

April 10, 2020

Iowa Poultry Association  
8515 Douglas Avenue, Suite 9  
Urbandale, IA 50322

Re: Waiver Request (AI-W-20-02)

Dear Iowa Poultry Producers:

This letter is in response to the request for a waiver of the Iowa Administrative Code Section 21-60-4(2) requiring all poultry present at exhibitions, shows or sales to come from U.S. Pullorum-Typhoid clean flocks or to have had a Pullorum-Typhoid test performed by an authorized tester within ninety days prior to the event.

Iowa Poultry Association Executive Director Kevin Stiles, and NPIP Coordinator, Emily Grace, requested a continuation of the waiver based on the fact that the supplier is still unable to provide the product to the industry. The department granted a similar waiver on January 30, 2020 until April 30, 2020, or until such time as a product becomes available, whichever occurs first. To date, I understand the test remains unavailable to the industry.

The criteria for reviewing a variance request is set out in Iowa Code Section 17A.9A(2). That subsection is set out below:

Upon petition of a person, an agency may in its sole discretion issue a waiver or variance from the requirements of a rule if the agency finds, based on clear and convincing evidence, all of the following:

- a. The application of the rule would pose an undue hardship on the person for whom the waiver or variance is requested.
- b. The waiver or variance from the requirements of a rule in the specific case would not prejudice the substantial legal rights of any person.
- c. 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.
- d. 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.

### Findings

After consultation with Dr. Jeff Kaisand, State Veterinarian, I find that:

1. Application of the rule would pose an undue hardship on you and your businesses.
2. Continuing to grant the waiver would not prejudice the substantial legal rights of any person.
3. The provisions of the administrative rule are not specifically mandated by statute.
4. Substantially equal protection of public health, safety and welfare will be afforded by several means including the required inspection of the poultry on the day of the activity by a licensed, accredited veterinarian. Additionally, Iowa has been considered a Pullorum-Typhoid clean state since 1974 and all surrounding states are considered clean.

### Conclusion

Therefore, I hereby **grant the waiver until September 30, 2020, or until such time as a product becomes available, whichever comes sooner**, for poultry to be present at exhibitions, shows or sales without coming from Pullorum-Typhoid clean flocks or having a Pullorum-Typhoid test.

Sincerely,



Maury Noonan  
Regulatory Division Director,  
Consumer Protection & Industry Services  
Food Safety & Animal Health