

CHAPTER 7899
MINNESOTA RACING COMMISSION
VARIANCES

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Subpart 1. Procedures and standards. The procedures and standards contained in this part govern the consideration and disposition of all variance requests submitted to the commission.

Subp. 2. Requests for a variance. A person desirous of obtaining a variance from the application of one or more of the commission's rules shall initiate the variance process by submitting to the commission 12 copies of the following information and documents:

A. a statement setting forth the precise nature and extent of the proposed variance and the reasons the variance is being requested;

B. any supporting documentation necessary to provide a complete description of the proposed variance; and

C. a detailed statement addressing each of the applicable variance criteria contained in this chapter, and setting forth the reasons as to why the variance request is in conformance with those criteria.

Subp. 3. Disposition of variance requests. The commission shall grant or deny a variance pursuant to the following procedures and standards:

A. Upon receipt of a variance request, the commission shall send written notice thereof to all persons who have registered their names with the commission for the purpose of being notified of rulemaking proceedings or variance requests, and the commission shall not act upon the variance for 30 calendar days after it has issued the notice. The notice shall contain a brief description of the variance request, a statement that any person wishing to comment on the request may do so in writing, and a statement that the commission will not act on the variance request until interested persons have been afforded at least 30 calendar days after the commission's issuance of the notice to submit their comments.

B. If, after receiving the variance request, the commission determines that additional information must be submitted by the requesting person, it may direct the person seeking the variance to submit additional data regarding the variance request to the commission, or appear before the commission to provide additional information thereon.

C. To facilitate full consideration of a variance request the commission may, in its discretion, request that the person seeking the variance and other persons who have submitted written comments regarding the variance appear before the commission and make arguments to the commission. In such event, the commission shall provide the aforementioned persons notice of the appearance request at least seven days before the commission meeting at which the variance request is to be considered. This procedure shall not constitute a contested case as defined in Minnesota Statutes, section 14.02, subdivision 3.

D. If a person requesting a variance fails to follow the variance procedures specified in this chapter, the variance shall be denied.

E. The commission shall set forth in writing and submit to the person requesting the variance and other persons who have submitted written comments thereon the reasons why it has granted or denied the variance request within 30 days after its disposition of the request.

Subp. 4. Standards for granting and denying variance requests. The commis-

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sion shall grant a variance to the application of any of its rules only if it determines that all of the following criteria have been met:

A. strict application of the rule to which a variance is being requested would cause undue and substantial hardship to the person applying for the variance;

B. the granting of the variance does not confer a benefit on the person requesting the variance which is not enjoyed by other persons similarly situated;

C. the granting of the variance does not substantially impair the intent and purposes of the commission's rules;

D. the variance may be granted without material detriment to the integrity of racing or the public health, welfare, or safety;

E. the granting of the variance does not allow violation of the standards or requirements in Minnesota Statutes, chapter 240; and

F. with respect to variances concerning part 7870.0500, subparts 5 to 9, demographic or geographic evidence supports the variance request.

Statutory Authority: *MS s 240.23*

History: *9 SR 2527*