

105 CMR 675.000: REQUIREMENTS TO MAINTAIN AIR QUALITY IN INDOOR SKATING RINKS (STATE SANITARY CODE, CHAPTER XI)

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675.00: Purpose

The purpose of 105 CMR 675.000 is to help ensure the maintenance of safe and appropriate indoor air quality in ice skating rinks that utilize ice resurfacing equipment powered by combustible fuels which produce carbon monoxide or nitrogen dioxide and thereby protect the health, safety and well-being of the public.

675.002: Authority

105 CMR 675.000 is adopted under the authority of M.G.L. c. 111, § 3 and § 127A.

675.003: Citation

105 CMR 675.000 shall be known and may be cited as 105 CMR 675.000: *Requirements to Maintain Air Quality in Indoor Skating Rinks (State Sanitary Code, Chapter XI)*.

675.004: Scope

105 CMR 675.000 shall apply to owners and operators of indoor ice skating rinks that utilize combustion resurfacing equipment powered by gasoline, propane or other combustible fuels that produce exhaust containing carbon monoxide or nitrogen dioxide.

675.005: Definitions

Air Contaminants shall mean carbon monoxide and nitrogen dioxide, unless the context clearly indicates a broader measuring.

Air Monitoring Device shall mean colorimetric tubes or computer chip sampling devices for the sampling and measurement of nitrogen dioxide, and colorimetric tubes, in-place monitors with a digital read-out, hand held monitors or computer chip sampling devices for the sampling and measurement of carbon monoxide.

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Air Sample shall mean the result of any single measurement of the level of carbon monoxide or nitrogen dioxide in an indoor skating rink taken in accordance with the requirements of 105 CMR 675.000.

Board shall mean the local health department or local board of health in the city or town in which one or more indoor skating rinks are located.

Bureau shall mean the Bureau of Environmental Health Assessment within the Department of Public Health.

Catalytic Converter shall mean any pollution control device that is affixed to the exhaust system of ice resurfacing equipment that reduces exhaust emission of carbon monoxide or nitrogen dioxide.

Combustible Fuels shall mean any fuel or power source used to power combustion resurfacing equipment, the use of which results in the emission of carbon monoxide or nitrogen dioxide into the interior of an indoor ice skating rink.

Combustion Resurfacing Equipment shall mean any device or machinery powered by combustible fuels used to repair or improve the surface of ice in an indoor skating rink.

Commissioner shall mean the commissioner of the Department of Public Health.

Correction Air Levels shall mean air concentrations of carbon monoxide or nitrogen dioxide that, if equaled or exceeded, require the operator to take remedial measures specified in 105 CMR 675.000 to reduce such air concentrations.

Department shall mean the Department of Public Health.

Director shall mean the director of the Bureau of Environmental Health Assessment within the Department of Public Health.

Evacuation Air Levels shall mean air concentrations of carbon monoxide or nitrogen dioxide that, if equaled or exceeded, require the operator to immediately evacuate the indoor skating rink in accordance with 105 CMR 675.000.

Exhaust shall mean the emissions of gases and vapors containing carbon monoxide or nitrogen dioxide produced as a result of the use of combustible fuels in connection with the operation of combustion resurfacing equipment.

Indoor Skating Rink shall mean any enclosed building that contains an ice surface which is created and/or maintained in part through the use of ice resurfacing equipment.

Notification Air Levels shall mean air concentrations of carbon monoxide or nitrogen dioxide that, if equaled or exceeded, require the operator to notify state and local officials, as specified in 105 CMR 675.000.

Operator shall mean any person that manages or operates an indoor skating rink that is open to the general public.

Person shall mean any individual or any partnership, corporation, the Commonwealth, or any of its agencies, authorities or departments and any political subdivision of the Commonwealth, including municipalities, or other legal entity.

Record Keeping Log shall mean a hardcover or softcover log book or notebook suitable for recording the information required in 105 CMR 675.000 and which is used solely for the purpose of keeping and recording the information required by 105 CMR 675.000.

675.005: continued

Resurfacing shall mean the operation of resurfacing equipment to repair or improve the surface of ice in an indoor skating rink.

Ventilation Controls shall mean any fan, mechanical air handling system or other equipment or system used to maintain air quality or climate control within an indoor skating rink.

Ventilation Rate shall mean the volume of air per minute exchanged between the air outside and inside an indoor skating rink.

