

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

**CHAPTER 1030-3
PLEADINGS AND MOTIONS**

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1030-3-1 FORM.

- (1) Except as provided herein, there are no specific requirements as to the form of any pleading. A pleading is simply required to contain a caption sufficient to identify the parties in accordance with Rule 1030-3-2, which shall include the Commission's docket number, if assigned, and a clear and plain statement of the relief that is sought, together with the grounds therefor.
- (2) Pleadings shall be signed by the party filing or by his representative. Such signing constitutes a representation by the signer that he has read the document or pleading, that to the best of his knowledge, information and belief the statements made therein are true, and that it is not interposed for delay.
- (3) The Commission or Administrative Judge may refuse for filing any pleading or document which does not comply with the requirements of paragraphs (1) and (2) of this Rule.

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.

1030-3-2 CAPTION; TITLES OF CASES.

- (1) Cases initiated by a notice of contest shall be titled:

Commissioner of Labor
Complainant
v.
(Name of Contestant),
Respondent.

- (2) Cases initiated by a petition for modification of the abatement period shall be titled:

(Name of Employer),
Petitioner,
v.
Commissioner of Labor,
Respondent.

- (3) The titles listed in paragraph (1) of this Rule shall appear on the initial page of any pleading or document (other than exhibits) filed.

(Rule 1030-3-2, continued)

- (4) The initial page of any pleading or document (other than exhibits) shall show the docket number, if known, assigned by the Commission.

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.

1030-3-3 NOTICES OF CONTEST. The Commissioner shall, within seven (7) days of receipt of a notice of contest, transmit the original to the Commission, together with copies of all relevant documents.

Authority: T.C.A. §50-544. **Administrative History:** Original rule filed April 5, 1974; effective May 5, 1974. Amendment filed January 14, 1978; effective February 13, 1978.

1030-3-4 EMPLOYER CONTESTS.

(1) Complaint

- (a) The Commissioner shall file a complaint with the Commission no later than twenty (20) days after his receipt of the notice of contest.
- (b) The complaint shall set forth all alleged violations and proposed penalties which are contested, stating with particularity:
1. The basis for jurisdiction;
 2. The time, location, place, and circumstances of each such alleged violation; and
 3. The considerations upon which the period for abatement and proposed penalty on each such alleged violation is based.
- (c) Where the Commissioner seeks in his complaint to amend his citation or proposed penalty, he shall set forth the reasons for amendment and shall state with particularity the change sought.

(2) Answer

- (a) Within thirty (30) days after service of the complaint, the party against whom the complaint was issued shall file an answer with the Commission.
- (b) The answer shall contain a short and plain statement denying those allegations in the complaint which the party intends to contest. Any allegation not denied shall be deemed admitted.

Authority: T.C.A. §50-544. **Administrative History:** Original rule filed April 5, 1974; effective May 5, 1974. Amendment filed January 14, 1978; effective February 13, 1978.

1030-3-5 PETITIONS FOR MODIFICATION OF ABATEMENT PERIOD.

- (1) A petition for modification of abatement period shall be addressed to the Commissioner of Labor pursuant to such rules and regulations as may be duly promulgated by the said Commissioner.
- (2) In the event that objections are made to any such petition by the Commissioner of Labor, or by an affected employee, or authorized employee representative, the petition, citation and any objections shall be forwarded to the Review Commission within the time limits set forth in a rule or regulation pertaining to modification of abatement dates duly promulgated by the Commissioner of Labor. In the absence of such a rule or regulation the aforementioned items shall be forwarded to the Commission within three (3) working days after such objections are made, or received, by the said Commissioner.

(Rule 1030-3-5, continued)

- (3) The Commission shall docket and process such petition in the same manner as any other contested case, except that all hearings on such petitions shall be handled in an expeditious fashion.
- (4) Reserved.
- (5) Within ten (10) working days after the receipt of the notice of the docketing by the Commission of any petition for modification of abatement date, each objecting party shall file a response setting forth the reasons for posing the granting of a modification date different from that requested in the petition.

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

1030-3-6 EMPLOYEE CONTESTS.

- (1) An affected employee or authorized employee representative may at any time within twenty (20) days after the employer posts a citation, file with the Commissioner of Labor a notice of contest in which objections are made to the citation's terms and conditions. The Commissioner of Labor shall within ten (10) days from his receipt of the notice of contest file a clear and concise statement of the reasons the citation is not unreasonable.
- (2) Not later than ten (10) days after receipt of the statement referred to in paragraph (1) of this rule, the objecting employee or authorized employee representative shall file a response. The Commission shall then afford an opportunity for a hearing.

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.

1030-3-7 STATEMENT OF POSITION. At any time prior to the commencement of the hearing, any person entitled to appear as a party, or any person who has been granted leave to intervene, may file a statement of position with respect to any or all issues to be heard.

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

1030-3-8 RESPONSE TO MOTIONS. Any party or intervenor upon whom a motion is served shall have ten (10) days from service of the motion to file a response.

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

1030-3-9 FAILURE TO FILE. Failure to file any pleading pursuant to these rules (Chapter 1030-1 through Chapter 1030-7) when due, may, in the discretion of the Commission or the Hearing Examiner, constitute a waiver of the right to further participation in the proceedings.

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