

5-319. TIME FOR APPLICATION FOR TEMPORARY VARIANCE.

AN APPLICANT FOR A TEMPORARY VARIANCE SHALL APPLY BEFORE THE EFFECTIVE DATE OF THE REGULATION OR PART OF A REGULATION FROM WHICH THE TEMPORARY VARIANCE IS SOUGHT.

REVISOR'S NOTE: This section is new language added to state expressly that which only was implied by the limitation, in the second sentence of former Art. 89, § 34(b), on issuance of a temporary variance only if the applicant is unable to comply with a regulation "by its effective date".

The Labor and Employment Article Review Committee notes, for consideration by the General Assembly, that a "temporary variance" is issued for a new regulation to allow an employer extra time to comply, and is not issued for an existing regulation. While this does not affect an employer in existence at the time a new regulation is adopted, it creates a burden for a new employer who has trouble complying with an existing regulation.

5-320. CONTENTS OF APPLICATION FOR TEMPORARY VARIANCE.

AN APPLICATION FOR A TEMPORARY VARIANCE SHALL:

(1) SPECIFY THE REGULATION OR PART OF A REGULATION FROM WHICH THE TEMPORARY VARIANCE IS SOUGHT;

(2) CONTAIN A REPRESENTATION BY THE EMPLOYER SUPPORTED BY THE REPRESENTATION OF QUALIFIED INDIVIDUALS WITH PERSONAL KNOWLEDGE OF THE FACTS STATED IN THE APPLICATION THAT THE EMPLOYER IS UNABLE TO COMPLY WITH THE REGULATION OR PART;

(3) EXPLAIN, IN DETAIL, EACH REASON FOR THE INABILITY TO COMPLY;

(4) DESCRIBE EACH STEP THAT THE EMPLOYER HAS TAKEN AND WILL TAKE:

(I) TO COMPLY WITH THE REGULATION OR PART; AND

(II) UNTIL THEN, TO PROTECT EMPLOYEES AGAINST THE HAZARD THAT THE REGULATION OR PART COVERS;

(5) STATE THE DATE ON WHICH THE EMPLOYER TOOK OR WILL TAKE EACH STEP LISTED UNDER ITEM (4) OF THIS SECTION;

(6) STATE THE DATE ON WHICH THE EMPLOYER EXPECTS TO BE ABLE TO COMPLY WITH THE REGULATION OR PART;

(7) CONTAIN A CERTIFICATION THAT THE EMPLOYER HAS COMPLIED WITH § 5-321(A) OF THIS SUBTITLE;