675.006: Air Sampling Requirements

(A) Operators of indoor skating rinks which utilize combustion resurfacing equipment shall take regular air samples of both carbon monoxide and nitrogen dioxide within their skating rinks as follows:

- (1) an air sample for both carbon monoxide and nitrogen dioxide must be taken at least three times a week, including at least twice during the week and at least once during weekend operations;
- (2) all air samples must be taken 20 minutes after resurfacing is completed;
- (3) all air samples required by 105 CMR 675.000 must be taken no sooner than four hours before, and no later than one hour before the end of the last scheduled use of the ice in any given day.
- (4) all air samples must be taken either at center ice or the perimeter of the ice surface at the center ice line at a height of three to six feet above the ice surface;

(B) If an operator of an indoor skating rink utilizes combustion resurfacing equipment less than four times in any week, the operator shall take an air sample in accordance with the requirements of 105 CMR 675.006(A)(2) and (4) each time it utilizes the combustion resurfacing equipment.

(C) Any individual conducting air sampling must be familiar with the requirements of 105 CMR 675.000 and must be properly trained in the appropriate use of the air monitoring equipment.

(D) The operator shall be responsible for the recording of all air sampling conducted in accordance with the requirements of 105 CMR 675.000 in the record keeping log, in a manner specified in 105 CMR 675.007. Any air sample of nitrogen dioxide which results in a reading below 0.5 ppm shall be recorded in the record keeping log as "below detection".

675.007: Record Keeping Requirements

(A) The operator shall keep a record keeping log which has on its cover the name of the skating rink, the name of the skating rink owners, the name of the skating rink operator and in large print the words "Air Quality Record Keeping Log".

(B) The record keeping log shall be divided into two sections, one section for the recording of information regarding the ice resurfacing equipment and a separate section for the recording of the results of required air samples.

(C) The operator shall record and keep in the section of the record keeping log reserved for information about the ice resurfacing equipment, the following information: name of the manufacturer of the resurfacing equipment; age of the resurfacing equipment; type(s) of fuel(s) used to operate the resurfacing equipment; the dates of each tuning of the resurfacing equipment, with the name, company, address and signature of the person performing the tuning; the manufacturer, type and date of installation of the catalytic converter equipment; the name, company address and signature of the person who installed the catalytic converter; the dates of any repairs or maintenance of the catalytic converter; and the name, company, address and signature of the person performing the repairs or maintenance.

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(D) The operator shall record and keep in the section of the record keeping log reserved for information about air sampling, the following information: the date, location and exact time of each and every air sample and follow-up air sample taken pursuant to the requirements of 105 CMR 675.000 for both carbon monoxide and nitrogen dioxide; the result of each air sample and any follow up air sample required by 105 CMR 675.000, measured in parts per million (ppm) of each air contaminant and the name and method of the device used to take each sample as well as the name and signature of the person performing the test; a full description of the immediate and long term correction measures employed by the operator to reduce carbon monoxide and nitrogen dioxide levels below correction air levels, including the dates and times such measurements were taken, and the person(s) responsible; the last date of calibration of the air monitoring device used by the operator and the person performing the calibration; and the lot number of the colorimetric tube or computer chip sampling device.

675.008: Action Air Levels for Carbon Monoxide and Nitrogen Dioxide

(A) Air levels to be referred to as correction air levels shall be a single air sample exceeding 30 parts per million (ppm) for carbon monoxide and of 0.5 ppm for nitrogen dioxide.

(B) Air levels to be referred to as notification air levels shall be a single air sample exceeding 60 parts per million (ppm) or six consecutive air samples which exceed 30 parts per million (ppm) for carbon monoxide and a single air sample exceeding one part per million (ppm) or six consecutive samples which exceed 0.5 parts per million (ppm) for nitrogen dioxide.

(C) Air levels to be referred to as evacuation air levels shall be a single air sample exceeding 125 parts per million (ppm) for carbon monoxide and two ppm for nitrogen dioxide.

675.009: Required Corrective Measures

If an air sample taken in accordance with the requirements of 105 CMR 675.000 reveals that the air level of carbon monoxide or nitrogen dioxide exceed the correction air levels of 105 CMR 675.008(A), the operator shall take both immediate corrective measures as described in 105 CMR 675.009(A) as well as one or more appropriate long term measures as described in 105 CMR 675,009(B).

