

1 Department of Health

2

3 Adopted Permanent Rules Governing Variances to Environmental  
4 Health Rules

5

6 Rules as Adopted

7 4620.1450 VARIANCE TO RULES RELATING TO CLEAN INDOOR AIR.

8 The commissioner shall grant variances to parts 4620.0100  
9 to 4620.1500, except part 4620.0300, only according to the  
10 procedures and criteria specified in parts 4717.7000 to  
11 4717.7050.

12 4620.1800 MAXIMUM PERMISSIBLE FORMALDEHYDE LEVEL IN HOUSING  
13 UNITS.

14 At the time of sale of a newly constructed housing unit,  
15 the ambient indoor air of any habitable room in the unit shall  
16 not contain more than 0.4 parts of formaldehyde per million  
17 parts of air as measured according to the procedures specified  
18 in parts 4620.1900 and 4620.2000. The seller is responsible for  
19 assuring that the unit complies with this level.

20 The installation of urea formaldehyde foam insulation in a  
21 housing unit which is not newly constructed shall not cause the  
22 indoor level of formaldehyde in any habitable room in the unit  
23 to exceed the higher of 0.4 parts per million or the  
24 preinstallation level as measured according to the procedures  
25 specified in parts 4620.1900 to 4620.2100. The installer of  
26 urea formaldehyde foam insulation is responsible for assuring  
27 that the installation complies with this level.

28 The commissioner shall grant a variance to this part only  
29 according to the procedures and criteria specified in parts  
30 4717.7000 to 4717.7050.

31 4620.3500 STANDARDS FOR ASBESTOS RELATED WORK.

32 [For text of subps 1 to 3, see M.R.]

33 Subp. 4. Required procedures for asbestos related work.  
34 Asbestos related work must meet the following minimum criteria.

1 The criteria do not replace or supersede more stringent  
2 standards or contractual agreements.

3 [For text of item A, see M.R.]

4 B. Preparation of the work area must meet the  
5 following requirements:

6 (1) Removal, enclosure, or encapsulation of  
7 asbestos containing material is a major operation for purposes  
8 of compliance with Code of Federal Regulations, title 29,  
9 section 1926.58, and must be done, where feasible in industrial  
10 facilities, in a negative pressure enclosure with a contiguous  
11 decontamination enclosure system. However, for the portion of  
12 an asbestos related project that includes removal of less than  
13 ten feet of pipe lagging or less than six square feet of  
14 asbestos containing material per room, the asbestos abatement  
15 contractor may use, as an alternative, the glove bag or mini  
16 enclosure procedures in subpart 5. The commissioner may approve  
17 a variance to the procedures specified in this item, on a case  
18 by case basis, according to the procedures and criteria in parts  
19 4717.7000 to 4717.7050, where space limitations prohibit the  
20 construction of the enclosure, or where the construction of a  
21 negative pressure enclosure would create a greater hazard, for  
22 example where toxic gases are present in the area.

23 [For text of subitems (2) to (9), see M.R.]

24 [For text of items C to H, see M.R.]

25 [For text of subp 5, see M.R.]

26 4625.0900 SPACE REQUIREMENTS.

27 Every room occupied for sleeping purposes by one person  
28 shall contain at least 70 square feet of usable floor space, and  
29 every room occupied for sleeping purposes by more than one  
30 person shall contain not less than 60 square feet of usable  
31 floor space for each occupant thereof. Under no circumstances  
32 shall there be provided less than 400 cubic feet of air space  
33 per occupant. Beds shall be spaced at least three feet apart  
34 when placed side by side. No sleeping quarters shall be  
35 provided in any basement having more than half its clear floor

1 to ceiling height below the average grade of the adjoining  
2 ground.

3 4625.2355 VARIANCE TO RULES RELATING TO LODGING ESTABLISHMENTS.

4 The commissioner shall grant a variance to parts 4625.0400  
5 to 4625.0600; 4625.0900; 4625.1200 to 4625.1600; 4625.2000,  
6 except the last sentence; and 4625.2200 only according to the  
7 procedures and criteria specified in parts 4717.7000 to  
8 4717.7050.

9 4625.2655 VARIANCE TO RULES RELATING TO FOOD AND BEVERAGE  
10 ESTABLISHMENTS.

