

7601.0200 VARIANCES.

Subpart 1. **Director to grant.** If a variance is requested in a manner prescribed by subpart 2 and if the approval criteria in subpart 3 are met, the director shall grant a variance to any part of this chapter, except a rule that specifies a tolerance or the value of a minimum division.

Subp. 2. **Request.** An owner or operator of commercial weighing and measuring equipment may apply to the director for a variance to any part of this chapter. The request must be in writing and must:

- A. explain why a variance is needed;
- B. explain the proposed alternative to the rule; and
- C. include drawings if the request is for a railroad track, vehicle, or livestock scale. The drawings must illustrate the design, construction, and location of the scale.

Subp. 3. **Approval criteria.** The director shall grant a variance when appropriate to maintain good commercial practices or when enforcement of the rules would cause undue hardship. The director shall consider the following criteria in evaluating a request for a variance:

A. good commercial practices are maintained when the director is able to determine that under normal operating conditions the weighing and measuring equipment will remain accurate and reliable and the variance will not harm the owner or operator or their customers; and

B. undue hardship exists when the applicant demonstrates that:

- (1) it is impossible or economically unfeasible for the applicant to comply with the rule; and
- (2) the burden of compliance to the applicant outweighs any adverse effect on the applicant's customers or others affected by the rule.

Subp. 4. **Refusal to grant.** The director shall refuse to grant a variance if the request does not meet the requirements of subpart 2, or if the director determines that the criteria for approval in subpart 3 have not been met.

Subp. 5. **Response by division to request.** All requests will be answered by the division in writing, setting forth the reasons for granting or refusing to grant the requested variance.

Statutory Authority: *MS s 239.06*

History: *20 SR 1928*

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