

NATIONAL DEFENSE 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.

Section II - Support Information

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

5. Explain in detail how the proposed variance, limitation, tolerance, or exemption is necessary and proper to avoid serious impairment to the national defense.

6. Describe how the applicant informed its workers of the application and their right to petition the Assistant Secretary for a hearing.²

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

²Examples of how the applicant may inform its workers include: (1) Giving a copy of the application to their authorized representative; and (2) posting a statement giving a summary of the application and specifying where workers may examine a copy of it, at the place(s) where the applicant normally posts notices to workers (or, instead of a summary, posting the application itself).

8. 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 National Defense Variance Application

Section 16 of the Occupational Safety and Health (OSH) Act of 1970 (29 U.S.C. 651 *et seq.*) authorizes national defense variances granting reasonable variations, tolerances, and exemptions from Occupational Safety and Health Administration (OSHA) standards to avoid serious impairment of the national defense. If a national defense variance is in effect for more than six months, employers seeking the variance must notify their workers, and employees must be afforded an opportunity for a public hearing on the issues involved. An employer may apply for a national defense variance by following the regulatory requirements specified by 29 CFR 1905.12. Only Federal OSHA may grant national defense variances.³ Sections A, B, C, and D below provide a brief summary of these requirements, detailed application form completion instructions, some common mistakes to avoid, and procedures and instructions for submitting a national defense variance application to OSHA.

A. Summary of Requirements for Obtaining a National Defense Variance

An employer (or class or group of employers⁴) may request a national defense variance for a specific workplace(s). A national defense variance authorizes employer(s) reasonable variations, tolerances, and exemptions from compliance with the requirements of a standard when they can show that the proposed variance is necessary and proper to avoid serious impairment to the national defense. In addition, the employer must notify employees of the variance application, and of their right to petition OSHA for a hearing.

B. Instructions for Completing the National Defense 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 national defense variance (if different from the company's principal address).

Section II: Support Information

4. through 7. Self-explanatory.
8. 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 representative, and the date the authorized representative signed the application.

C. Reviewing the National Defense 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 a waiver from the requirements of a standard;

³See 29 CFR 1952.8(b), which states: "No action by a state under a plan shall be inconsistent with action by the Secretary [on a national defense variance]."

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.

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) only in State Plan states, the employer must submit the application to Federal OSHA.^{5, 6}

D. Procedure for Submitting a National Defense Variance Application

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

1. Complete this National Defense 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 1905.12.
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 complete application, as well as other relevant documents,⁷ 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 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.)

⁶Only Federal OSHA may grant a national defense variance. (See 29 CFR 1952.8(b).)

⁷Other 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.