

§ 1905.12

29 CFR Ch. XVII (7-1-03 Edition)

§ 1905.12 Limitations, variations, tolerances, or exemptions under section 16.

(a) *Application.* Any person, or class of persons, desiring a limitation, variation, tolerance, or exemption authorized by section 16 of the Act may file an application containing the information specified in paragraph (b) of this section, with the Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, Washington, DC 20210.

(b) *Contents.* An application filed pursuant to paragraph (a) of this section shall include:

- (1) The name and address of the applicant;
- (2) The address of the place or places of employment involved;
- (3) A specification of the provision of the Act to or from which the applicant seeks a limitation, variation, tolerance, or exemption;
- (4) A representation showing that the limitation, variation, tolerance, or exemption sought is necessary and proper to avoid serious impairment of the national defense;
- (5) Any request for a hearing, as provided in this part; and
- (6) A description of how employees have been informed of the application and of their right to petition the Assistant Secretary for a hearing.

(c) *Interim order—(1) Application.* An application may also be made for an interim order to be effective until a decision is rendered on the application for the limitation, variation, tolerance, or exemption filed previously or concurrently. An application for an interim order may include statements of fact and arguments as to why the order should be granted. The Assistant Secretary may rule ex parte upon the application.

(2) *Notice of denial of application.* If an application filed pursuant to paragraph (c)(1) of this section is denied, the applicant shall be given prompt notice of the denial, which shall include, or be accompanied, by a brief statement of the grounds therefor.

(3) *Notice of the grant of an interim order.* If an interim order is granted, a copy of the order shall be served upon the applicant for the order and other parties, and the terms of the order

shall be published in the FEDERAL REGISTER. It shall be a condition of the order that the affected employer shall give notice thereof to affected employees by the same means to be used to inform them of an application for a variance.

§ 1905.13 Modification, revocation, and renewal of rules or orders.

(a) *Modification or revocation.* (1) An affected employer or an affected employee may apply in writing to the Assistant Secretary of Labor for Occupational Safety and Health for a modification or revocation of a rule or order issued under section 6(b) (6) (A), 6(d), or 16 of the Act. The application shall contain:

- (i) The name and address of the applicant;
- (ii) A description of the relief which is sought;
- (iii) A statement setting forth with particularity the grounds for relief;
- (iv) If the applicant is an employer, a certification that the applicant has informed his affected employees of the application by:
 - (a) Giving a copy thereof to their authorized representative;
 - (b) Posting at the place or places where notices to employees are normally posted, a statement giving a summary of the application and specifying where a copy of the full application may be examined (or, in lieu of the summary, posting the application itself); and
 - (c) Other appropriate means.
- (v) If the applicant is an affected employee, a certification that a copy of the application has been furnished to the employer; and
- (vi) Any request for a hearing, as provided in this part.

(2) The Assistant Secretary may on his own motion proceed to modify or revoke a rule or order issued under section 6(b) (6) (A), 6(d), or 16 of the Act. In such event, the Assistant Secretary shall cause to be published in the FEDERAL REGISTER a notice of his intention, affording interested persons an opportunity to submit written data, views, or arguments regarding the proposal and informing the affected employer and employees of their right to request a hearing, and shall take such