

761—11.6 (17A) Action on petition. Following is the procedure for responding to a petition for a waiver from the requirements of a rule:

11.6(1) The department shall acknowledge receipt of a petition immediately.

11.6(2) Before a waiver is granted or denied, the department may request a petitioner to furnish additional information related to the petition.

11.6(3) The director shall issue a written decision to grant or deny a waiver within 120 days after the department receives the petition unless the petitioner agrees to a later time. However, if the matter is also the subject of a contested case proceeding, the decision to grant or deny a waiver need not be issued until after the final decision in the contested case is issued.

11.6(4) The decision to grant or deny a waiver shall contain the information set out in rule 761—11.4(17A).

11.6(5) Within seven days after the decision is issued, the department shall transmit it to the petitioner.

11.6(6) Failure to grant or deny a waiver within the required time is deemed a denial.

11.6(7) The director's decision on a petition for a waiver from the requirements of a rule is final agency action.

11.6(8) A petition for a waiver from the requirements of a rule is independent of a contested case proceeding. Submission of a petition does not delay the time to request a contested case hearing, to appeal a proposed decision in a contested case, or to file a petition for judicial review of a final decision in a contested case.

11.6(9) A petition for a waiver from the requirements of a rule is not required to exhaust administrative remedies before judicial review of a department action under Iowa Code section 17A.19.