

ALCOHOLIC BEVERAGES DIVISION[185]

Notice of Intended Action

Proposing rule making related to waivers and providing an opportunity for public comment

The Alcoholic Beverages Division hereby proposes to amend Chapter 19, “Waivers from Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.9A and 123.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2389.

Purpose and Summary

The proposed amendments revise the Division’s rules regarding uniform waiver and variance procedures. In 2020, the Legislature passed House File 2389, which amends Iowa Code chapter 17A to remove the term “variance” and ensures that agencies’ rules chapters about waiver procedures refer only to “waivers.” The proposed amendments reflect the changes made by House File 2389 and revise the Division’s existing rules for waivers and variances to refer only to waiver of administrative rules.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 185—Chapter 19.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on November 24, 2020. Comments should be directed to:

Tyler Ackerson
Iowa Alcoholic Beverages Division
1918 SE Hulsizer Road
Ankeny, Iowa 50021
Email: ackerson@iowaabd.com

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend rule 185—19.1(17A) as follows:

185—19.1(17A) Scope. This chapter outlines a uniform process for the granting of waivers ~~or variances~~ from rules adopted by the division. The intent of this chapter is to allow persons to seek exception to the application of rules adopted by the division.

19.1(1) Definition. For purposes of this chapter, a “waiver ~~or variance~~” means an action by the division that suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term “waiver” shall include both a “waiver” and a “variance.”~~

19.1(2) No change.