

STATE OF NEW YORK
DEPARTMENT OF LABOR
STATE OFFICE BUILDING CAMPUS
ALBANY, NEW YORK 12240-0100

In the Matter of

Part 4 of Title 12 of the Official Compilation
Of Codes, Rules and Regulations
Of The State of New York

(Cited as 12 NYCRR 4)
(As Amended November 29, 2006)

Cases: ICR 4-6.4(a,b,c,d)

COMMISSIONER'S
DECISION

APPLICABLE
VARIANCE-B-1
(AV-B-1)

Clearances for Boilers
Installed After March 31,
1965 in a Space or Room
Not Previously Used to
House a Boiler

DATED: October 3, 2007

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the provisions of Industrial Code Rule 4, as they relate to the clearances for boilers installed after March 31, 1965 in a space or room not previously used to house a boiler.

The Commissioner of Labor has also reviewed numerous petitions for variance or other relief relative to such boilers and the decisions rendered relative to these petitions.

The Commissioner of Labor finds that the issuance of an Applicable Variance from the above-cited provisions of Industrial Code Rule 4, as such pertain to the clearances for boilers installed after March 31, 1965 in a space or room not previously used to house a boiler; would not violate the spirit and purpose of said rules and would secure the public safety as contemplated by said rules.

APPLICABLE VARIANCE

A variance from the cited provisions of Industrial Code Rule 4 is hereby GRANTED subject to the following conditions:

THE CONDITIONS

1. Documentation shall be available stating the manufacturers' clearance recommendations. Sufficient clearance shall be maintained for safe operation, maintenance and inspection of the boiler. In all cases, these clearances shall meet or exceed the manufacturer's recommendations for minimum clearances.
2. A copy of this Applicable Variance shall be conspicuously posted at the entrance to the Boiler Room.
3. All other applicable provisions of Industrial Code Rule 4 shall be complied with.

This APPLICABLE VARIANCE shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforesaid provisions of Industrial Code Rule 4 apply to the clearance for boilers installed after March 31, 1965 in a space or room not previously used to house a boiler with the same force and effect as if this APPLICABLE VARIANCE were duly granted upon separate petition for the use and benefit of every person affected by the cited provisions of Industrial Code Rule 4.

Date: October 3, 2007

M. PATRICIA SMITH
COMMISSIONER OF LABOR

By

Blaise Thomas, P.E.
Associate Safety and Health Engineer
Division of Safety & Health
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