11 The commissioner shall grant a variance to parts 4625.2901  
12 to 4625.7801, except parts 4625.3601; 4625.3801, subpart 1;  
13 4625.3901, subpart 3; 4625.4101, subpart 1; 4625.4301;  
14 4625.4401; 4625.4601; 4625.5000; 4625.5101, subpart 7;  
15 4625.5601; 4625.5701; 4625.6101, subparts 3 and 7; 4625.6601;  
16 4625.6701; 4625.7101, subpart 7; 4625.7601; and 4625.7701 only  
17 according to the procedures and criteria specified in parts  
18 4717.7000 to 4717.7050.

19 4630.1801 VARIANCE TO RULES RELATING TO MOBILE HOME PARKS AND  
20 RECREATIONAL CAMPING AREAS.

21 The commissioner shall grant a variance to part 4630.0400  
22 and parts 4630.0900 to 4630.1700 only according to the  
23 procedures and criteria specified in parts 4717.7000 to  
24 4717.7050.

25 4630.4750 VARIANCE TO RULES RELATING TO CHILDREN'S CAMPS.

26 The commissioner shall grant a variance to parts 4630.2300  
27 to 4630.4700 only according to the procedures and criteria  
28 specified in parts 4717.7000 to 4717.7050.

29 4630.6550 VARIANCE TO RULES RELATING TO MIGRANT LABOR CAMPS.

30 The commissioner shall grant a variance to parts 4630.5000  
31 to 4630.6500 only according to the procedures and criteria  
32 specified in parts 4717.7000 to 4717.7050.

33 4635.0200 ROLLER TOWELS.

1 In order to prevent the spread of communicable diseases,  
2 the use of the roller towels in public places, public  
3 conveyances, and public buildings is hereby prohibited, except  
4 that continuous towels dispensed from a cabinet which is so  
5 constructed as to provide complete separation between the clean  
6 and soiled portions of the towel on separate rolls within the  
7 cabinet and to provide that the soiled portion is taken up on  
8 the soiled towel roll at the same rate the clean portion is  
9 withdrawn from the clean roll shall not be within this  
10 prohibition. The commissioner shall grant a variance to this  
11 part only according to the procedures and criteria specified in  
12 parts 4717.7000 to 4717.7050.

13 4635.2100 VARIANCE TO RULES RELATING TO ENCLOSED SPORTS ARENAS.

14 The commissioner shall grant variances to parts 4635.1100  
15 to 4635.2000, except part 4635.1500, only according to the  
16 procedures and criteria specified in parts 4717.7000 to  
17 4717.7050.

18 4715.5600 VARIANCE.

19 If an installation cannot be made in conformance with the  
20 Minnesota Plumbing Code (parts 4715.0100 to 4715.2860) or with  
21 the provisions contained in parts 4715.5000 to 4715.6000, the  
22 water conditioning contractor or installer shall consult with  
23 the appropriate plumbing inspector, and obtain a variance from  
24 the state rules before the installation may proceed. Such a  
25 variance can be granted only if the nonconforming alternative  
26 will not create a risk to health. The commissioner shall grant  
27 variances to parts 4715.5000 to 4715.6000 only according to the  
28 procedures and criteria specified in parts 4717.7000 to  
29 4717.7050.

30 4717.0500 WATER SUPPLY.

31 The water supply serving the swimming pool and all plumbing  
32 fixtures including drinking fountains, lavatories, and showers  
33 shall meet the requirements of the commissioner of health.

34 All portions of the water distribution system serving the

1 swimming pool and auxiliary facilities shall be protected  
 2 against backflow. Water introduced into the pool, either  
 3 directly or to the recirculation system, shall be supplied  
 4 through an air gap (Minnesota Plumbing Code, parts 4715.2000 to  
 5 4715.2170). When such connections are not possible, the supply  
 6 shall be protected by a suitable backflow preventer (Minnesota  
 7 Plumbing Code, parts 4715.2000 to 4715.2170) installed on the  
 8 discharge side of the last control to the fixture, device, or  
 9 appurtenance.

10 The pumps, filter, disinfectant and chemical feeders, and  
 11 related appurtenances shall be kept in operation at all times  
 12 during the swimming season unless approved by the commissioner  
 13 of health.

14 4717.7000 VARIANCE REQUEST.

