

# National Defense Variance Application Checklist

Use of this checklist can assist applicants to determine if an application for a national defense variance is complete and appropriate. Note that only Federal OSHA can grant national defense variances, so employers must submit applications for national defense variances to Federal OSHA, even for workplaces located solely in State Plan states.

Does the written application contain the following information?

## Applicant Information

- Yes      Name and address of the applicant company.
- Yes      Name of, and contact method for, the applicant's authorized representative and primary point of contact (if different from authorized representative).
- Yes     NA    Address of place or places of employment involved (for multiple sites).

## Support Information

- Yes      List of the OSHA standard(s) from which the applicant is requesting the national defense variance.
- Yes      Description of how the proposed variance, limitation, tolerance, or exemption is necessary and proper to avoid serious impairment to the national defense.
- Yes      Description of how the applicant informed its workers of the application and their right to petition the Assistant Secretary for a hearing;<sup>1</sup>
- Yes      If requesting an Interim Order, a statement of facts and argument explaining why OSHA should grant such an Order.
- Yes      Signed certification that the information contained in the application is accurate and true to the best of the applicant's knowledge.

## Appropriateness of the Variance Application

A "Yes" response to any of the items below indicates that the application may not be appropriate:

- Yes     No    The variance the applicant is requesting is from a "performance" standard, which is one that does not specify methods or actions that the employer must implement to meet the requirements of the standard.
- Yes     No    The variance the applicant is requesting is from a "definition" in a standard. Definitions are not enforceable portions of a standard since they do not specify means, methods, or actions the employer must implement for meeting the requirements of the standard.
- Yes     No    There exists an OSHA letter of interpretation that governs acceptability of the requested alternative.
- Yes     No    There is an updated edition of the nationally recognized consensus standard upon which OSHA based the standard that is the subject of the variance request, and the updated consensus standard permits the requested alternative (and that protects employees at least as effectively as the OSHA standard).

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<sup>1</sup>Examples 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).