

WHO MAY ALSO BE SUBMITTING A REPORT THEREOF TO THE STATE ACCIDENT FUND, SHALL SEND A COPY OF EACH SUCH REPORT TO THE COMMISSIONER. EVERY SUCH EMPLOYER, SHALL, WITHIN FORTY-EIGHT HOURS AFTER THE OCCURRENCE OF AN EMPLOYMENT ACCIDENT WHICH IS EITHER FATAL TO ONE OR MORE EMPLOYEES OR WHICH RESULTS IN THE HOSPITALIZATION OF FIVE OR MORE EMPLOYEES, REPORT THE ACCIDENT EITHER ORALLY OR IN WRITING TO THE COMMISSIONER.

34. VARIANCE OF RULES, REGULATIONS AND STANDARDS.

(A) ANY AFFECTED EMPLOYER MAY APPLY TO THE COMMISSIONER FOR AN ORDER FOR A VARIANCE FROM ANY RULE, REGULATION OR STANDARD PROMULGATED UNDER THIS SUBTITLE. AFFECTED EMPLOYEES SHALL BE GIVEN NOTICE OF EACH SUCH APPLICATION AND AN OPPORTUNITY TO PARTICIPATE IN A HEARING. THE COMMISSIONER SHALL ISSUE SUCH ORDER IF HE DETERMINES, AFTER AN INSPECTION IF APPROPRIATE, AND A HEARING, THAT THE APPLICANT FOR THE VARIANCE HAS DEMONSTRATED BY A PREPONDERANCE OF THE EVIDENCE THAT THE CONDITIONS, PRACTICES, MEANS, METHODS, OPERATIONS OR PROCEDURES USED OR PROPOSED TO BE USED BY SUCH APPLICANT-EMPLOYER WILL PROVIDE EMPLOYMENT AND PLACES OF EMPLOYMENT TO HIS EMPLOYEES WHICH ARE AS SAFE AND HEALTHFUL AS THOSE WHICH WOULD PREVAIL IF HE COMPLIED WITH THE RULE, REGULATION OR STANDARD FROM WHICH THE VARIANCE IS SOUGHT THE ORDER SO ISSUED SHALL DESCRIBE THE CONDITIONS THE EMPLOYER MUST MAINTAIN, AND THE PRACTICES, MEANS, METHODS, OPERATIONS, AND PROCEDURES WHICH HE MUST ADOPT AND UTILIZE TO THE EXTENT THEY DIFFER FROM THE RULE, REGULATION OR STANDARD IN QUESTION. THE COMMISSIONER MAY, AT ANY TIME ON HIS OWN MOTION, OR UPON APPLICATION BY AN EMPLOYER OR EMPLOYEES AFTER SIX MONTHS HAS ELAPSED FROM THE DATE OF THE ISSUANCE OF THE ORDER GRANTING A VARIANCE, AFTER A HEARING, MODIFY OR REVOKE SUCH ORDER.

(B) ANY EMPLOYER MAY APPLY TO THE COMMISSIONER FOR A TEMPORARY ORDER GRANTING A VARIANCE FROM ANY RULE, REGULATION OR STANDARD PROMULGATED UNDER THE SUBTITLE. SUCH TEMPORARY ORDER SHALL BE GRANTED ONLY IF THE EMPLOYER FILES AN APPLICATION WHICH MEETS REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION AND ESTABLISHES THAT THE EMPLOYER (1) IS UNABLE TO COMPLY WITH A RULE, REGULATION OR STANDARD BY ITS EFFECTIVE DATE BECAUSE OF (1) THE UNAVAILABILITY OF PROFESSIONAL OR TECHNICAL PERSONNEL OR OF MATERIALS AND EQUIPMENT NEEDED TO COME INTO COMPLIANCE WITH THE RULE, REGULATION OR STANDARD OR (2) BECAUSE NECESSARY CONSTRUCTION OR ALTERATIONS OF THE FACILITIES CANNOT BE COMPLETED BY THE EFFECTIVE DATE, (OR (3) (2) HE IS TAKING ALL AVAILABLE STEPS TO SAFEGUARD HIS EMPLOYEES AGAINST THE HAZARDS COVERED BY THE RULE, REGULATION, OR STANDARD, AND (4) (3) HE HAS AN EFFECTIVE PROGRAM FOR COMING INTO COMPLIANCE WITH SUCH RULE, REGULATION OR STANDARD AS QUICKLY AS PRACTICAL. ANY TEMPORARY ORDER ISSUED UNDER THIS SUBSECTION SHALL PRESCRIBE THE PRACTICES, MEANS, METHODS, OPERATIONS AND PROCESSES