



## What you should know before applying for a **variance**

It has been DOSH's experience in processing variance applications, that not all applications are appropriate. L&I's Division of Occupational Safety & Health (DOSH) cannot approve applications for a variance where the employer:

### 1. Is seeking a variance:

- From a either a "definition" or a "performance" standard. If a standard does not specifically tell you what to do in order to comply with the code, then it's a performance standard.
- Proposing to use alternative methods that are solely administrative in nature (i.e., no engineering controls, no PPE or other physical protections).
- Where there is a DOSH Directive or Washington State regulation in effect that already allows the requested, proposed alternative method(s).
- On behalf of another company.
- That lists locations outside DOSH jurisdiction.
- From a law or rule that is outside the scope of RCW 49.17.
- From a federal law; like Recordkeeping Regulations, for which the employer must apply directly to Federal OSHA.

### 2. Is requesting:

- An exemption/exception from the requirements of a standard as a means of abatement.
- To simply not follow an occupational safety or health standard.
- Approval of a design or product developed for manufacture and commercial use.
- A temporary variance on or after the date the standard became effective.
- A variance as a means of contesting a citation or has an unresolved citation involving the standard in question.

### 3. Does not:

- Have an active UBI number in Washington State.
- Completely fill out the application; which includes providing any and all documentation that supports their proposed alternative methods.

- Respond or provide additional information within 10 business days of the department making the request; unless otherwise arranged with the DOSH investigator.
- Propose an alternative method of protection equal to, or better than, the standard from which they are seeking a variance.
- Posted the variance application. Affected parties have the right to read your proposal and submit a written appeal to DOSH for a variance hearing.

**4. Needs a variance immediately.**

- There is a 21 calendar day period that allows affected parties to appeal to DOSH for a variance hearing. The soonest a variance investigation *can* begin is after the 21 calendar day period *if* a hearing is not requested.

**5. Has falsified information on the application, or through any other correspondence.**

**Notes:**

- Most of the information contained in this document follows Federal OSHA guidance.
- Click here to access the rules: [WAC 296-900-110](#)