15 Subpart 1. Request. A party may ask the commissioner of  
 16 health to grant a variance from the following rules:

17 A. clean indoor air, parts 4620.0100 to 4620.1500,  
 18 except part 4620.0300;

19 B. formaldehyde in housing, part 4620.1800;

20 C. asbestos abatement, part 4620.3500, subpart 4,  
 21 item B, and part 4620.3700, subpart 3, item B, first sentence;

22 D. lodging establishments, parts 4625.0400 to  
 23 4625.0600; 4625.0900; 4625.1200 to 4625.1600; 4625.2000, except  
 24 the last sentence; and 4625.2200;

25 E. food and beverage establishments, parts 4625.2901  
 26 to 4625.7801, except parts 4625.3601; 4625.3801, subpart 1;  
 27 4625.3901, subpart 3; 4625.4101, subpart 1; 4625.4301;  
 28 4625.4401; 4625.4601; 4625.5000; 4625.5101, subpart 7;  
 29 4625.5601; 4625.5701; 4625.6101, subparts 3 and 7; 4625.6601;  
 30 4625.6701; 4625.7101, subpart 7; 4625.7601; and 4625.7701;

31 F. manufactured home parks and recreational camping  
 32 areas, parts 4630.0400 and 4630.0900 to 4630.1700;

33 G. children's camps, parts 4630.2300 to 4630.4700;

34 H. migrant labor camps, parts 4630.5000 to 4630.6500;

35 I. roller towels, part 4635.0200;

1 J. enclosed sports arenas, parts 4635.1100 to  
2 4635.2000, except part 4635.1500;

3 K. water conditioning contractors and installers,  
4 parts 4715.5000 to 4715.6000;

5 L. public swimming pools, parts 4717.0100 to  
6 4717.3900;

7 M. water haulers, parts 4720.4000 to 4720.4600;

8 N. wells and borings, parts 4725.0100 to 4725.7600;

9 O. explorers and exploratory borings, parts 4727.0100  
10 to 4727.1300; and

11 P. ionizing radiation, parts 4730.0100 to 4730.3610,  
12 except parts 4730.0400 and 4730.0600.

13 Subp. 2. Procedures for requesting a variance. The  
14 procedures in this subpart apply to a request for a variance of  
15 the rules specified in subpart 1. Additional procedures may be  
16 specified in the rules listed in subpart 1 which also must be  
17 complied with. The party requesting the variance must submit  
18 the variance request in writing to the commissioner of health  
19 along with any applicable fee. A request must contain:

20 A. the specific language in the rule or rules from  
21 which the variance is requested;

22 B. the reasons why the rule cannot be met;

23 C. the alternative measures that will be taken to  
24 assure a comparable degree of protection to health or the  
25 environment if a variance is granted;

26 D. the length of time for which the variance is  
27 requested;

28 E. a statement that the party applying for the  
29 variance will comply with the terms of the variance, if granted;  
30 and

31 F. other relevant information the commissioner  
32 determines necessary to properly evaluate the request for the  
33 variance.

34 Subp. 3. Applicant for a variance. The applicant for a  
35 variance must be the party to whom the rule specified in subpart  
36 1 applies.

1 4717.7010 CRITERIA FOR DECISION; CONDITIONS.

2 Subpart 1. Criteria for granting a variance. The  
3 commissioner may grant a variance if:

4 A. the variance was requested in a manner prescribed  
5 by part 4717.7000;

6 B. the variance will have no potential adverse effect  
7 on public health, safety, or the environment;

8 C. the alternative measures to be taken, if any, are  
9 equivalent to or superior to those prescribed in the rule;

10 D. strict compliance with the rule will impose an  
11 undue burden on the applicant; and

12 E. the variance does not vary a statutory standard.

13 Subp. 2. Conditions for variance. In granting a variance  
14 the commissioner may attach conditions the commissioner  
15 determines are needed to protect public health, safety, or the  
16 environment.

17 Subp. 3. Future effect. A variance shall have only future  
18 effect.

19 4717.7020 NOTIFICATION OF DECISION.

20 The commissioner of health shall notify the party in  
21 writing of the commissioner's decision to grant or deny the  
22 variance. If a variance is granted, the notification must  
23 specify the period of time for which the variance will be  
24 effective and the alternative measures or conditions, if any,  
25 the applicant must meet. If a variance is denied, the  
26 commissioner of health shall specify the reasons for the denial.

