

875—5.7(88) Temporary variance.

5.7(1) *Application for variance.* Any employer or class of employers desiring a variance from a standard, or portion thereof, authorized by Iowa Code section 88.5(3) may file a written application containing the information specified in subrule 5.7(2) with the labor commissioner.

5.7(2) *Contents.* An application filed pursuant to 5.7(1) shall include:

- a. The name and address of the applicant;
- b. The address of the place or places of employment involved;
- c. Any request for a hearing, as provided in this chapter;
- d. The statements and certifications required by Iowa Code section 88.5(3); and
- e. The signature of the applicant or the applicant's authorized representative.

5.7(3) *Interim order.*

a. *Application.* An application may also be made for an interim order to be effective until a decision is rendered on the application for the variance 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 labor commissioner may rule *ex parte* upon the application.

b. *Notice of denial of application.* If an application filed pursuant to 5.7(3)“a” 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.

c. *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 notice of the terms of the order shall be made in accordance with the notice requirements of rule 5.5(88). 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 (see 5.8(2)“e”(2)).

This rule is intended to implement Iowa Code section 88.3.

[ARC 5632C, IAB 5/19/21, effective 6/26/21]