the effective date of the adoption, amendment, or repeal of the rule.

3.9(2) *Variance between adopted rule and proposed rule.* The board may adopt a rule that differs from the rule proposed in the Notice of Intended Action in the following situations:

a. The differences are within the scope of the subject matter announced in the Notice of Intended Action and are in character with the issues raised in the Notice;

b. The differences are a logical outgrowth of the contents of the Notice and the comments submitted in response thereto;

c. The Notice indicated that the outcome of the rule making could be the rule in question;

d. The differences are so insubstantial as to make additional notice and comment proceedings unnecessary; or

e. As otherwise permitted by law.

3.9(3) *Statements.* Upon the adoption, amendment, or repeal of a rule or termination of a rule-making proceeding, and if timely written request is filed by any interested person pursuant to Iowa Code section 17A.4(2), the board shall, within 35 days of the request, issue a formal written statement of the principal reasons for and against the adoption, amendment, or repeal of the rule, or termination of the rule-making proceeding, including the reasons why the board overruled the positions in opposition to the board's decision.

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