

751—16.2(17A,ExecOrd11) Commission discretion. The decision on whether the circumstances justify the granting of a waiver or variance shall be made at the discretion of the commission upon consideration of all relevant factors.

16.2(1) Criteria for waiver or variance. The commission may, in response to a completed petition or on its own motion, grant a waiver or variance from a rule, in whole or in part, as applied to the circumstances of a specified situation if the commission finds each of the following:

- a. Application of the rule to the person at issue would result in hardship or injustice to that person; and
- b. Waiver or variance on the basis of the particular circumstances relative to that specified person would be consistent with the public interest; and
- c. Waiver or variance in the specific case would not prejudice the substantial legal rights of any person; and
- d. Where applicable, 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.

In determining whether a waiver should be granted, the commission shall consider the public interest, policies and legislative intent of the statute on which the rule is based. When the rule from which a waiver or variance is sought establishes administrative deadlines, the commission shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all affected persons.

16.2(2) Special waiver or variance rules not precluded. These uniform waiver and variance rules shall not preclude the commission from granting waivers or variances in other contexts including those described in Iowa Code section 8D.9 or on the basis of other standards if a statute or other commission rule authorizes the commission to do so and the commission deems it appropriate to do so.