

286—10.5 (17A) Requester's responsibilities in filing a petition for waiver or variance.

10.5(1) Application. All petitions for waiver or variance must be submitted in writing to the State Library, Ola Babcock Miller Building, 1112 E. Grand Avenue, Des Moines, Iowa 50319. If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

10.5(2) Content of petition. A petition for waiver or variance shall include the following information where applicable and known to the requester:

- a.* A description and citation of the specific rule from which a waiver or variance is requested.
- b.* The specific waiver or variance requested, including the precise scope and operative period that the waiver or variance will extend.
- c.* The relevant facts that the petitioner believes would justify a waiver or variance under each of the four criteria specified in paragraphs “a” through “d” of subrule 10.4(1).
- d.* A signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver or variance.
- e.* A history of any prior contacts between the commission and the petitioner or between the division and the petitioner within the past five years.
- f.* Any information known to the requester regarding the treatment of similar cases by the commission.
- g.* The name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the granting of a waiver or variance.
- h.* The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.
- i.* The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver or variance.
- j.* Signed releases of information authorizing persons with knowledge regarding the request to furnish the commission with information relevant to the waiver or variance.

10.5(3) Burden of persuasion. When a petition is filed for a waiver or variance from a rule, the burden of persuasion shall be on the petitioner to demonstrate by clear and convincing evidence that the commission should exercise the commission's discretion to grant the petitioner a waiver or variance.