

561—10.4(17A,455A) Criteria for waiver or variance. Upon petition of any person and at the sole discretion of the department, the department may issue a waiver or variance from the requirements of a rule if the director or the department in a contested case proceeding finds, based on clear and convincing evidence, all of the following:

10.4(1) The application of the rule would pose an undue hardship on the person for whom the waiver or variance is requested.

10.4(2) The waiver or variance from the requirements of a rule in the specific case would not prejudice the substantial legal rights of any person.

10.4(3) The provisions of a rule subject to a petition for a waiver or variance are not specifically mandated by statute or another provision of law.

10.4(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 or variance is requested.