

**17—11.4(17A,231,ExecOrd11) Criteria for waiver or variance.** In response to a petition completed pursuant to rule 17—11.6(17A,231,ExecOrd11), the department may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the department finds, based on clear and convincing evidence, all of the following:

1. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;
2. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;
3. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law; and
4. 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.

[ARC 8489B, IAB 1/27/10, effective 1/7/10]