

Temporary Variance Application Checklist

Use of this checklist can assist applicants to determine if an application for a temporary 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 newly published OSHA standard(s) from which the applicant is requesting the experimental variance.
- Yes Statement of when the applicant expects to be able to comply with the standard(s), and a detailed description of what steps the applicant is taking or will take (during the period of the temporary variance), with specific dates when appropriate, to come into compliance as quickly as possible with the new standard(s) from which the applicant is requesting a temporary variance.
- Yes Statement based on one or more of the conditions specified below describing why the applicant was unable to comply with the new standard(s) by its/their effective date(s):
 - Yes Unavailability of technical or professional personnel;
 - Yes Unavailability of material and/or equipment; and
 - Yes Inadequate time allowed to complete the necessary construction or alteration of facilities.
- Yes Statement providing the names, occupations, and contact information of qualified person(s) who can confirm the applicant's explanation and assertion that it is unable to comply with the new standard(s) by its/their effective date.
- Yes Detailed description of the steps taken to safeguard workers against the hazards covered by the standard, including a signed statement certifying that the applicant:
 - Yes Is taking all available steps to safeguard its workers against the hazards covered by the standard(s); and
 - Yes Has an effective program for coming into compliance with the standard(s) as quickly as possible.
- 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 temporary 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 temporary 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.

If the variance application involves one (or more) states covered by Federal OSHA, and one (or more) State Plan state(s),¹ the application provides the following information for each standard from which the applicant is requesting the temporary 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 temporary 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.

Certification that the applicant is resolving any state plans state citation(s) as follows:

Yes The applicant is not contesting any citation(s) involving the standard in question;

Yes The applicant is taking measures to abate this/these citation(s);

Yes The applicant is contesting a citation involving the standard in question.

Yes If requesting an Interim Order, a statement of facts and argument explaining why OSHA should grant such an Order.

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 application was submitted after the date the standard in question went into effect.

Yes No The application involves workplace locations that are solely in State Plan states.

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.

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