

WAIVER 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 or 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 of the requirements of a department administrative rule may file a Petition for Waiver 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 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 may be submitted via first class mail or facsimile to:

Barb Nervig, Agency Rules Administrator
Iowa Department of Public Health
Division of Administration and Regulatory Affairs
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 Barb Nervig, Agency Rules Administrator, by calling (515) 281-4344 or via email at bnervig@idph.state.ia.us

BEFORE THE IOWA DEPARTMENT OF PUBLIC HEALTH PETITION FOR WAIVER

Petitioner Information

Name:

Phone No. (include area code):

Email address:

Street address:

City:

State:

Zip Code:

Name of legal representative, if any:

Address and phone number of legal representative:

Person to whom communications concerning the petition should be directed, if different than petitioner:

Rule Information

1. Identify the specific rule from which a waiver is requested, including the chapter number, chapter title, rule number (including subrule, lettered paragraph, and numbered subparagraph if applicable) and rule title.
[For example: Chapter 15, Swimming Pools and Spas, rule 15.4(4) "e," Lifeguard chairs]

Waiver Information

2. Describe the specific nature, scope, and duration of your request. In your description, include the anticipated time period for which the request would apply. If this is a permanent request, explain why the request cannot be made on a temporary basis. If this is a request for renewal of a previously granted waiver, explain why the renewal is necessary.
3. Describe the relevant facts and reasons that, in your opinion, justify a waiver. In your description, address each of the following:
 - a. Why would applying the rule result in an undue hardship on you?
 - b. Would waiving the rule prejudice or harm the rights of any other person?
 - c. How will the public health, safety, and welfare be protected if the waiver request is granted?
4. Have you had any prior contact with the Iowa Department of Public Health related to the regulated activity that would be affected if the waiver were granted?

Yes No

If yes, for each contact describe the date of the contact, the nature of the contact, and the outcome of the contact:

5. Do you know how the Iowa Department of Public Health has treated similar situations?

Yes No

If yes, describe:

6. Do any other state or local agencies or entities regulate the activity in question?

Yes No Do not know

If yes, identify by name, address, and telephone number:

7. Would any other state or local agencies or entities be affected by the granting of this petition?

Yes No Do not know

If yes, identify by name, address, and telephone number:

8. Would any other person or entity be adversely affected if this request were granted?

Yes No Do not know

If yes, identify by name, address, and telephone number:

If yes, please note that 641 IAC 178.1(8) includes a requirement that the petitioner serve the petition on each of the individuals identified in response to this question and that the petitioner provide a written statement to the department attesting that notice of the petition has been provided to all affected parties. In addition, the department may provide notice to other persons.

9. Does any other person possess knowledge of the relevant facts related to this request?

Yes No Do not know

If yes, identify by name, address, and telephone number:

I hereby authorize any person with knowledge of the facts relating to this request to release any relevant information to the Iowa Department of Public Health. I hereby attest to the accuracy and truthfulness of the information contained herein.

Petitioner's Signature

Date