

Information Sheet

APPLICATION FOR VARIANCE OF A WORKPLACE HEALTH AND SAFETY REGULATION

Reference section 71 of the *Workers' Safety and Compensation Act* ("the Act")

The board may, on application, grant a variance of a regulation if the board is satisfied that the variance requested provides protection for workers that is **equal to or greater than the protection** provided by the regulation as it is written.

A variance may only be granted on the following two grounds:

- the availability of equipment improvements or
- the availability of alternate processes or procedures

The employer must provide an explanation in writing that clearly demonstrates how the requested variance will provide an equal or greater level of protection for worker health and safety. The employer seeking the variance must provide in writing:

- a detailed hazard assessment of the proposed work process;
- a comparison of the proposed work process to the work process as required by regulation;
- information on other approaches to the work process that were considered;
- a training plan detailing what training will be provided, by who, to who, the methods used for training;
- information on how supervision of the proposed process will be maintained; and
- the record of consultation with affected workers and (if there is one) the joint health and safety committee or health and safety representative

The Director of Workplace Health and Safety (WHS) may require, at the employer's expense, written evidence from a professional engineer, safety professional, hygienist or an expert in the related industry or occupation, that the protection for the health and safety of workers will be equal or greater under the proposed process compared to the requirements of the unvaried regulation(s).

An employer must fill out an Application for Variance of a Workplace Health and Safety Regulation form and submit it to the board for consideration. Applications should be submitted well in advance of when decisions are needed. It can take up to 45 days to process a request for variance.

If you have any questions about the application please call us at (867) 667-5450 or 1-800-661-0443.

The application form is on the following page.

APPLICATION FOR VARIANCE OF A WORKPLACE HEALTH AND SAFETY REGULATION

(Under section 71 of the Act)

Name company operates as:

Employer legal name:

Employer #:

Contact person:

Phone:

Fax:

Email:

Location of workplace:

Type and nature of work

The regulation proposed for variance

Please attach the requested documentation to demonstrate how proposed work procedures or practices will meet or exceed protection for the health and safety of workers provided for under existing regulations. (Refer to the Application for Variance of a WHS Regulation Information Sheet and section 71 of the Act.)

An application is not complete unless it includes each of the following:

- detailed hazard assessment of the proposed work process
- comparison of the proposed work process to the work process as required by regulation;
- information on other approaches to the work process that were considered;
- training plan detailing what training will be provided, by who, to who, the methods used for training;
- information on how supervision of the proposed process will be maintained;
and
- record of consultation with affected workers and (if there is one) the joint health and safety committee or health and safety representative

Declaration

- The documentation I provided with this application was prepared by a competent, qualified person in consultation with the joint health and safety committee (JHSC) or other representative of the affected workers, and the employer must provide any additional information the director may request.
- I have posted this application form in an easily and commonly accessed area the workplace, or otherwise made available to the affected workers.

- If a variance is approved, I will also post the granted variance with the application and a copy provided to the JHSC or worker representative.
- I understand the decision of the board under this section is final and not subject to reconsideration or appeal.

Employer signature: _____ Date: _____

Worker Representative Signature: _____ Date: _____

Send applications to “Attention Director of Workplace Health and Safety” using one of the following

[Email: Work.Safe@wcb.yk.ca](mailto:Work.Safe@wcb.yk.ca)

Post mail: Workers’ Safety and Compensation Board
401 Strickland St.
Whitehorse, Yukon
Y1A 5N8

Fax: (867) 393-6279