(A) Immediate Corrective Measures. The operator shall immediately take steps to increase the ventilation in the indoor skating rink through any appropriate and safe means, and shall continue to ventilate the indoor skating rink at above normal rates or through extraordinary means until such time as a subsequent air sample taken by the operator reveals that air levels of carbon monoxide or nitrogen dioxide are below the correction air levels of 105 CMR 675.008(A). The operator shall take one or more follow-up air samples in intervals of 20 minutes or less after the taking of any sample which had revealed an exceedance of the correction air levels of 105 CMR 675,008(A) until such time as a follow-up air sample reveals that the air level of the contaminant(s) for which there was an exceedance have been reduced below the correction air levels of 105 CMR 675.008(A). The operator shall record the results of each follow-up air sample in the Record Keeping Log as well.

(B) Long Term Corrective Measures. The operator shall, as soon as reasonably practical, take one or more of the following steps to eliminate the problem which resulted in an exceedance of the correction air levels of 105 CMR 675.008(A) and to prevent any future exceedances of these levels:

- (1) increase ventilation (the rate of exchange of outdoor and indoor air) at the skating rink;
- (2) begin warming up ice resurfacer equipment outside the building;
- (3) install a local exhaust system in area where resurfacing equipment is warmed up to vent exhaust to the outside;
- (4) retune or repair resurfacing equipment and then continue to regularly retune and repair the equipment as recommended by the manufacturer.
- (5) reduce edging time;
- (6) replace edging equipment with equipment having lower emissions;

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- (7) install a vertical exhaust pipe the top end of which protrudes above the highest point of the ice resurfacers;
- (8) install a catalytic converter on resurfacing equipment;
- (9) install an oxygen sensor in resurfacing equipment to regulate fuel leanness or richness;
- (10) decrease resurfacing schedule to reduce amount of exhaust gases emitted;
- (11) convert the existing resurfacing equipment to electric power or acquire replacement electrically powered resurfacing equipment; and/or
- (12) take other action which has the effect of reducing or helping reduce air levels of carbon monoxide and nitrogen dioxide to required levels.

675.010: Required Notification

If air levels of carbon monoxide or nitrogen dioxide exceed the notification air levels of 105 CMR 675.008(B), the operator shall, in addition to taking all actions required by 105 CMR 675.009, notify the local fire department within one hour, and notify the local board of health and the Bureau within 24 hours, of the reading which indicated that one or both of those air levels were exceeded.

675.011: Required Evacuation

(A) If air levels of carbon monoxide or nitrogen dioxide exceed the evacuation air levels of 105 CMR 675.008(C), the operator shall:

- (1) immediately evacuate all people from the interior of the indoor skating rink;
- (2) contact the local fire department as soon as possible to assist in the evacuation of the facility and to assess the hazard;
- (3) contact the local board of health upon completion of the evacuation;
- (4) contact the Bureau within two hours of the evacuation.

(B) Re-occupancy of the indoor skating rink after evacuation under 105 CMR 675.011 can only occur if:

- (1) three consecutive air samples taken by the operator within no greater than a three hour period and taken in accordance with the air sampling procedures set forth in 105 CMR 675.006(A)(2) and (4) indicate that the air levels of carbon monoxide or nitrogen dioxide have been reduced below the correction air levels;
- (2) appropriate long-term corrective measures have been taken to prevent further future exceedances of the correction air levels; and
- (3) the air levels of carbon monoxide and nitrogen dioxide are found to be below the correction air levels through one or more independent measurements taken by the local fire department, local health department or the Bureau.

675.012: Engine Tuning

All engine tuning must be conducted by a technician familiar with the process. Tuning must include emissions testing done while under load. By signing his name in the record keeping log as required by 105 CMR 675.007(C), the technician shall certify that the tuning is consistent with the recommendations of the manufacturer of the resurfacing equipment.

675.013: Catalytic Converters

Installation of the catalytic converter must be done by a qualified individual familiar with the resurfacing equipment. Any repair or maintenance work involving the catalytic converter must also be done by a qualified individual. Such individual(s) must be familiar with the proper installation techniques and servicing recommended by the catalytic converter manufacturer. By signing his name in the record keeping log as required by 106 CMR 675.007(C), the individual installing or servicing the catalytic converter shall certify that the installation or maintenance is consistent with the recommendations of the manufacturer of the catalytic converter.

