

What is a Variance?

A variance provides an approved alternative to a WISHA standard to protect employees from a workplace hazard.

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 or greater than compliance with the standard.

Am I eligible for a variance application?

A “Yes” response to any of the items below indicates you may not be eligible for a variance:

The variance is from a “performance standard” (e.g. confined spaces, process safety management).	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The variance request is from a “definition” in a standard or a “non-mandatory appendices” in a standard.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The variance requests an exemption or waiver from the requirements of the standard.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The variance is a request for review and approval of a design or product developed for commercial use.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The variance request covers a hazard that has been cited and has not been corrected.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The variance request covers a violation of a standard that is currently under appeal.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
There is an updated edition of a national consensus or industry standard reference is the DOSH standard that is the subject of the variance application, that permits the requested alternative, and provides equal or greater protection.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
There is a safety and health standard in effect that allows the requested alternative.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The variance is for a temporary variance and the employer applied on or after the date the standard became effective.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The variance involves locations that are outside DOSH jurisdiction, such as federal installations.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Variance requested is retroactive. In other words, variances granted by the department can only have a future effect.	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Types of Variances

Permanent	A variance that remains in effect indefinitely unless modified or revoke. (RCW 49.17.080 and 49.17.090.)
Temporary	A variance granted only for a period required by an 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 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 Order	A variance that remains in effect only as long as it takes to make decision on a permanent variance application. (RCW 49.17.080 and WAC 296-350-260.)

Variance Procedures:

- Variance applications are accepted from Washington State employers only.
- Applications must include all the information requested on the Department application form.
- DOSH Technical Specialist may make an on-site visit during the investigation of the variance request.

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

If the variance is granted:

All variance granted by the Assistant Director have only **future** effect.

- That variance shall be limited to the particular case 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 effect. (WAC 296-900).

Compliance Inspection 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 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 protections 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:

Department of Labor & Industries
DOSH – Standards & Technical Services
PO Box 44650
Olympia WA 98504-4650

DOSHVarianceProgram@Lni.wa.gov

Information:

Further information may be obtained by contacting the Department of Labor & Industries – DOSH Standards & Technical Services at 360-902-5563 or via email at DOSHVarianceProgram@Lni.wa.gov.

Hearings on Application for Variance:

- Any affected employer 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 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 the receipt and give a copy to the authorized of the employees.

Variance Application

File Number (*for official use only*): _____

Incomplete and illegible application will be returned.

Application Type

☐ Interim Order ☐ Permanent ☐ Temporary ☐ Variance Modification

Business Name		UBI
Business Phone Number	Cell Number	
Email Address		
Mailing Address		
City	State	Zip Code

Employer Representative Name	Title
Firm / Organization Name	
Phone Number	Cell Number
Email Address	
Mailing Address	
City	State Zip Code

Employer Representative Name	Title
Firm / Organization Name	
Phone Number	Cell Number
Email Address	
Mailing Address	
City	State Zip Code

Union Name	Local #
Representative Name	
Phone Number	Cell Number
Email Address	

Union Name		Local #
Representative Name		
Phone Number	Cell Number	
Email Address		

Worksite Address (<i>Indicate worksite address if different from mailing address</i>)		
City	State	Zip Code
Site Contact Representative Name	Site Contact Cell Number	
Site Contact Phone Number	Site Contact Email Address	
Total Number of Employees on Site	Total Number of Employees Exposed	

Safety & Health Standard for which a variance is requested: [*Only one standard may be requested per application*]:

WAC 296-	which reads as follows:

Reason(s) for variance request (*be specific*):

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Describe the alternate protection proposed. Indicate how it will provide protection equivalent to or better than the standard. (*Attach additional pages as needed and performance data.*)

If alternate protection / procedure is currently in effect, when was it implemented?

Documentation that support the proposal – examples include but are not limited to:

- Engineering Specifications
- Drawings
- Photos
- Measurements
- Sketches
- Diagrams
- Blue Prints

If equipment has been altered or you intend to alter the equipment, then you must submit a copy of a signed letter by the manufacturer approving such alterations.

If applicable, attach photographs and diagrams/drawings (*include measurements*) that depict the alternate protection. Are documents attached?

☐ Yes ☐ No

If application pertains to equipment, complete the following (*attach additional sheets as needed*):

Type of Equipment	Manufacturer
Model Number	Serial Number / Unique Identifier
Date of Manufacture	Location of Equipment
Does this variance application involve a trade secret? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Does this variance application involve business sensitive information? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Have you been cited for a violation of this standard? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Have you abated this violation? <input type="checkbox"/> Yes <input type="checkbox"/> No	Abatement Date
Have you appealed this citation? <input type="checkbox"/> Yes <input type="checkbox"/> No	If "Yes", when?
Has the abatement date changed? <input type="checkbox"/> Yes <input type="checkbox"/> No	If so, when?
Have you applied for a federal variance? <input type="checkbox"/> Yes <input type="checkbox"/> No	If "Yes", date of application

OSHA Office Involved (City & State)	Status of Federal Application <input type="checkbox"/> Pending <input type="checkbox"/> Approved <input type="checkbox"/> Denied
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Employee Notification

Copy of Application Posted <input type="checkbox"/> Yes <input type="checkbox"/> No	Date Posted
Copy of Application Mailed to Employee Representative <input type="checkbox"/> Yes <input type="checkbox"/> No	Date Mailed
Copies of Application Distributed to Employee <input type="checkbox"/> Yes <input type="checkbox"/> No	Date Distributed
Presentation of Application at Employee Safety Meeting <input type="checkbox"/> Yes <input type="checkbox"/> No	Meeting Date
Employees have been informed of their right to apply for a hearing in regard to this variance? <input type="checkbox"/> Yes <input type="checkbox"/> No	

I certify the legal requirements of RCW 49.17.090(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 Employer Representative name.

Type / Print Name	Title

Signature	Date