

WAC 296-27-02117 Variances from the recordkeeping rule. (1) If the employer wishes to keep records in a different manner from that prescribed in this section, the employer may submit a variance petition to the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, DC 20210. The employer can obtain a variance only if they can show that their alternative recordkeeping system:

(a) Collects the same information as this section requires;

(b) Meets the purposes of the federal Occupational Safety and Health Act; and

(c) Does not interfere with the administration of the federal Occupational Safety and Health Act.

(2) The employer must include the following items in their variance petition:

(a) The employer's name and address;

(b) A list of the state(s) where the variance would be used;

(c) The address(es) of the business establishment(s) involved;

(d) A description of why the employer is seeking a variance;

(e) A description of the different recordkeeping procedures you propose to use;

(f) A description of how the employer's proposed procedures will collect the same information as would be collected by this section and achieve the purpose of the act; and

(g) A statement that the employer has informed their employees of the petition by giving them or their authorized representative a copy of the petition and by posting a statement summarizing the petition in the same way as notices are posted under 29 C.F.R. 1903.2(a).

(3) The assistant secretary will take the following steps to process your variance petition.

(a) The assistant secretary will offer your employees and their authorized representatives an opportunity to submit written data, views, and arguments about your variance petition.

(b) The assistant secretary may allow the public to comment on your variance petition by publishing the petition in the *Federal Register*. If the petition is published, the notice will establish a public comment period and may include a schedule for a public meeting on the petition.

(c) After reviewing your variance petition and any comments from your employees and the public, the assistant secretary will decide whether or not your proposed recordkeeping procedures will meet the purposes of the act, will not otherwise interfere with the act, and will provide the same information as required by this section. If your procedures meet these criteria, the assistant secretary may grant the variance subject to such conditions as he or she finds appropriate.

(d) If the assistant secretary grants your variance petition, OSHA will publish a notice in the *Federal Register* to announce the variance. The notice will include the practices the variance allows you to use, any conditions that apply, and the reasons for allowing the variance.

(4) The employer must comply with this section's requirements while the assistant secretary is reviewing their variance petition.

(5) The assistant secretary may elect not to review your variance petition if it includes an element for which you have been cited and the citation is still under review by a court, an administrative law judge (ALJ), or the OSH Review Commission.

(6) A variance may be revoked for good cause. The variance revocation procedures are the same as those followed to request the excep-

tion. In cases of willfulness or where necessary for public safety, the assistant secretary will:

(a) Notify you in writing of the facts or conduct that may warrant revocation of your variance; and

(b) Provide you, your employees, and authorized employee representatives with an opportunity to participate in the revocation procedures.

(7) DOSH must recognize any recordkeeping or reporting variance issued by federal OSHA.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 19-17-068, § 296-27-02117, filed 8/20/19, effective 1/1/20; WSR 15-11-066, § 296-27-02117, filed 5/19/15, effective 7/1/15; WSR 02-01-064, § 296-27-02117, filed 12/14/01, effective 1/1/02.]