675.014: Air Monitors

The calibration of in-place or hand-held real time monitors must be measured on a monthly schedule or in accordance with current specifications and procedures established by the manufacturer of the monitoring device. Each calibration shall be recorded in the record keeping log in accordance with the requirements of 105 CMR 675.007(D).

675.015: General Administration

(A) Scope. The following provisions shall cover the administration and enforcement of 105 CMR 675.000 in lieu of 105 CMR 400.000: *The State Sanitary Code, Chapter I*.

(B) Local Enforcement. Unless otherwise expressly provided herein, each board of health is responsible for the administration and enforcement of 105 CMR 675.000 and may enforce 105 CMR 675.000 by suspension or revocation of certificates of approval in accordance with 105 CMR 675.018 or otherwise at law or in equity in the same manner that local rules and regulations are enforced.

(C) Bureau Assistance With Local Enforcement. The Bureau shall, upon request of the board of health, assist the board in its inspection of an indoor skating rink and shall advise the board in connection with enforcement actions taken by the board against a skating rink operator.

(D) State Enforcement.

(1) If, as a result of any study, inspection, or survey made by the Department or its authorized representative, the Department determines that compliance with 105 CMR 675.000 has not been effected, it shall, in writing, notify the appropriate board of health of such determination, allotting a reasonable time in which compliance shall be effected, and requesting that the board of health, in writing, notify the Department of what action will be and has been taken to effect compliance with 105 CMR 675.000.

(2) If the Department or its authorized representative is not so notified, or if, after notification it determines that action sufficient to effect compliance with the provisions of 105 CMR 675.000 has not been taken, the board of health shall be deemed to have failed to effect compliance with 105 CMR 675.000.

(3) Whenever any board of health has failed after a reasonable length of time to enforce 105 CMR 675.000, the Department may enforce 105 CMR 675.000 in any way that a local board of health is authorized to act to effect compliance under 105 CMR 675.000, subject to the same procedural requirements set forth in 105 CMR 675.000 which are applicable to local boards of health.

(4) Notwithstanding any other provision of 105 CMR 675.000, if the Department determines that an imminent health hazard exists resulting from the operation of an indoor skating rink, it may, without prior notice to the board of health, take whatever action is necessary to effect compliance with 105 CMR 675.000.

(E) Interpretation of 105 CMR 675.000. The Bureau may from time to time issue written interpretations and guidelines as necessary to promote uniform application of 105 CMR 675.000. Upon the written request of a board of health or permit holder, the Director may advise on particular questions regarding interpretations of 105 CMR 675.000.

(F) Reporting By Local Board of Health. The board of health shall send copies of the following documents to the Bureau, as soon as reasonably practicable, but in any event no later than 30 days after the creation or receipt of such documents: all applications for certificates of approval; certification of approval and renewals thereof; inspection reports; orders; notices of suspension or revocation; appeals; and criminal complaints filed against an owner and operator.

675.016: Certificate of Approval - Issuance

(A) Certificate Required to Operate. After May 26, 1997 no person shall commence the operation of, or continue to operate, an indoor skating rink unless he/she/it is the holder of a valid certificate of approval issued by the board of health.

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(B) Application. By no later than April 26, 1997, any person currently operating an indoor skating rink desiring to continue operating said rink shall file a written application for a certificate of approval with the board of health, on forms prepared by the Bureau and obtained from the board of health. Any person desiring to commence operating an indoor skating rink after March 21, 1997 must file an application and receive a certificate of approval prior to commencing operation. Payment of any fee required by local bylaw, ordinance or regulation shall accompany the application.

(C) Certificate. Upon receipt of a completed application form and any applicable fee, the board shall issue a certificate of approval to a person operating or proposing to operate an indoor skating rink, on a form provided by the Bureau, if the board determines, after an inspection, that the operator has satisfied the following conditions:

- (1) a proper record keeping log is being maintained at the rink;
- (2) the operator has on hand proper, adequate and functioning air monitoring equipment capable of measuring carbon monoxide and nitrogen dioxide as required by 105 CMR 675.000;
- (3) the operator has taken air samples at the rink, in accordance with 105 CMR 675.000, for at least two weeks prior to the inspection, and has recorded the results of those air samples in the record keeping log;
- (4) the air samples recorded in the record keeping log for the two weeks prior to the inspection reveal that the levels of carbon monoxide and nitrogen dioxide were at all times during that period below notification air levels;
- (5) any air samples taken by the board or its agent during the inspection reveal that the levels of carbon monoxide and nitrogen dioxide are below notification air levels.

