

**RULES
OF
THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

**CHAPTER 1030-1
GENERAL PROVISIONS**

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1030-1-1 REPEALED.

Authority: T.C.A. §50-554. *Administrative History:* Original rule filed April 5, 1974; effective May 5, 1974. Amendment filed January 14, 1978; effective February 13, 1978. Repealed by Public Chapter 969; effective July 1, 1984.

1030-1-2 SCOPE OF RULES; APPLICABILITY OF TENNESSEE RULES OF CIVIL PROCEDURE.

- (1) These rules shall govern all proceedings before the Commission and its Administrative Judge.
- (2) In the absence of a specific provision, procedure shall be in accordance with the Tennessee Rules of Civil Procedure.

Authority: T.C.A. §50-554. *Administrative History:* Original rule filed April 5, 1974; effective May 5, 1974. Amendment filed January 14, 1978; effective February 13, 1978.

1030-1-3 USE OF GENDER AND NUMBER.

- (1) Words importing the singular number may extend and be applied to the plural and vice versa.
- (2) Words importing the masculine gender may be applied to the feminine gender.

Authority: T.C.A. §50-554. *Administrative History:* Original rule filed April 5, 1974; effective May 5, 1974.

1030-1-4 COMPUTATION OF TIME.

- (1) In computing any period of time prescribed or allowed in these Rules, (Chapter 1030-1 through Chapter 1030-7) the day from which the designated period begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.
- (2) Where service of a pleading or document is by mail pursuant to Rule 1030-1-7, 3 days shall be added to the time allowed by these rules for the filing of a responsive pleading.

Authority: T.C.A. §50-554. *Administrative History:* Original rule filed April 5, 1974; effective May 5, 1974.

1030-1-5 EXTENSIONS OF TIME. Requests for extensions of time for the filing of any pleading or document must be received in advance of the date on which the pleading or document is due to be filed.

(Rule 1030-1-5 continued)

Authority: T.C.A. §50-554. **Administrative History:** Original rule filed April 5, 1974; effective May 5, 1974.

1030-1-6 RECORD ADDRESS. The initial pleading filed by any person shall contain his name, address, and telephone number. Any change in such information must be communicated promptly in writing to the Commission, and to all other parties and intervenors. A party or intervenor who fails to furnish such information shall be deemed to have waived his right to notice and service under these rules.

Authority: T.C.A. §50-554. **Administrative History:** Original rule filed April 5, 1974; effective May 5, 1974.

1030-1-7 SERVICE AND NOTICE.

- (1) At the time of filing pleadings or other documents a copy thereof shall be served by the filing party or intervenor on every other party or intervenor.
- (2) Service upon a party or intervenor who has appeared through a representative need be made only upon such representative.
- (3) Unless otherwise ordered, service may be accomplished by postage pre-paid first class mail or by personal delivery. Service is deemed effected at the time of mailing (if by mail) or at the time of personal delivery (if by personal delivery).
- (4) Proof of service shall be accomplished by a written statement of the same which sets forth the date and manner of service. Such statement shall be filed with the pleading or document.
- (5) Where service is accomplished by posting, proof of such posting shall be filed not later than the first working day following the posting.
- (6) Service and notice to employees represented by an authorized employee representative shall be deemed accomplished by serving the representative in the manner prescribed in paragraph (3) of this Rule.
- (7) In the event that there are any affected employees who are not represented by an authorized employee representative, the employer shall, immediately upon receipt of notice of the docketing of the notice of contest or petition for modification of the abatement period, post, where the citation is required to be posted, a copy of the notice of contest or petition and a notice informing such affected employees of their right to party status and of the availability of all pleadings for inspection and copying at reasonable times. A notice in the following form shall be deemed to comply with this paragraph:

(Name of employer)

Your employer has been cited by the Commissioner of Labor for an alleged violation of the Occupational Safety and Health Act of 1972. The citation has been contested and is subject to a hearing before the OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION. Affected employees are entitled to participate in this hearing as parties under terms and conditions established by the OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION in its Rules of Procedure. Notice of intent to participate should be sent to:

Occupational Safety and Health Review
Commission
Eleventh Floor, First American Center
326 Union Street
Nashville, Tennessee 36238

All papers relevant to this matter may be inspected at:

(Rule 1030-1-7 continued)

(Place reasonably convenient to employees, preferably at or near workplace.)

