

5210.0542 PETITIONS FOR MODIFICATION OF ABATEMENT DATE.

Subpart 1. **Right to file.** An employer seeking to extend the date by which a violation must be abated may file a petition for modification of abatement date.

Subp. 2. **Contents.** A petition for modification of abatement date must be in writing and include the following information:

A. all action taken by the employer, and the dates of the action, in an effort to achieve compliance during the prescribed abatement period;

B. the specific additional abatement time necessary in order to achieve compliance;

C. the reasons 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;

D. all available interim steps being taken to safeguard the employees against the cited hazard during the abatement period; and

E. a certification that a copy of the petition and the notice to affected employees and authorized employee representatives informing them of their right to object to the petition as set out in subpart 5 have been posted and served upon the authorized employee representative according to subpart 4 and the date the posting and service was completed.

Subp. 3. **Time to file.** A petition for modification of abatement date must be filed with the commissioner according to part 5210.0007 no later than the next working day following the date on which abatement was originally required.

Subp. 4. **Posting.** A copy of the petition and notice to employees and authorized employee representatives must be posted on or before the filing date in the location where the citation and notification of penalty is required to be posted. If employees are represented by an authorized employee representative, the representative shall be served with a copy of the petition and notice. The petition must remain posted for ten days.

Subp. 5. **Objections.** Employees or their authorized employee representatives who file an objection in writing with the commissioner must serve a copy of the objection on the employer. Failure to serve and file an objection within ten days of the date of posting of the petition or of service upon an authorized employee representative shall constitute a waiver of any further right to object to the petition. The objection must state the reasons for opposing the petition.

Subp. 6. **Approval or denial of petition.** The commissioner shall not approve a petition by the employer until the expiration of ten days from the date the petition was served upon affected employees or their authorized employee representatives. The commissioner may deny a petition at any time after its receipt. When approving or

denying a petition, the commissioner shall consider the actions taken by the employer to achieve compliance during the prescribed abatement period, the additional abatement time requested by the employer, whether abatement has not been completed because of factors beyond the employer's control, what interim steps the employer has taken to safeguard employees against the cited hazard, and any other relevant information obtained by the department or provided by affected employees and authorized employee representatives regarding the employer's petition. A copy of the approval or denial shall be posted with the petition and the citation.

Statutory Authority: *MS s 182.657*

History: *20 SR 2428; 22 SR 1758*

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