The requirements of 105 CMR 675.016(C)(3), (4) and (5) may be satisfied, in the case of a new indoor skating rink or an indoor skating rink not in operation at the time of application, within 30 days of issuance by the board of a certificate of approval. In such cases, the certificate issued by the board prior to operating shall be deemed a provisional certificate until those requirements are satisfied. If an operator fails to satisfy 105 CMR 675.016(C)(3) through (5) within 30 days, the provisional certificate shall be deemed to have expired.

(D) Expiration and Renewal of Certificate.

- (1) A certificate shall expire no later than one year from the date issued.
- (2) An indoor skating rink certificate may be renewed by applying at least 30 days prior to the expiration of the certificate. Renewal applications forms prepared by the Bureau shall be obtained from the board of health.
- (3) Upon receipt of a completed renewal application form and any applicable fee, the board shall issue a renewal certificate of approval, provided that the conditions set forth in 105 CMR 675.016(C)(1) through (5) are satisfied, and provided further that the prior certificate has not been revoked or suspended.
- (4) If a certificate expires while a timely filed application for renewal is pending, the skating rink shall continue to operate under the expired permit until a new permit is issued or the renewal application is denied.

(E) Posting of Certificate. The Certificate of Approval shall be posted on a central bulletin board maintained at the ice skating rink in a manner allowing it to be readily viewed by all members of the public having access to the indoor skating rink.

675.017: Inspection

(A) The board of health or its agent shall inspect each indoor skating rink at least once annually, within thirty days of receipt of an original or renewal application, if possible, and promptly upon receipt of any written complaint about the air quality in an indoor skating rink or upon receipt of notice from the operator that air levels of carbon monoxide and nitrogen dioxide at the operator's indoor skating rink exceed notification air levels.

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(B) The Bureau shall, upon request of a board of health, accompany and/or advise the board in connection with the board's inspection of an indoor skating rink. The Bureau may also, in its sole discretion, inspect an indoor air skating rink at any reasonable time, on its own.

(C) During all inspections, the board shall, at a minimum, review the record keeping log to determine if the proper records are being kept and examine the air monitoring equipment employed by the operator to determine if it is functioning properly and is adequate to satisfy the requirements of 105 CMR 675.000. When investigating a complaint, and at all other times possible, the board or its agent shall also take its own air quality samples using its own air monitoring equipment.

(D) Agents of the board of health and the Bureau shall have access at all reasonable times to all indoor skating rinks, which access shall include access to the ice surface as well as access to the operator's record keeping log, ice resurfacing equipment and ventilation equipment and controls.

(E) The board or its agents and the Bureau or its agents shall record the results of each of its inspections of indoor skating rinks on an inspection report form provided by the Bureau or on a report form prepared by the board and approved by the Bureau.

675.018: Certificates: Suspension and Revocation

(A) Immediate Suspension/ Emergency Closure.

(1) The board of health or the Bureau or the authorized agent of either may, without prior notice or hearing, suspend a certificate of approval and order the indoor skating rink to close if an imminent health hazard is found to exist. An imminent health hazard shall be deemed to exist if the levels of carbon monoxide or nitrogen dioxide in an indoor skating rink are found, by the taking of one or more air samples by the operator, or the board or Bureau or the authorized agent of either, to exceed evacuation air levels, or if such air levels are otherwise considered by the board, Bureau or either of their authorized agents, to constitute an actual danger to the health of employees or users of the indoor skating rink or visitors to the indoor skating rink. The local fire department shall be notified by the board of health of a suspension/emergency closure as soon as possible.

(2) Whenever a suspension is imposed in this manner, the operator shall be notified of the suspension in writing. The notice shall:

- (a) state that the board of health or the Bureau has determined that an imminent health hazard exists which requires the immediate suspension of operations;
- (b) list the finding(s) leading to the determination that an imminent health hazard exists; and
- (c) state that a hearing will be held if a written request for hearing is filed with the board of health or the Bureau by the certificate holder within ten days of receipt of the notice of suspension.