Where appropriate, the second sentence of the above notice will be deleted and the following sentence will be substituted: "The reasonableness of the period prescribed by the Commissioner of Labor for abatement of the violation has been contested and is subject to a hearing before the Occupational Safety and Health Review Commission."

- (8) The authorized employee representative, if any, shall be served with the notice set forth in paragraph (7) of this Rule and with a copy of the notice of contest.
- (9) A copy of the notice of the hearing to be held before the Commission or Administrative Judge shall be served by the employer on affected employees who are not represented by an authorized employee representative by posting a copy of the notice of such hearing at or near the place or places where the citation or amended citation is required to be posted.
- (10) A copy of the notice of the hearing to be held before the Commission or Administrative Judge shall be served by the employer on the authorized employee representative of affected employees in the manner prescribed in paragraph (3) of this Rule, if the employer has not been informed that the authorized employee representative has entered an appearance as of the date such notice is received by the employer.
- (11) Where a notice of contest is filed by an affected employee who is not represented by an authorized employee representative and there are other affected employees who are represented by an authorized employee representative, the unrepresented employee shall, upon receipt of the statement filed in conformance with Rule 1030-3-7 hereof, serve a copy thereof on such authorized employee representative in the manner prescribed in paragraph (3) of this Rule and shall file a proof of such service.
- (12) Where a notice of contest is filed by an affected employee or an authorized employee representative, a copy of the notice of contest and response filed in support thereof shall be provided to the employer for posting in the manner prescribed in paragraph (7) of this Rule.
- (13) An authorized employee representative who files a notice of contest shall be responsible for serving any other authorized employee representative whose members are affected employees.
- (14) Where posting is required by this section, such posting shall be maintained until the commencement of the hearing or until earlier disposition.

Authority: T.C.A. §50-554. **Administrative History:** Original rule filed April 5, 1974; effective May 5, 1974. Amendment filed January 14, 1978; effective February 13, 1978.

1030-1-8 FILING.

- (1) A notice of contest under the provisions of Rules 1030-3-4 and 1030-3-7 or a petition for modification of the abatement period under Rule 1030-3-6 shall be filed with the Commissioner of Labor.
- (2) Unless otherwise required by these rules, all other papers shall be filed with the Review Commission.
- (3) Unless otherwise ordered, all filing may be accomplished by first class mail.
- (4) Filing is deemed effected at the time of mailing.

Authority: T.C.A. §50-554. **Administrative History:** Original rule filed April 5, 1974; effective May 5, 1974. Amendment filed January 14, 1978; effective February 13, 1978.

1030-1-9 CONSOLIDATION. Cases may be consolidated on the motion of any party, or on the Commission's or Administrative Judge's own motion where there exist common parties, common questions of law or fact, or both, or in such other circumstances as justice and the administration of the Act require.

Authority: T.C.A. §50-554. *Administrative History:* Original rule filed April 5, 1974; effective May 5, 1974. Amendment filed January 14, 1978; effective February 13, 1978.

1030-1-10 SEVERANCE. Upon its own motion, or upon motion of any party or intervenor, the Commission or the Administrative Judge may, for good cause, order any proceeding severed with respect to some or all issues or parties.

Authority: T.C.A. §50-554. *Administrative History:* Original rule filed April 5, 1974; effective May 5, 1974. Amendment filed January 14, 1978; effective February 13, 1978.

1030-1-11 PROTECTION OF TRADE SECRETS AND OTHER CONFIDENTIAL INFORMATION.

- (1) Upon application by any person, in a proceeding where trade secrets or other matters may be divulged, the confidentiality of which is protected by law, the Commission or Administrative Judge shall issue such orders as may be appropriate to protect the confidentiality of such matters.
- (2) In appropriate instances, interlocutory appeal from an adverse ruling under this rule is authorized by T.C.A. Section 4-523(a).

Authority: T.C.A. §50-554. *Administrative History:* Original rule filed April 5, 1974; effective May 5, 1974. Amendment filed January 14, 1978; effective February 13, 1978.