

481—366.8(17A,89A) Ruling. An order granting or denying a waiver shall contain a reference to the particular person or legal entity and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

366.8(1) *Burden of persuasion.* The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant a waiver from a rule.

366.8(2) *Narrowly tailored exception.* A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

366.8(3) *Administrative deadlines.* When the rule from which a waiver is sought establishes administrative deadlines, the board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

366.8(4) *Conditions.* The board may place on a waiver any condition that the board finds desirable to protect the public health, safety, and welfare.

366.8(5) *Time period of waiver.* A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. A waiver may be renewed if the board finds that grounds for a waiver continue to exist.

366.8(6) *Time for ruling.* The board will grant or deny a petition for a waiver as soon as practical but, in any event, within 120 days of its receipt unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

366.8(7) *When deemed denied.* Failure of the board to grant or deny a petition within the required time period shall be deemed a denial of that petition by the board.

366.8(8) *Service of order.* Within 14 days of the ruling, any order issued under this rule shall be transmitted or delivered to the petitioner or the person to whom the order pertains, and to any other person entitled to such notice by any provision of law.

366.8(9) *Posting of orders granting waivers.* The order or a copy of the order granting a waiver shall be conspicuously and permanently posted in the machine room corresponding to the conveyance. The order or a copy of the order granting a waiver that relates to a conveyance that does not have a machine room shall be posted in a protective sleeve attached to the inside of the controller cabinet door corresponding to the conveyance.

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