

CHAPTER 2
REQUEST FOR WAIVER OF ADMINISTRATIVE RULE
[Prior to 5/14/25, see Workforce Development Department[871] Ch 41]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/29/30

871—2.1(17A) Requests for waiver of rules. Any person may file a request for waiver of an administrative rule of the workforce development department[871] by writing a proper request, which is received by the Deputy Director of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. All requests for waiver of an administrative rule should be in writing and meet all requirements set out in this chapter. A request is deemed filed when it is received by the deputy director. The agency should provide the requester with a file-stamped copy of the request if the requester provides the agency an extra copy for this purpose. The request should be emailed, typewritten or legibly handwritten in ink and must substantially conform to the following form:

IOWA WORKFORCE DEVELOPMENT	
(Name of person requesting waiver)	} Request for waiver of (specify rule for which waiver is requested)

The petition should provide the following information:

1. The name and address of the person or entity for whom a waiver is requested.
2. A description and citation of the specific rule for which a waiver is requested.
3. The specific waiver requested, including the precise scope and time period that the waiver will extend.
4. Relevant facts that the requester believes would justify a waiver. This statement should include a signed statement from the petitioner attesting to the accuracy of the facts.
5. A history of the agency’s action relative to the requester.
6. Any information regarding the agency’s treatment of similar cases, if known.
7. The name, address and telephone number of any person inside or outside state government who would be adversely affected by the grant of the request, or who otherwise possesses knowledge of the matter with respect to the waiver request.
8. Signed release of information authorizing persons with knowledge regarding requests to furnish the agency with information pertaining to the waiver, if necessary.

[ARC 8689C, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

871—2.2(17A) Procedural requirements.

2.2(1) The department should acknowledge a request upon receipt. Within 30 days after receipt of a request for waiver of an administrative rule, the agency verifies that the requester has provided a copy to anyone who is required to receive one by provision of law. The agency may also require the requester to send a copy of the request to other persons who would have an interest in the subject matter.

2.2(2) The agency grants or denies a request for waiver of all or a portion of a rule as soon as practical. This will be done within 120 days of its receipt, unless requester agrees to a later date. However, if a waiver request has been filed in a contested case proceeding, the agency shall grant or deny the request no later than the time at which the final decision in that contested case is issued. Failure of the agency to grant or deny such a request within the required time period is a denial of that request by the agency. If the request for waiver relates to a time requirement of an administrative rule, the request must be received before the time specified in the rule has expired. Within seven days of its issuance, any response issued under this rule shall be transmitted, normally by depositing it in the mail, to the requester or the person to whom the response pertains and to any other person entitled to such notice by any provision of law.

[ARC 8689C, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

871—2.3(17A) Criteria for waiver.

2.3(1) The director of the workforce development department decides whether circumstances justify the granting of a waiver, given relevant facts. The requester assumes the burden of persuasion involving a request for waiver of an administrative rule. The requester must provide clear and convincing evidence that compliance with the rule will create an undue hardship on the person for whom the waiver is requested; the waiver of the rule on the basis of the particular circumstances relevant to that specified person would be consistent with public interest; 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; and the waiver of the rule in the specific case would not prejudice the substantial legal rights of any person.

2.3(2) The agency will deny a request for waiver of an administrative rule if the request waives any statute in whole or part. The agency should deny any request if it does not comply with the provisions of this rule. The agency may grant waiver of a rule if it finds that application of all or a portion of the rule to the circumstances of the specified person would not, to any extent, advance or serve any purposes of the rule. The agency will deny a request unless there are exceptional circumstances justifying an exception to the general application of the rule in otherwise similar circumstances. A waiver will be denied if the material facts presented in the request are not true or material facts have been withheld. The agency may request additional information from the requesting party relative to the application and surrounding circumstances.

[ARC 8689C, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

871—2.4(17A) Public inspection. All waiver requests and responses shall be indexed by administrative rule number and available to members of the public for inspection at Workforce Development Department, 1000 East Grand Avenue, Des Moines, Iowa. Identifying information concerning individuals as unemployment benefit claimants and taxpayers and other identifying information may be withheld by the agency in order to protect the confidentiality of parties as required by Iowa Code chapter 96.

[ARC 8689C, IAB 12/25/24, effective 1/29/25; Editorial change: IAC Supplement 5/14/25]

These rules are intended to implement Iowa Code chapter 17A.

[Filed 7/24/00, Notice 1/26/00—published 8/23/00, effective 9/27/00]

[Filed ARC 8689C (Notice ARC 8309C, IAB 10/30/24), IAB 12/25/24, effective 1/29/25]

[Editorial change: IAC Supplement 5/14/25]