

REQUESTING ADDITIONAL TIME FOR CORRECTION

When uncontrollable events or other circumstances prevent your meeting an abatement date, you may request an extension. This extension request must be in writing to the Area Supervisor listed in the citations and must state the reasons that you are requesting the extension as well as the measures that you have taken up to this point to correct the violations. The Area Supervisor reviews extension requests and then grants or denies the extension. Employees, or their authorized representative, may contest extension of the abatement dates if they believe them to be unreasonable.

A FOLLOW-UP INSPECTION MAY BE CONDUCTED

If you receive a citation, a follow-up inspection may be conducted to verify that you posted the citation as required, corrected the violations as required in the citation, and adequately protected employees during multi-step or lengthy abatement periods.

CONSULTATION SERVICES

TOSHA's Consultation Services provides abatement/correction assistance and advice at no direct cost to employers who request assistance. This service is available if the compliance citations are a final order, the employer desires to improve working conditions, and works in partnership with TOSHA. Consultation Services can be reached at (800) 325-9901.

IT IS UNLAWFUL TO DISCRIMINATE AGAINST EMPLOYEES

The Tennessee Occupational Safety and Health Act prohibits any person from discharging or discriminating against an employee who has exercised any right under the Act, including the right to make a safety or health complaint or request an inspection from TOSHA. Complaints from employees who believe they have been discriminated against will be investigated by TOSHA.

Nashville Area Office

(615) 741-2793

Fax (615) 741-3325

Jackson Area Office

(731) 423-5640

Fax (731) 426-0505

Memphis Area Office

(901) 543-7259

Fax (901) 543-7557

Knoxville Area Office

(865) 594-6180

Fax (865) 594-5171

Chattanooga Area Office

(423) 634-6424

Fax (423) 634-8179

Gray Area Office

(423) 854-5158

Fax (423) 239-7839

TOSHA CLOSING CONFERENCE GUIDE



Department of
**Labor & Workforce
Development**

TOSHA

TO THE EMPLOYER

The Tennessee Occupational Safety and Health Administration's goal is to work with employers and employees to promote safety and health in the workplace. The inspection process plays an important role in ensuring that Tennesseans have a safe and healthful work environment.

TOSHA has just completed an inspection of your facility. The compliance officer who conducted the inspection has found conditions that may be in violation of the standards. Citations may be issued. There may or may not be penalties.

This brochure contains important information regarding your rights and responsibilities. It is provided at your closing conference to help you plan any necessary action if a citation is issued. Please read completely the letter that comes with your citation. If you have questions contact the TOSHA Area Supervisor or the Manager of Health or Safety Compliance. Phone numbers are listed at the end of this brochure.

For each apparent violation found during the inspection, the compliance officer will discuss with you:

- The nature of the violation
- Possible abatement (correction) measures
- Possible abatement (correction) dates

To minimize exposure of your employees to possible hazardous conditions, you are strongly urged to begin your corrective action immediately.

The compliance officer may also have found hazards during the course of this inspection that could require further evaluation. During the closing conference, you will be informed of all hazards that may be referred to another compliance officer for examination at a later date.



The Tennessee Department of Labor and Workforce Development is committed to principles of equal opportunity, equal access, and affirmative action. Auxiliary aids and services are available upon request to individuals with disabilities.
Tennessee Department of Labor and Workforce Development;
Authorization 337276; 10,000 copies; May 2019; This public document was promulgated at a cost of \$0.08 per copy.

IF THE COMPANY RECEIVES A CITATION

The citation, or a copy, must be posted at or near the place each violation occurred to let employees know about hazards to which they may be exposed. The citation must remain posted for three working days or until the violation is corrected, whichever is longer (Saturdays, Sundays, and holidays are not counted as working days). You must comply with these posting requirements even if you contest the citation or request an informal conference.

If you do not wish to contest the citation and penalty, you must:

- Correct the condition by the date set in the citation, and
- Pay the penalty, if one is proposed, and
- Document abatement on the ABATEMENT CERTIFICATION FORM that you received with the citation and return it to the area supervisor.

1ST LEVEL OF APPEAL - YOU MAY REQUEST AN INFORMAL CONFERENCE

To request an informal conference you must contact the area supervisor by telephone, email, or fax as directed in the cover letter accompanying the citation and notification of penalty. All informal conferences must be held within 20 calendar days of the receipt of the citation and notification of penalty. After 20 days the citation becomes a final order.

You may use the informal conference as an opportunity to:

- Question the citation regarding violation(s), penalty, and/or abatement date(s)
- Obtain a more complete understanding of the specific standards that apply
- Discuss ways to correct the violations
- Obtain answers to any other related questions you may have

Please note: A notice of the informal conference must be posted 24 hours prior to the meeting. Employees are entitled to participate in the meeting. A copy of the meeting notice must be brought to the informal conference.

2ND LEVEL OF APPEAL - YOU MAY CONTEST THE CITATION

If you contest the violation, penalty, or abatement date, you must notify the Commissioner of Labor and Workforce Development in writing within 20 calendar days after the receipt of the citation. The written notice of contest must clearly state what citations are being contested. The written notice of contest may be faxed to the TOSHA Central Office at (615) 741-3325 or emailed to the Area Office Supervisor listed in the citation packet.

Once contested, Counsel for the Commissioner has 20 days to file a complaint with the Tennessee Occupational Safety and Health Review Commission, a three-person independent review board. A copy of the complaint will be sent to you or your registered agent. Once served with the complaint, you will then have 30 days to file an answer to the complaint with the Review Commission. Failure to file a timely answer could result in a default judgment being entered against you by the Review Commission. A default judgment means that the citation, penalty, and abatement dates are upheld by the Review Commission. If your company is a corporation, LLC, or other legally created entity you must have a licensed attorney represent you before the Review Commission including the filing of the answer to the complaint. If an answer is timely filed, the Review Commission will put the case on one of its future dockets for a hearing on the facts of your case. The Review Commission may uphold, modify, or eliminate any item of the citation that you have challenged.

PAYING PENALTIES - IF APPLICABLE

If a penalty has been issued, penalties must be paid within **30 calendar** days after the citation and notification of penalty is received. Make your check or money order payable to Treasurer-State of Tennessee.

Send your payment to TOSHA with the inspection number identified on your check. Interest charges will be assessed on all penalty debt amounts not paid within 30 calendar days of receipt. In addition to the interest applied, a fine of 10 percent will be assessed on unpaid penalty amounts at 30, 60, and 90 days (from date of receipt) for a maximum of 30 percent. Any unpaid balance will be referred to the State Attorney General for collection after 180 days. Contested citations and/or penalties are not due until the Review Commission reaches a decision.

DOCUMENTING CORRECTIVE ACTION

You must document abatement of cited violation(s). The ABATEMENT CERTIFICATION FORM is provided with the citations. You may copy the form if more space is needed. The signed abatement certification form must be sent to the Area Supervisor listed in the citation when correction of alleged violation(s) has been completed.

For items identified in the Citation(s) as "Abatement Verification Required," the employer must provide additional documentation such as photographs, receipts, work orders, etc., to verify the corrective action taken. If the signed abatement certification form has not been submitted within 10 days of the abatement date(s) on the citation(s), an additional penalty of up to \$1000 may be proposed.