

that could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated.

[36 FR 17850, Sept. 4, 1971, as amended at 59 FR 66613, Dec. 27, 1994]

§ 1903.14a Petitions for modification of abatement date.

(a) An employer may file a petition for modification of abatement date when he 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 his reasonable 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 certification 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 section and a certification of the date upon which such posting and service was made.

(c) A petition for modification of abatement date shall be filed with the Area Director of the United States Department of Labor who issued the citation 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 will have notice thereof or near such location where the violation occurred. The petition shall remain posted for a period of ten (10) working 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 aforesaid Area Director. Failure to file such objection within ten (10) working days of the date of posting of such petition or of service upon an authorized representative shall constitute a waiver of any further right to object to said petition.

(3) The Secretary or his duly authorized agent shall have the authority to approve any petition for modification of abatement date filed pursuant to paragraphs (b) and (c) of this section. Such uncontested petitions shall become final orders pursuant to sections 10 (a) and (c) of the Act.

(4) The Secretary or his authorized representative shall not exercise his approval power until the expiration of fifteen (15) working days from the date the petition was posted or served pursuant to paragraphs (c) (1) and (2) of this section by the employer.

(d) Where any petition is objected to by the Secretary or affected employees, the petition, citation, and any objections shall be forwarded to the Commission within three (3) working days after the expiration of the fifteen (15) day period set out in paragraph (c)(4) of this section.

[40 FR 6334, Feb. 11, 1975; 40 FR 11351, Mar. 11, 1975]

§ 1903.15 Proposed penalties.

(a) After, or concurrent with, the issuance of a citation, and within a reasonable time after the termination of the inspection, the Area Director shall notify the employer by certified mail or by personal service by the Compliance Safety and Health Officer of the proposed penalty under section 17 of the Act, or that no penalty is being proposed. Any notice of proposed penalty shall state that the proposed