

EXPERIMENTAL VARIANCE APPLICATION¹



OMB Control Number: 1218-0265
Expires: 3/31/2025

Instructions: Please review the supplemental information and instructions [Supplemental Information and Completion Instructions](#) prior to completing the variance application. For questions about this form or the variance process, contact OSHA at VarianceProgram@dol.gov

Section I - Applicant Information

1. Applicant Company

Company Name: _____

Principal Address:

Street: _____

City: _____ State: _____ ZIP Code: _____

2. Contact Information

a. Authorized Representative:

Company Representative's Name: _____

Title/Position: _____

Address (if different from the company's principal address):

Street: _____

City: _____ State: _____ ZIP Code: _____

Telephone: _____ Fax: _____ Email: _____

b. Primary point of contact with the company (if different from the authorized representative):

Point of Contact Name: _____

Title/Position: _____

Address (if different from the company's principal address):

Street: _____

City: _____ State: _____ ZIP Code: _____

Telephone: _____ Fax: _____ Email: _____

3. Multiple Site Addresses

a. Site Name: _____

Site address including:

Street: _____

City: _____ State: _____ ZIP Code: _____

b. Site Name: _____

Site address including:

Street: _____

City: _____ State: _____ ZIP Code: _____

c. Site Name: _____

Site address including:

Street: _____

City: _____ State: _____ ZIP Code: _____

¹Use of this form is voluntary.

4. Provide a detailed list of the standard(s) from which the applicant is requesting the experimental variance.

5. Explain why the proposed experimental variance is necessary, and provide a description of the risks and hazards associated with the experiment, and how the applicant will provide an equivalent level of protection to workers during the experiment.

6. Provide a detailed explanation of how the experimental variance will demonstrate or validate new and improved techniques to safeguard the health and safety of workers.

7. Describe in detail the plan of the proposed experiment, which must include:

a. The names and qualifications of the supervisor(s) of the experiment, and the supervisor's(s') staff involved in the experiment; and

b. The proposed steps and duration of the experiment (in days), employee work time (in hours), and hours of machine operation (if applicable).

8. Provide a detailed statement describing similar experimentation or related research conducted by the applicant or another party (if known). The statement should include, if available, data, summaries, reports, and evaluations (or a reference thereto) of such experimentation or research.

9. Provide a statement that demonstrates that the applicant has sufficient technological, economic, and labor resources to perform the experiment properly, with proper controls.

10. Provide a signed letter or an official document indicating approval of the experiment by the Secretary of the U.S. Department of Health and Human Services (if available).

11. Prepare and attach a copy of a written statement(s) signed by each employee who agrees to participate in the proposed experiment that he/she does so knowingly, willingly, and voluntarily.

12. By the signature entered below, the applicant certifies that it informed the employees volunteering to participate in the experiment of the plan of the proposed experiment, its attendant risks, their right to terminate participation in the experiment, and their right to petition the Assistant Secretary for a hearing, by placing one or more check marks next to the item describing the means used.

- ☐ a. Giving a copy of the experimental variance application to the authorized employee representative(s), and providing instructions concerning the employees' right to petition the Assistant Secretary for a hearing.
- ☐ b. Alternatively, posting a statement giving a summary of the application and specifying where its employees may examine a copy of the experimental variance application (at the place(s) where the applicant normally posts notices to employees), and providing instructions concerning the employees' right to petition the Assistant Secretary for a hearing; or, instead of a summary, posting of the application itself; or
- ☐ c. If the applicant used an alternate means (other than the means specified in 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 attach a detailed description of the alternate means.

13. If any worksite for which the applicant is requesting this experimental variance is in a state with an OSHA-approved occupational safety and health program ("State Plan state"²), confirm that the variance application involves a state standard(s), or portion thereof, that is identical to the OSHA standard(s),³ and provide the following information for each such standard:

- a. A side-by-side comparison of the OSHA standard(s) from which the applicant is requesting the experimental variance with the state standard(s) that is/are identical to the OSHA standard;
- b. By the signature entered below, the applicant certifies that it has not filed an application for an experimental variance on the same material facts for the same place(s) of employment with the State plan state/states in question; and
- c. A 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.

²The 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-sector and private-sector employees.

³If the state standard(s) is/are not identical to the OSHA standard(s), the applicant must apply to the state for an experimental variance.

14. Provide a statement describing in detail any:

a. Past or pending citations, including identification and the disposition thereof, issued to the applicant by Federal OSHA or a State Plan state; and

b. Judicial and administrative proceedings to which the applicant is or was a party involving breaches of the Occupational Safety and Health Act of 1970, or violations of standards or regulations issued by Federal OSHA or a State Plan state.

15. The applicant certifies by the signature below that the information contained in the application is accurate and true to the best of the applicant's knowledge.

Signature of the authorized representative: _____

Print name: _____ Date: _____

Paperwork Reduction Act Statement OMB Control Number: 1218-0265

According to the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless such collection displays a valid OMB control number. Public reporting burden for this collection of information is estimated to average 30 hours per response. This burden includes locating and assembling information required to complete the variance application, informing affected workers of the decision to seek a variance, completing the variance application, and assembling the application documents, but does not include hosting an OSHA site visit. The obligation to respond to this collection is voluntary. Information obtained from this form will be used to determine if a variance will be granted to the applicant. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Department of Labor, OSHA, Office of Technical Programs and Coordination Activities, Room N-3653, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210. OMB Control Number: 1218-0265.

