

In subsection (a) of this section, the references to a "part" of a regulation are added to conform to § 5-321 of this subtitle, which states that an application for a temporary variance may be made for part of a regulation.

In subsection (b) of this section, the duty to show that the applicant "will maintain conditions ..." is substituted for the former duty to show the "conditions ... or procedures used or proposed to be used" since current and proposed conditions and methods are irrelevant unless they are implemented and maintained.

In subsection (c)(1) of this section, the defined term "employee[s]" is substituted for the former term "workers", to conform to terminology used throughout this title.

As to the substitution of "regulation" for the former references to a "rule, regulation or standard", see the General Revisor's Note to this subtitle.

The Labor and Employment Article Review Committee notes, for consideration by the General Assembly, that subsection (c)(1) of this section allows for an experiment to validate a method that is both new "and" improved, but not a method that is either new "or" improved. In any event, the statutes and regulations contain no procedures for notice, hearing, or review of a variance granted under subsection (c) of this section. The Committee also notes that the Commissioner never has passed an order to allow a variance for experimentation.

Defined terms: "Commissioner" § 5-101

"Employee" § 5-101 "Employer" § 5-101

"Work site" § 5-101

5-324. INTERIM ORDER FOR TEMPORARY VARIANCE.

(A) PASSAGE.

THE COMMISSIONER MAY PASS 1 INTERIM ORDER FOR A TEMPORARY VARIANCE FROM A REGULATION.

(B) DURATION.

AN INTERIM ORDER UNDER THIS SECTION IS EFFECTIVE UNTIL THE COMMISSIONER MAKES A DETERMINATION ON AN APPLICATION FOR A TEMPORARY VARIANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from the fifth sentence of former Art. 89, § 34(b).

The former reference to a "decision rendered if a hearing is requested" is deleted as misleading since, for purposes of judicial review, the decision would be a "determination" of the Commissioner, even if made by a designee.