



PERMANENT 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: _____

¹Use of this form is voluntary. A variance from a "performance standard" is not appropriate and cannot be granted because a performance standard does not describe a specific means or method for meeting the requirements of the standard. A variance from a definition in a standard is not appropriate and cannot be granted because a definition is not an enforceable provision of the standard since it does not describe any actions, means, or specific methods for meeting the requirements of the standard.

c. Site Name: _____
Site address including:
Street: _____
City: _____ State: _____ ZIP Code: _____

Section II - Support Information

4. List the OSHA standard(s) from which the applicant is requesting the permanent variance.

5. Describe the means to be used 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.

6. By the signature entered below, the applicant certifies that it informed its employees of the variance application and their right to petition the Assistant Secretary for a hearing by using the means described below (place a check mark identifying the means selected):

- ☐ a. Giving a copy of the variance application to the authorized employee representative(s);
- ☐ b. Posting a statement giving a summary of the variance application and specifying where employees may examine a copy of it, at the place(s) where the applicant normally posts notices to employees (or, instead of a summary, posting the application itself); or
- ☐ c. Using other appropriate means (explain).

7. By the signature entered below, the applicant certifies the status of any outstanding OSHA or State Plan state² 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 that is the subject of this application;
- ☐ b. The applicant is taking measures to abate any such citations; or
- ☐ c. The applicant is contesting any such citations.

²The following are states and territories with approved state plans for private-sector employers: 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.

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

9. If the variance application involves one (or more) states covered by Federal OSHA, and one (or more) State Plan state(s), provide the following information for each standard from which the applicant is requesting the permanent 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;³

b. By the signature entered below, the applicant certifies that it has not filed an application for an permanent 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.

10. 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.

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

Supplemental Information and Instructions for Completing the **Permanent Variance Application**

Section 6(d) of the Occupational Safety and Health (OSH) Act of 1970 (29 U.S.C. 651 *et seq.*) authorizes permanent variances from Occupational Safety and Health Administration (OSHA) standards. An employer may apply for a permanent variance by following the regulatory requirements specified by 29 CFR 1905.11. 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 permanent variance application to OSHA.

A. Summary of Requirements for Obtaining a Permanent Variance

An employer (or class or group of employers⁴) may request a permanent variance for a specific workplace(s). A permanent variance authorizes the employer(s) to use an alternative means to comply with the requirements of a standard when they can prove that their proposed 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 permanent variance. In the application, the employer must demonstrate, by a preponderance of the evidence, that the proposed alternative means of compliance provides its workers with safety and health protection that is equal to, or greater than, the protection afforded to them by compliance with the standard(s) from which they are seeking the variance. In addition, the employer must notify employees of the variance application, and of their right to participate in the variance process. **Inability to afford the cost of complying with the standard is not a valid reason for requesting a permanent variance.**

B. Instructions for Completing the Permanent 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 permanent variance (if different from the company's principal address).

Section II: Support Information

4. Self-explanatory.

5. Provide a detailed description of the conditions, practices, means, methods, operations, or processes the applicant would use as an alternative, and explain how the proposed alternative would be as safe and healthful for employees as meeting the existing requirements of the standard from which the applicant is requesting the permanent variance.

6. 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 placing a check mark on the form identifying the means selected. If the applicant checks "using other appropriate means," provide a detailed explanation of the alternate means used to notify employees of the application for a permanent variance.

7. Provide certification as indicated that the applicant is taking appropriate steps to resolve any OSHA or State Plan state citations pertaining to this application.

8. Self-explanatory.

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.

9.

a. Self-explanatory.

b. Provide a statement that the applicant certifies that it 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.

10. 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 Permanent 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 variance is not a request for review and approval of a design or product developed for manufacture and commercial use;

4. 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

5. 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 a Permanent Variance Application

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

1. Complete this Permanent Variance Application form (printed or saved from OSHA's Variance Website), or develop their version of the application that meets the regulatory requirements of 29 CFR 1905.11.

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:

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 web site 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.

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