

6132.4100 VARIANCES.

Subpart 1. **Application for variance.** A proceeding for requesting a variance from parts 6132.0100 to 6132.5300 begins when the permit applicant or permittee files an application for a variance with the commissioner. The application shall include information necessary for the commissioner to determine that the proposed variance is directed toward the attainment of the goals of parts 6132.0100 to 6132.5300 and is consistent with the general public welfare including, but not limited to:

A. how the alternative measure proposed is equivalent to or superior to that prescribed in the rule; and

B. how strict compliance with the rule will impose an undue burden on the applicant.

Under no circumstances will a variance be granted that varies a statutory standard.

Subp. 2. **Determination by commissioner.** Within 30 days after receipt of the application, the commissioner shall determine whether the proposed variance constitutes a substantial change from the requirements of parts 6132.0100 to 6132.5300.

A. If the commissioner determines that a substantial change would result, the applicant shall follow the procedures for permit to mine applications as provided in part 6132.4000.

B. If the commissioner determines that there would be no substantial change, and that the variance is in the public interest and meets the goals of parts 6132.0100 to 6132.5300, the variance shall be granted.

Subp. 3. **Simultaneous filing of applications.** Applications for variance from parts 6132.0100 to 6132.5300 may be filed simultaneously with an application for a permit to mine, provided that the advertisement contains all information required for applications for permits to mine and for variance.

Statutory Authority: *MS s 93.44 to 93.51; 103G.222*

History: *17 SR 2207*

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