(3) The suspension shall be effective upon posting of the notice of suspension on the premises.

(4) The board of health or the Bureau shall hold a hearing on the suspension within three business days after receipt of a written request for a hearing.

(5) Whether or not a hearing is requested, the board of health or the Bureau may end the suspension at any time if reasons for the suspension no longer exist.

(B) Suspension with Prior Notice.

(1) The board of health may, after providing an opportunity for a hearing, suspend a certificate of approval if the indoor skating rink does not comply with the requirements of 105 CMR 675.000.



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(2) Notice of the board's intent to suspend a certificate shall be given by the board of health to the operator in writing. The notice shall specify the violations for which the certificate is to be suspended and shall state that the certificate shall be suspended at the end of ten days following service of such notice unless a written request for hearing is filed with the board of health by the certificate holder within such ten day period. If no request for hearing is filed within the ten day period, the certificate shall be suspended for the period of time specified in the suspension notice.

(3) If no hearing is requested or if, after a hearing, the decision to suspend the certificate is upheld, the board shall serve a second notice on the operator stating that the certificate is suspended and setting forth the time period of the suspension and the starting date of the suspension. The notice shall also state that the ice skating rink must be closed on the date specified in the notice and remain closed during the entire suspension period, unless the board explicitly allows it to be reopened at an earlier time. The notice shall be posted on the premises by the operator.

(C) Revocation.

(1) The board of health may, after providing opportunity for a hearing, revoke a certificate for:

- (a) serious or repeated violations of any of the requirements of 105 CMR 675.000;
- (b) interference with the board of health or its authorized agents in the performance of its duty;
- (c) a criminal conviction of the permit holder relating to the operation of the indoor skating rink; or
- (d) for keeping or submitting any misleading or false records or documents required by 105 CMR 675.000.

(2) Notice of the board's intent to revoke a certificate shall be given by the board of health to the operator in writing. The notice shall specify the reason(s) for which the certificate is to be revoked and shall state that the revocation shall be imposed at the end of the ten days following service of such notice unless a written request for hearing is filed with the board of health by the operator within such ten-day period. If no request for hearing is filed within the ten-day period, the certificate shall be revoked.

(3) If no hearing is requested or if, after a hearing, the decision to revoke the certificate is upheld, the board shall serve a second notice on the operator stating that the certificate is revoked, and the effective date of the revocation. The notice shall also state that the ice skating rink must be closed on the effective date of the revocation and must remain closed unless and until the revocation is rescinded or a new license is issued for the facility. The notice shall be posted on the premises by the operator.

(D) Service of Notices. All notices of intent to suspend or revoke a certificate and all notices of suspension or revocation of a certificate required under this section shall be served on the owner or operator of the indoor skating rink as follows:

- (1) By sending him a copy of the notice by registered or certified mail, return receipt requested; or
- (2) Personally, by any person authorized to serve civil process; or
- (3) If, and only if, the aforementioned methods of service are unsuccessful, service may be made, by any person authorized to serve civil process, by leaving a copy of the notice with some responsible person at the indoor skating rink.

675.019: Orders

(A) Correction Orders. Whenever the levels of carbon monoxide or nitrogen dioxide in an indoor ice rink are found, by the taking of one or more air samples by the operator or the board or its authorized agent, to exceed notification air levels, or in other circumstances in which the board or its agent reasonably believes it necessary to protect the health of employees or users of the rink or visitors to the rink, the board or its agent may order the operator to take one or more reasonable corrective measures to reduce the levels of carbon monoxide or nitrogen dioxide in the rink. In issuing such order, the board and its agents shall, whenever possible, require the operator to implement the least expensive and simplest corrective measures of the available alternatives which the board or its agent consider effective to ensure that air levels will

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return to and stay below corrective air levels. All orders issued under 105 CMR 675.019(A) shall allow a reasonable time for correction. The order shall be in writing and shall state that the required correction(s) must be made within the time specified by the board and shall advise the operator that if he objects to the order, he must file with the board a written request for a hearing no later than the compliance date specified in the order. The local board of health shall forward copies of correction orders to the local fire department as soon as possible.

(B) Form for Orders. Orders shall be in writing and shall be issued on forms provided by the Bureau or on a form prepared by the board and approved by the Bureau. Orders shall be signed by the board or its authorized agent.

