

**641—22.8(135) Variances.**

**22.8(1)** A variance to these rules may be granted by the department provided sufficient information is afforded to substantiate the need for and propriety of the variance. A variance request shall be in writing and submitted to the department for consideration.

**22.8(2)** The granting or denial of a variance from these rules shall take into consideration, but shall not be limited to, the following criteria:

*a.* Substantially equal protection of health and safety must be afforded by a means other than that prescribed in the particular rule for which the variance is requested.

*b.* The degree of variance is sufficiently small so as not to pose a significant risk of injury to any individual, and the remedies necessary to alleviate the need for a variance would incur substantial and unreasonable expense on the part of the person seeking the variance.

**22.8(3)** The department shall respond in writing to all variance requests. The response shall include the reason for granting or denying the requested variance and, if approved, the time period for which the variance will be effective.

**22.8(4)** Any request for appeal concerning the denial of a variance request shall be in accordance with the procedures outlined in rule 22.9(135).