

4167-5-02

**Petition for a modification of abatement date.**

- (A) An employer may file a petition for modification of abatement date when the employer has made a good faith effort to comply with the abatement requirements of a citation, but such abatement has not been completed because of factors beyond the employer's control.
- (B) A petition for modification of abatement date shall be in writing and shall include the following information:
- (1) All steps taken by the employer, and the dates of such action, in an effort to achieve compliance during the prescribed abatement period.
  - (2) The specific additional abatement time necessary in order to achieve compliance.
  - (3) The reasons such additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.
  - (4) All available interim steps being taken to safeguard the employees against the cited hazard during the abatement period.
  - (5) A verification that a copy of the petition has been posted, and if appropriate, served on the authorized representative of affected employees, in accordance with paragraph (C)(1) of this rule and a verification of the date upon which such posting and service was made.
- (C) A petition for modification of abatement date shall be filed with the superintendent no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay.
- (1) A copy of such petition shall be posted in a conspicuous place where all affected employees shall have notice thereof or near such location where the violation occurred. The petition shall remain posted for a period of fourteen calendar days. Where affected employees are represented by an authorized representative, said representative shall be served with a copy of such petition.
  - (2) Affected employees or their representatives may file an objection in writing to such petition with the superintendent. Failure to file such objection within fourteen calendar days of the date of posting of such petition or of service upon an authorized representative shall waive any further right to object to said petition.

- (3) The superintendent shall have the authority to approve any petition for modification of abatement date filed pursuant to the rule.
- (4) The superintendent shall not exercise approval power until the expiration of fourteen calendar days from the date the employer posted the petition or served the petition upon an authorized representative pursuant to paragraphs (C)(1) and (C)(2) of this rule.
- (D) When any petition is objected to by the superintendent or affected employees, the petition, citation, and any objections shall be forwarded to a hearing officer within three working days after the expiration of the fourteen calendar day period set out in paragraph (C)(4) of this rule.
- (E) Hearings and appeals will be conducted in accordance with rule 4167-14-02 of the Administrative Code.

Replaces: 4167-5-03  
Effective: 1/1/2019  
Five Year Review (FYR) Dates: 01/01/2024

CERTIFIED ELECTRONICALLY

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Certification

12/06/2018

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Date

Promulgated Under: 119.03  
Statutory Authority: 4167.07, 4167.02, 4121.121, 4121.12  
Rule Amplifies: 4167.01  
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