Supplemental Information and Instructions for Completing the **Experimental Variance Application Form**

Section 6(b)(6)(C) of the Occupational Safety and Health (OSH) Act of 1970 (29 U.S.C. 651 *et seq.*) authorizes experimental variances from Occupational Safety and Health Administration (OSHA) standards. Sections A, B, C, and D below provide a brief summary of these requirements, detailed instructions for completing the application form, some common application deficiencies to avoid, and procedures and instructions for submitting an experimental variance application to OSHA.

A. Summary of Requirements for Obtaining an Experimental Variance

An employer (or class or group of employers⁴) may request an experimental variance for a specific workplace(s). An experimental variance authorizes employer(s) to demonstrate or validate new or improved safety and health techniques when they can prove that their proposed experimental methods, conditions, practices, operations, or processes provide workplaces that are at least as safe and healthful as the workplaces provided by the OSHA standards from which they are seeking the experimental variance. In the application, the employer must describe in detail the proposed experimental design, and how performing the experiment will demonstrate that workers will receive safety and health protection that is at least equal to the protection afforded by compliance with the standard(s). In addition, the employer must:

1. Obtain a written statement signed by each worker who agrees to participate in the proposed experiment that he/she does so knowingly, willingly, and voluntarily.
2. Provide certification that the employer informed the volunteer workers of the plan of the proposed experiment, its attendant risk, and the right to terminate participation in the experiment.

B. Instructions for Completing the Experimental Variance Application Form

Section I: Application Information

1. and 2. Self-explanatory.
3. Provide the address(es) of all the location(s) of employment where the employer would implement the experimental variance (if different from the company's principal address).

Section II: Support Information

4. through 9. Self-explanatory.
10. If the Secretary of the U.S. Department of Health and Human Services approved the proposed experiment, attach a copy of a signed letter or an official document attesting to such approval and, when appropriate, certification from the Secretary that it is necessary for the applicant to deviate from compliance with the standard(s) that are the subject of this variance application, to conduct the experiment.
11. through 14. Self-explanatory.
15. This form is to be signed by the applicant's authorized representative to certify that the information contained in the application is accurate and true to the best of the applicant's knowledge. Also, enter the printed name of the applicant's authorized representative and the date the authorized representative signed the application.

⁴A class or group of employers in the same industry (such as members of a trade alliance or association) may apply jointly for a variance provided an authorized representative for each employer signs the application and the application identifies each employer's affected facilities.

C. Reviewing the Experimental Variance Application

Carefully review the variance application, and ensure that:

1. The application is complete and contains detailed descriptions for each item in the form, including the name and signature of the authorized representative;
2. The variance is not a request for an exemption or waiver from the requirements of a standard;
3. The applicant is not seeking the variance from a "definition" or from a "performance" standard (i.e., a standard that does not describe a specific action for meeting the requirements of the standard); and
4. If the application involves location(s) in State Plan states, that it also includes a state or states under Federal OSHA authority.⁵

D. Procedure for Submitting an Experimental Variance Application

Applicants must use the following procedure when completing and submitting an application for an experimental variance to OSHA:

1. Complete this Experimental Variance Application form (printed or saved from OSHA's Variance Website), or develop their version of the application that meets the requirements of Section 6(b)(6)(c) of the Occupational Safety and Health (OSH) Act of 1970.
2. If completing a printed copy of the application form, use additional sheets when necessary to provide a full and detailed response.
3. The employer, or an authorized representative of the employer, must sign the completed variance application.
4. Submit the original of the completed application, as well as other relevant documents,⁶ to:

By regular mail:

Assistant Secretary for Occupational Safety and Health
Director, Office of Technical Programs and Coordination Activities
Occupational Safety and Health Administration
U.S. Department of Labor
Room N-3655
200 Constitution Avenue, N.W.
Washington, D.C. 20210

By facsimile:

202-693-1644

Electronic (email):

VarianceProgram@dol.gov

⁵Private-sector employers in the following states and territories are under Federal OSHA authority for occupational safety and health purposes: AL, AR, CO, CT, DC, DE, FL, GA, ID, IL, KS, LA, MA, ME, MO, MS, MT, ND, NE, NH, NJ, NY, OK, OH, PA, RI, SD, TX, WI, and WV. Territories: American Samoa, Guam, Trust Territory of the Pacific Islands, Virgin Islands, and Wake Island.

Most private-sector employers in the following 22 states and territories are under the authority of an OSHA-approved state occupational safety and health plan (State Plan states): AK, AZ, CA, HI, IA, IN, KY, MD, MI, MN, NC, NM, NV, OR, SC, TN, UT, VA, VT, WA, and WY. Territory: PR. Addresses for these states are available on the OSHA website at www.osha.gov. (These states and territory, as well as CT, IL, NJ, NY, and VI, also provide coverage to public-sector employers under their state plans. Public-sector -- state and local government -- employers must apply to the applicable state for a variance.)

⁶Other documents may include photos, blueprints, drawings, models, reports, data, and other information and evidence necessary to describe the proposed alternative, and to demonstrate the level of employee protection it provides.