27 4717.7030 EFFECT OF ALTERNATIVE MEASURES OR CONDITIONS.

28 Alternative measures or conditions attached to a variance  
29 have the force and effect of the applicable rule. If the party  
30 violates the alternative measures or conditions attached to the  
31 variance, the party is subject to the enforcement actions and  
32 penalties provided in the applicable law or rule. The party to  
33 whom a variance has been issued must notify the commissioner of  
34 health in writing within 30 days of any material change in the

1 conditions upon which the variance was granted.

2 4717.7040 RENEWAL OF VARIANCE.

3 A request for the renewal of a variance must be submitted  
4 to the commissioner of health in writing 30 days before its  
5 expiration date. Renewal requests must contain the information  
6 specified in part 4717.7000, subpart 2. The commissioner shall  
7 renew a variance if the party continues to satisfy the criteria  
8 contained in part 4717.7010 and demonstrates compliance with the  
9 alternative measures or conditions imposed at the time the  
10 original variance was approved. This provision does not apply  
11 if there has been any material change in the conditions upon  
12 which the variance was granted.

13 4717.7050 DENIAL, REVOCATION, OR REFUSAL TO RENEW; APPEALS.

14 Subpart 1. Action. The commissioner shall deny, revoke,  
15 or refuse to renew a variance if the commissioner determines  
16 that the criteria in part 4717.7010 are not met.

17 Subp. 2. Appeal procedure. A party may appeal the denial,  
18 revocation, or refusal to renew a variance by requesting, in  
19 writing, a contested case hearing under the Administrative  
20 Procedure Act, Minnesota Statutes, chapter 14, within 30 days of  
21 receipt of the notice to deny, revoke, or refuse to renew the  
22 variance.

23 4725.0410 VARIANCE.

24 Subpart 1. General. The commissioner shall grant a  
25 variance to any provision of this chapter according to the  
26 procedures and criteria specified in parts 4717.7000 to  
27 4717.7050. The variance request must be accompanied by the fee  
28 specified in Minnesota Statutes, section 103I.101, subdivision 6.

29 Subp. 2. Additional standards for construction, repair, or  
30 sealing variance requests. In addition to subpart 1, a request  
31 to vary a construction, repair, or sealing provision related to  
32 wells or borings in parts 4725.1860 and 4725.2300 to 4725.7600  
33 must also include:

34 A. the location of the well or boring in terms of



1 township, range, and four-quarter sections;

2 B. the unique number, if assigned;

3 C. the name, address, and telephone number of the  
4 contractor doing work, the property owner, and the well owner;

5 D. a scaled map showing the location of the well or  
6 boring in relation to all property lines, structures, utilities,  
7 and contamination sources cited in part 4725.2000;

8 E. the proposed depth of the well or boring;

9 F. the casing type, its diameter, and its depth;

10 G. a description of the method of construction, grout  
11 materials, and method of emplacement;

12 H. a description of the anticipated geologic  
13 conditions; and

14 I. the depth to water, pumping rate, number of  
15 persons served by the well, and a description of the use of the  
16 well.

17 Subp. 3. Additional standards for variance request from  
18 isolation distance. In addition to the information in subparts  
19 1 and 2, a variance request to parts 4725.1900 to 4725.2200 must  
20 include:

21 A. information on special construction methods or  
22 precautions proposed to prevent contamination of the well,  
23 boring, or groundwater;

24 B. a description of the age, design, size, and type  
25 of construction of any existing or potential contamination  
26 source as specified in part 4725.2000;

27 C. any testing, inspection, or certification data and  
28 the name and address of the person supplying the data;

29 D. information on soil type from a soil survey,  
30 percolation test, or soil boring report; and

31 E. a copy of any review of contamination sources done  
32 by a local or state unit of government under other applicable  
33 regulations.

34 4730.0850 VARIANCE TO RULES RELATING TO IONIZING RADIATION.

35 The commissioner shall grant a variance to parts 4730.0100

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1 to 4730.3610, except parts 4730.0400 and 4730.0600 only  
2 according to the procedures and criteria specified in parts  
3 4717.7000 to 4717.7050.

4

5 REPEALER. Minnesota Rules, parts 4625.2650; 4630.1800;  
6 4725.0400; and 4727.0300 are repealed.