

**641—15.7 (135I) Variances.** A variance to these rules may be granted only by the department. A variance can be granted only if sufficient information is provided to substantiate the need for and propriety of the action.

**15.7(1)** Requests for variances shall be in writing and shall be sent to the local inspection agency for comment. The local inspection agency shall send the request for variance to the department within 15 business days of its receipt.

**15.7(2)** The granting or denial of a variance will take into consideration, but not be limited to, the following criteria:

*a.* Substantially equal protection of health and safety shall be provided by a means other than that prescribed in the particular rule, or

*b.* The degree of violation of the rule is sufficiently small so as not to pose a significant risk of injury to any individual, and the remedies necessary to alleviate this minor violation would incur substantial and unreasonable expense on the part of the person seeking a variance.

**15.7(3)** Decisions shall be issued in writing by the department and shall include the reasons for denial or granting of the variance. Copies of decisions shall be kept at the department, and a copy shall be sent to the contracting board of health.

**15.7(4)** The applicant for a variance that is denied may request a review of the denial by the director of the department. The request shall be submitted in writing within 30 days of the applicant's receipt of the department's denial of a variance request. The request for a review shall be addressed to the Iowa Department of Public Health, Office of the Director, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. The decision of the director shall be considered the department's final agency action.

**15.7(5)** The applicant may petition for judicial review of the final agency action pursuant to Iowa Code chapter 17A.