

requirements for notice of an application for a permanent variance. See COMAR 09.12.31.06C(2)(e). The Committee suggests that, to the extent possible, the procedures for application for a temporary and permanent variance should be identical.

Defined term: "Employee" § 5-101

5-322. HEARING; INSPECTION.

(A) TEMPORARY VARIANCE.

THE COMMISSIONER SHALL HOLD A HEARING ON AN APPLICATION FOR A TEMPORARY VARIANCE ON REQUEST OF:

- (1) THE APPLICANT; OR
- (2) AN EMPLOYEE WHOM THE TEMPORARY VARIANCE WOULD AFFECT.

(B) PERMANENT VARIANCE.

(1) THE COMMISSIONER:

(I) SHALL HOLD A HEARING ON EACH APPLICATION FOR A PERMANENT VARIANCE; AND

(II) IF APPROPRIATE, SHALL CONDUCT AN INSPECTION.

(2) THE COMMISSIONER SHALL GIVE EMPLOYEES WHOM THE PERMANENT VARIANCE WOULD AFFECT AN OPPORTUNITY TO PARTICIPATE IN THE HEARING.

REVISOR'S NOTE: Subsection (a) of this section is new language derived without substantive change from the fourth sentence of former Art. 89, § 34(b), as that sentence related to hearings.

Subsection (b) of this section is new language derived without substantive change from the second sentence of former Art. 89, § 34(a), as that sentence related to hearings, and the second clause of the third sentence, as that clause related to inspections and hearings.

The Labor and Employment Article Review Committee notes, for consideration of the General Assembly, that the regulations of the Commissioner require an applicant for either a temporary or permanent variance to request a hearing in the application for the variance. See COMAR 09.12.31.06A(2)(h) and 06C(2)(f). However, former Art. 89, § 34(a) did not refer to a "request" for a hearing on a permanent variance and, therefore, subsection (b)(1)(i) of this section is revised to require a hearing on "each application for a permanent variance".

Defined terms: "Commissioner" § 5-101

"Employee" § 5-101