(C) Service of Orders. All orders shall be served on the owner or operator of the indoor skating rink as follows:

- (1) By sending him a copy of the order by registered or certified mail, return receipt requested; or
- (2) Personally, by any person authorized to serve civil process; or
- (3) If, and only if, the aforementioned methods of service are unsuccessful, service may be made, by any person authorized to serve civil process, by leaving a copy of the order with some responsible person at the indoor skating rink.

675.020: Hearings

(A) The person or persons to whom any correction order, emergency closure order or notice of intent to suspend or revoke a certificate of approval has been issued pursuant to 105 CMR 675.018 or 675.019 has been directed, may request a hearing before the board of health. Such request shall be in writing and shall be filed in the office of the board of health within ten days after receipt of the order or notice, unless a shorter or longer period is specified in 105 CMR 675.000. Upon receipt of such request, the board of health shall set a time and a place for such hearing and shall inform the petitioner thereof in writing. Except in the case of an emergency suspension under 105 CMR 675.018(A), the hearing shall be commenced not later than ten days after the day on which the request was filed. However, upon application of the petitioner, the board of health may postpone the date of the hearing for a reasonable time beyond such ten-day period if in the judgment of the board of health the petitioner has submitted a good and sufficient reason for such postponement.

(B) At the hearing the petitioner shall be given an opportunity to be heard and to show why the order should be modified or withdrawn or why the suspension or revocation is not justified.

(C) After the hearing, the board of health shall issue a written decision which contains a summary of the testimony and evidence considered and the reasons for the decision.

675.021: Appeals

Any person aggrieved by a decision of the board of health with respect to the provisions of 105 CMR 675.000 may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of the Commonwealth.

675.022: Penalties

(A) Any person who violates any provision of 105 CMR 675.000 shall, upon conviction, be fined not more than \$100 for the first offense and not more than \$500 for a subsequent offense unless a different penalty is set by statute.

(B) Any person who fails to comply with any order issued pursuant to 105 CMR 675.000 or who interferes with the board, Bureau, or either of its authorized agents in the conduct of an inspection, shall, upon conviction, be fined not more than \$100 for the first offense and not more than \$500 for a subsequent offense. Each day's failure to comply with an order shall constitute a separate offense.

675.023: Severability

If any provision of 105 CMR 675.000 shall be declared invalid for any reason whatsoever, that decision shall not affect any other portion of 105 CMR 675.000, which shall remain in full force and effect, and to this end the provisions of 105 CMR 675.000 are hereby declared severable.

675.024: Variances

Variances may be granted only as follows: the Board of Health or the Bureau may vary the application of any provision of 105 CMR 675.000 with respect to any particular case when, in its opinion

(A) the enforcement thereof would do manifest injustice; and

(B) the applicant has proved that the same degree of protection required under 105 CMR 675.000 can be achieved without strict application of the particular provision.

Every request for a variance shall be in writing and shall state the specific variance sought and the reasons therefore. Any variance granted by the Board of Health or the Bureau shall be in writing. Any denial of a variance shall also be in writing and shall contain a brief statement of the reasons for the denial. A copy of each variance shall be conspicuously posted for 30 days following its issuance, and shall thereafter be available to the public at all reasonable hours, in the office of the city or town clerk or the office of the Board of Health while it is in effect. A copy of the variance shall also be posted at the ice skating rink for one year and kept thereafter with the record keeping log. Notice of the grant of each variance shall be filed with the Bureau, which shall approve, disapprove, or modify the variance within 30 days of receipt thereof. If the Bureau fails to comment within 30 days, its approval will be presumed. No work shall be done under any variance until the Bureau approves it or 30 days elapse without any comment by the Bureau, unless the Board of Health or the Bureau certifies in writing that an emergency exists. Any variance by the Board of Health or Bureau authorized to be made by 105 CMR 675.000 may be subject to such qualification, revocation, suspension, expiration as the Board of Health or Bureau expresses in its grant. A variance authorized to be made by 105 CMR 675.000 may otherwise be revoked, modified, or suspended, in whole or in part, only after the holder thereof has been notified in writing and has been given an opportunity to be heard, in conformity with the requirements for an order and hearing of 105 CMR 675.000.

REGULATORY AUTHORITY

105 CMR 675.000: M.G.L. c.111, §§ 3 and 127A

NON-TEXT PAGE