

Permanent Variance Application Checklist

Use of this checklist can assist applicants to determine if an application for a permanent variance is complete and appropriate.

Does the written application contain the following information?

Applicant Information

- ☐ Yes Name and address of the applicant company.
- ☐ Yes Name of, and contact method for, the applicant's authorized representative and primary point of contact (if different from authorized representative).
- ☐ Yes ☐ NA Address of place or places of employment involved (for multiple sites).

Support Information

- ☐ Yes List of the OSHA standard(s) from which the applicant is requesting the permanent variance.
- ☐ Yes Description of the means proposed for use as an alternative for protecting employees from hazards as effectively as compliance with the standard, and how the proposed alternative would be at least as safe and healthful for employees as the existing requirements in the OSHA standard(s) from which the applicant is requesting the permanent variance.
- ☐ Yes Statement that the applicant certifies that it informed its employees of the variance application and of their right to petition the Assistant Secretary for a hearing by using one or more of the means described below:
- ☐ Yes Giving a copy of the permanent variance application to the authorized employee representative(s);
- ☐ Yes Posting a statement giving a summary of the application and specifying where its employees may examine a copy of the permanent variance application (at the place(s) where the applicant normally posts notices to employees or, instead of a summary, posting the application itself); and
- ☐ Yes If the applicant used an alternate means (other than the means specified in the statements (a) and/or (b) above) to inform its employees of the application and their right to petition the Assistant Secretary for a hearing, then providing a detailed description of the alternate means.
- ☐ Yes Signed statement certifying the status of any outstanding OSHA or State Plan state¹ citation(s) by identifying the item below that describes the current status:
- ☐ Yes The applicant is not contesting any citations involving the standard that is the subject of this application;
- ☐ Yes The applicant is taking measures to abate any such citations; or
- ☐ Yes The applicant is contesting any such citations.

¹The following are states and territories with approved state plans: AK, AZ, CA, CT,* HI, IA, IL,* IN, KY, MD, MI, MN, NC, NJ,* NM, NV, NY,* OR, PR, SC, TN, UT, VA, VT, VI,* WA, and WY. *Plans cover public-sector employees only; the remaining states cover both public- and private-sector employees.

- ☐ Yes ☐ NA If requesting an Interim Order, a statement of facts and argument explaining why OSHA should grant such an Order.
- If the variance application involves one (or more) states covered by Federal OSHA, and one (or more) State Plan state(s), the application provides the following information for each standard from which the applicant is requesting the permanent variance:
- ☐ Yes Side-by-side comparison of the OSHA standard(s) and the state standard(s) that is/are identical to the OSHA standard;²
- ☐ Yes Statement certifying that the applicant has not filed an application for a permanent variance on the same material facts for the same place(s) of employment with the State Plan state/states in question; and
- ☐ Yes Statement identifying any pending citations issued to the applicant by a State Plan state for violating the state standard(s) that is/are the subject of this variance application.
- ☐ Yes Signed certification that the information contained in the application is accurate and true to the best of the applicant's knowledge.

Appropriateness of the Variance Application

A "Yes" response to any of the items below indicates that the application may not be appropriate:

- ☐ Yes ☐ No The variance the applicant is requesting is from a "performance" standard, which is one that does not specify methods or actions that the employer must implement to meet the requirements of the standard.
- ☐ Yes ☐ No The variance the applicant is requesting is from a "definition" in a standard. Definitions are not enforceable portions of a standard since they do not specify means, methods, or actions the employer must implement for meeting the requirements of the standard.
- ☐ Yes ☐ No The application requests an exemption or waiver from the requirements of the standard.
- ☐ Yes ☐ No The variance is a request for review and approval of a design or product developed for manufacture and commercial use.
- ☐ Yes ☐ No There exists an OSHA letter of interpretation that governs the acceptability of the requested alternative.
- ☐ Yes ☐ No There is an updated edition of the nationally recognized consensus standard upon which OSHA based the standard that is the subject of the variance request, and the updated consensus standard permits the requested alternative (and that protects employees at least as effectively as the OSHA standard).
- ☐ Yes ☐ No The application involves workplace locations that are solely in State Plan states.

²If the state standard(s) is/are not identical to the OSHA standard(s), the applicant must apply to the state for an permanent variance.