



# TEMPORARY VARIANCE APPLICATION<sup>1</sup>

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](mailto: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: \_\_\_\_\_

<sup>1</sup>Use of this form is voluntary.

## Section II - Support Information

4. List the newly published OSHA standard(s) from which the applicant is requesting the temporary variance.

5. Provide a statement of when the applicant expects to be able to comply with the standard(s), and describe in detail what steps the applicant has taken and 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 the temporary variance.

6. Select one or more of the condition(s) specified below to describe why the applicant was unable to comply with the new standard(s) by its/their effective date:

a. Unavailability of technical or professional personnel. (Explain in detail.)

b. Unavailability of material and/or equipment. (Explain in detail.)

c. Inadequate time allowed to complete the necessary construction or alteration of facilities. (Explain in detail.)

7. Provide 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.

8. By the signature entered below, the applicant certifies that it:

- a. Is taking all available steps to safeguard its workers against the hazards covered by the standard(s); and
- b. Has an effective program for coming into compliance with the standard(s) as quickly as possible.

Attach a detailed description of the steps taken to safeguard workers against the hazards covered by the standard.

9. By the signature entered below, 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 (place a check mark identifying the means selected):

- a. Giving a copy of the temporary variance application to the authorized employee representative(s);
- b. Providing instructions to its employees concerning their right to petition the Assistant Secretary for a hearing;
- c. Alternatively, posting a statement giving a summary of the application, informing employees of their right to petition the Assistant Secretary for a hearing, 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).
- d. If the applicant used an alternate means (other than the means specified in the statements (a), (b) and/or (c) 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.

10. If the variance application involves one (or more) states covered by Federal OSHA, and one (or more) State Plan state(s),<sup>2</sup> provide the following information for each standard from which the applicant is requesting the temporary variance:

- a. A side-by-side comparison of the OSHA standard(s) and the state standard(s) that is/are identical to the OSHA standard;<sup>3</sup>
- b. A 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
- 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.

11. By the signature below, the applicant certifies that the status of any outstanding State Plan state citation(s) as follows (place a check mark next to the item describing the current status):

- a. The applicant is not contesting any citations involving the standard(s) that is/are the subject of this application.
- b. The applicant is taking measures to abate this/these citation(s).
- c. The applicant is contesting a citation involving the standard in question.

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<sup>2</sup>The 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.

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

12. If the applicant is requesting an Interim Order to use the alternative method until OSHA renders a decision on the temporary variance application, attach a statement of facts and argument explaining why OSHA should grant such an Order.

13. 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 **Temporary Variance Application**

Section 6(b)6(A) of the Occupational Safety and Health (OSH) Act of 1970 (29 U.S.C. 651 *et seq.*) authorizes temporary variances from Occupational Safety and Health Administration (OSHA) standards. Employers may apply for a temporary variance by following the regulatory requirements specified by 29 CFR 1905.10. 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 a temporary variance application to OSHA.

### **A. Summary of Requirements for Obtaining a Temporary Variance**

An employer (or class or group of employers<sup>4</sup>) may request a temporary variance for a specific workplace(s). A temporary variance authorizes an employer short-term (i.e., limited time) relief from a standard when the employer cannot comply with newly published OSHA requirements by the prescribed effective date because the necessary construction or alteration of the facility cannot be completed in time, or when technical personnel, materials, or equipment are temporarily unavailable. To be eligible for a temporary variance, an employer must implement an effective compliance program as quickly as possible. In the meantime, the employer must demonstrate to OSHA that it is taking all available steps to safeguard workers. **Inability to afford the cost of complying with the standard is not a valid reason for requesting a temporary variance.** In addition, the employer must notify employees of the variance application, and of their right to participate in the variance process.

### **B. Instructions for Completing the Temporary Variance Application**

#### **Section I: Application Information**

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

#### **Section II: Support Information**

4. through 7. Self-explanatory.
8. Provide certification as indicated that the applicant:
  - a. Is taking all available steps to safeguard its workers against the hazards covered by the standard(s); and
  - b. Has an effective program for coming into compliance with the standard(s) as quickly as possible.

Attach a detailed description of the steps taken to safeguard workers.

9. Provide certification as indicated that the applicant informed its employees of the variance application and their right to petition the Assistant Secretary for a hearing by using one or more of the means selected from the list:
  - a. Giving a copy of the temporary variance application to the authorized employee representative(s);
  - b. Providing instructions to its employees concerning their right to petition the Assistant Secretary for a hearing;
  - c. Alternatively, posting a statement giving a summary of the application, informing employees of their right to petition the Assistant Secretary for a hearing, 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

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<sup>4</sup>A 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.

- d. If the applicant used means other than the means specified in statements (a), (b), and/or (c) to inform its employees of the application and their right to petition the Assistant Secretary for a hearing, attach a detailed description of such alternate means.

10.
  - a. Self-explanatory.
  - b. A 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
  - c. Self-explanatory.

11. and 12. Self-explanatory.

13. 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.

### **C. Reviewing the Temporary 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 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);
3. The applicant submits the application to OSHA prior to the date that the new standard in question goes into effect; and
4. If the application involves location(s) in State Plan states, that it also includes a state or states under Federal OSHA authority.<sup>5</sup>

### **D. Procedure for Submitting a Temporary Variance Application**

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

1. Complete this Temporary Variance Application form (printed or saved from OSHA's Variance Web site), or develop their version of the application that meets the regulatory requirements of 29 CFR 1905.10.
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,<sup>6</sup> to:

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<sup>5</sup>Private-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 web site at [www.osha.gov](http://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.)

<sup>6</sup>Other 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.

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](mailto:VarianceProgram@dol.gov)