

WAIVER or VARIANCE OF ADMINISTRATIVE RULES

General Information

The Iowa Department of Public Health's administrative rules are located in the Iowa Administrative Code under the department's Agency Identification Number [641].

The legislature has established a mechanism for a person to petition for a "waiver" of the requirements of an administrative rule. Pursuant to Iowa Code section 17A.9A(6) and 641 Iowa Administrative Code 178.1(1), a "waiver" means an agency action which suspends in whole or in part the requirements of provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. For simplicity, the term "waiver" includes "waiver" and "variance."

A person who seeks a waiver or variance of the requirements of a department administrative rule may file a "Petition for Waiver or Variance of Administrative Rules" with the department on the following form. Each petition received by the department is evaluated based on the unique, individual circumstances set out in the petition. The department may in its sole discretion grant a waiver if it finds, based on clear and convincing evidence, that the standards for the waiver have been satisfied. The department may place any condition on a waiver that the department finds necessary to protect the public health, safety, and welfare. The department may also withdraw, cancel, or modify a waiver under certain circumstances.

The department is not authorized to waive any requirement created or duly imposed by statute.

Petitions for Waiver or Variance may be submitted via first class mail, facsimile, or email to the attention of the program that the rules pertain at:

Susan Dixon, Agency Rules Coordinator
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319-0075
Fax Number (515) 281-4958

If the petition relates to a pending contested case, the petition must be filed in the contested case proceeding, using the caption of the contested case.

Questions about completing this petition may be directed to Susan Dixon, Agency Rules Coordinator, by calling (515) 725-2183 or via email at susan.dixon@idph.iowa.gov



Petition for Waiver or Variance of Administrative Rule

BEFORE THE DEPARTMENT OF PUBLIC HEALTH

Petition by _____)
)
 for the waiver/ variance of _____)
)
 relating to _____)
)
 _____)
)
 _____)

PETITION FOR WAIVER/
VARIANCE

1. Cite the rule(s) from which the waiver is desired. _____
2. Explain why you feel the department should exercise its discretion and grant a waiver from the rule(s) cited in (1). _____

3. Identify the specific waiver being requested, and whether a waiver of the entire rule or only a portion of the rule is being sought. _____

4. State the specific period of time for which the waiver is being sought. _____

5. Justify a waiver or variance by providing the following information:
 - a. Explain why the application of the rule would impose undue hardship on the person for whom the waiver is being requested. _____

 - b. Explain why a waiver from the requirements of the rule in this specific case would not prejudice the substantial legal rights of any person. _____

- c. Are the provisions of the rule specifically mandated by statute or another provision of law? _____

- d. Explain 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 is requested. _____

6. Provide a history of any prior contacts between the department and the petitioner related to the matter for which a waiver is requested. _____

7. Provide any information known to the requester regarding the department's action in similar cases. _____

8. Provide the name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question or which may be affected by the granting of the waiver. _____

9. Provide the name, address and telephone number of any person or entity that would be adversely affected by granting the waiver. _____

10. Provide the name, address, and telephone number of any person with knowledge of the relevant facts related to the proposed waiver. _____

I attest to the accuracy and truthfulness of the information contained within this petition. I authorize any persons with knowledge of the relevant facts relating to the requested waiver to release any information to the department to which this petition is directed.

Petitioner's Signature

Date

Printed Name

Address

Phone

Email

Petitioner's Legal Representative (if any)

Legal Representative's Address

Legal Representative's Phone

Legal Representative's Email

Communications should be addressed to: Petitioner Legal Representative (if any)