

591—16.5(17A) Criteria for a waiver. The board may issue an order, in response to a completed petition, or on its own motion, granting a waiver from a rule adopted by the board, in whole or in part, as applied to the circumstances of a specified person, if the board finds that the granting of such a waiver would not exceed the authority for granting waivers contained in Iowa Code section 17A.9A, that the waiver would not prejudice the substantial legal rights of any person, and either that:

1. The application of the rule to the person at issue does not advance, to any extent, any of the purposes for the rule or set of rules; or
2. All of the following criteria have been met:
 - The application of the rule or set of rules to the person at issue would result in an undue hardship or injustice to that person; and
 - The waiver on the basis of the particular circumstances relative to the specified person would be consistent with the overall public interest; and
 - The waiver, if related to administrative deadlines, would not jeopardize the overall goals of the deadline as established.

In determining whether a waiver would be consistent with the public interest, the board shall consider whether, if a waiver is granted, the public health, safety, and welfare will be adequately protected by other means that will ensure a result that is substantially equivalent to full compliance with the rule.