



# VARIANCE APPLICATION INSTRUCTIONS

## What is a Variance?

A variance is an allowed deviation from a specific safety or health standard when an employer substitutes measures which afford an equal degree of safety.

A variance is *not* a means of legally avoiding compliance with a safety or health standard. In order to obtain a variance, it must be proven that employees will be provided with protection equal to compliance with the standard.

## Types of Variances:

- |           |   |
|-----------|---|
| PERMANENT | A variance that remains in effect indefinitely unless modified or revoked. (RCW 49.17.080 and 49.17.090)  |
| TEMPORARY | A variance granted only for a period required by the employer to achieve compliance with a new rule or for one year, whichever is shorter. A temporary variance may be renewed if the application for renewal is filed at least 90 days prior to the expiration date of the temporary variance and all the requirements are met. No renewal of a temporary variance may remain in effect for longer than 180 days and no temporary variance may be renewed more than twice. (RCW 49.17.080) |
| INTERIM   | A variance that remains in effect only as long as it takes to make a decision on a permanent variance application. (RCW 49.17.080 and WAC 296-350-260)  |

## Variance Procedures:

Variance applications are accepted from employers only. Applications must include all the information requested on the Department application form. Use of the form is not specifically required providing that the applicant submits all information required by RCW 49.17.080.

A representative of the Assistant Director will make an on-site investigation of the variance request. The investigator will recommend that the variance be granted, denied, or action postponed until the proposed alternate means of protection are implemented.

If an application for a variance is denied, the applicant will be given prompt notice including a brief statement describing the grounds for denial.

All variances granted by the Assistant Director have only future effect. The Assistant Director may withhold consideration of an application when a citation has been issued and appeal action is pending. Consideration will be resumed upon completion of the appeal proceedings.

If the variance is granted, that variance shall be limited to the particular case(s) covered in the application and may be revoked for cause. The "grant of variance" shall be conspicuously posted on the premises and shall remain posted during the time it is in effect. (WAC 296-24-010)

### **Compliance Inspections Following Variance Application:**

When the employer has been cited for the standard from which the variance is requested, a follow-up inspection may be conducted following the abatement date.

When a variance is denied, an inspection will be conducted after a reasonable period of time to determine whether the employer has complied with the standard.

When the decision of whether to grant or deny the variance is postponed, the employer will be notified of this decision and requested to contact the Department when alternate means of protection are implemented. If the employer fails to contact the Department within a reasonable period of time, the employer may receive a compliance inspection.

### **Submission of Applications:**

All variance applications shall be sent to the Safety Program Manager, WISHA Services Division, PO Box 44650, Olympia, Washington 98504-4650. Upon receipt, all variance applications will be acknowledged.

### **Information:**

Further information may be obtained by contacting the Department of Labor and Industries, WISHA Services Division, at 360-902-5460.

### **Hearings on Application for Variance:**

- Any affected employer or employee or their authorized representative may request of the Assistant Director that a hearing be held on the application for a variance. Written, signed requests must be received by the Assistant Director within twenty-one (21) calendar days of the date of the application.
- Within ten (10) working days of receipt of the request, a notice will be issued advising all interested parties of the opportunity to participate in the hearing. The notice will state the date, time, and place of the hearing.
- All affected parties will receive the notice at least twenty (20) days in advance of the date set for the hearing.
- The employer is required to post the notice in the affected workplace on the day of receipt and give a copy to the authorized representative of the employees.



# VARIANCE APPLICATION

1. Business name		UBI	
Mailing address		Business phone #	
City	State	ZIP+4	FAX #
2a. Business Rep name (contact person)		Title	
Address		Phone #	
City	State	ZIP+4	Firms/organization name
b. Employee Rep name (contact person)		Title	
Address		Phone #	
City	State	ZIP+4	
3. Union name			Local #
4. Indicate contact(s) and exact location(s) or worksheet(s) where the variance will be implemented if different than the address in item #1. Note: If locations are not included, processing of application will be delayed. Attach additional pages if needed.			
Contact name		Title	Phone #
Address	City	State	ZIP+4
			Is this your permanent location? <input type="checkbox"/> Yes <input type="checkbox"/> No
5. Safety and Health Standard from which a variance is requested: (NOTE: Only one standard may be addressed per application.)			
WAC 296-	Chapter	Section	Subsection
			Subdivision
			Item
			Subitem
			Segment
			which reads as follows:
6. Applicant is requesting: <input type="checkbox"/> Interim Variance <input type="checkbox"/> Permanent Variance <input type="checkbox"/> Temporary Variance <input type="checkbox"/> Variance Modification			
NOTE: Temporary Variances are issued ONLY when an employer is unable to comply with a NEW standard by the effective date of the standard.			
7. Have you been cited for a violation of this standard? <input type="checkbox"/> Yes <input type="checkbox"/> No Abatement date _____			
NOTE: An application for variance from a standard does not affect the employer's obligation to abate the violations by the stated abatement date.			
8 a. Have you appealed a citation? <input type="checkbox"/> Yes <input type="checkbox"/> No If so, when _____			
b. Has the abatement date changed? <input type="checkbox"/> Yes <input type="checkbox"/> No The date is _____			
9. Have you applied for a federal variance? <input type="checkbox"/> Yes <input type="checkbox"/> No			
OSHA Office involved. City _____ State _____ Date of application _____			
10. Federal Application: <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Pending			

11. Does this variance application involve a trade secret?  Yes  No

a. Describe the alternate protection proposed. Indicate how it will provide protection equivalent to or better than the standard. (attach additional pages if needed)

Is the alternative protection/procedure in effect now?  Yes  No Implementation date if not in effect \_\_\_\_\_

b. If applicable, attach photographs & diagrams/drawings (including measurements) that depict the alternate protection. Are documents attached?  Yes  No

c. If this application pertains to equipment, complete the following:

Type of equipment (if multiple equipment is involved, list on separate sheet).		Manufacturer
Model No.	Serial No.	Date of manufacture

d. Reason for variance (attach additional pages if needed)

12. Employee notification:

a. Employees have been notified by:

Copy of this application posted.

Copy of this application mailed to the employee representative.

Copies of this application distributed to employees.

Presentation of this application at employee safety meeting documented by signature of attendants.

b. Employees have been informed of their right to apply for a hearing in regard to this variance.

Yes	No

Date posted \_\_\_\_\_

Date mailed \_\_\_\_\_

Date distributed \_\_\_\_\_

Meeting date \_\_\_\_\_

I certify the legal requirements of RCW 49.17.080 (2)(e) have been met. The RCW requires the employer to notify employees of this application and their rights to request a hearing within 21 days of this application. The signature name should be the same as the one in item 2a.

Date	Type/print name	Signature
	Title	