

4167-5-02

Petition for a modification of abatement date.

- (A) ~~An~~ A public employer may file a petition for modification of abatement date when the public 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 public 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 , but not limited to, the following reasons, with supporting documentation: 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.
 - (a) the unavailability of professional or technical personnel;
 - (b) the unavailability of materials and equipment; or
 - (c) the necessary construction or alteration of facilities cannot be completed by the original abatement date.
 - (4) All available interim steps ~~being~~ taken to safeguard the public 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~~ public employee representative of affected public 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 business~~ business day following the date on which abatement was originally required. ~~A later-filed petition~~ If a petition for modification of abatement date is filed with the superintendent after the close of the next business day following the date on which abatement was originally required, the 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 public 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 public employees are represented by an authorized representative, ~~said~~ the authorized representative shall be served with a copy of such petition.
- (2) Affected public employees or their authorized 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, whichever is later, shall waive any further right to object to said petition.
- (3) The superintendent ~~shall~~ will have the authority to approve any petition for modification of abatement date filed pursuant to the rule. The superintendent will not exercise approval power until the objection period pursuant to paragraph (C)(2) of this rule has expired
- ~~(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 public employees, or their authorized representative, the petition, citation, and any objections ~~shall~~ will be forwarded to a hearing officer within three ~~working~~ business days after the expiration of the ~~fourteen calendar day period set out in paragraph (C)(4) of this rule~~ objection period pursuant to paragraph (C)(2) of this rule.
- (E) Hearings and appeals will be conducted in accordance with rule 4167-14-02 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 11/29/2023

Certification

Date

Promulgated Under: 119.03
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