

(2) THAT THE RAILROAD COMPANY HAS 15 WORKING DAYS WITHIN WHICH TO NOTIFY THE COMMISSIONER IN WRITING THAT IT WISHES TO CONTEST THE COMMISSIONER'S NOTIFICATION OR ASSESSMENT OF PENALTY.

(D) IF WITHIN 15 DAYS FROM THE RECEIPT OF NOTIFICATION ISSUED BY THE COMMISSIONER, THE RAILROAD COMPANY DOES NOT NOTIFY THE COMMISSIONER OF ITS INTENTION TO CONTEST THE NOTIFICATION OR PROPOSED ASSESSED PENALTY, THE NOTIFICATION AND PENALTY ARE FINAL.

(E) IF A RAILROAD COMPANY NOTIFIES THE COMMISSIONER IN WRITING THAT IT INTENDS TO CONTEST A CITATION OR PENALTY ISSUED UNDER SECTION 90 OF THIS SUBTITLE OR A NOTIFICATION OR PENALTY ISSUED UNDER SUBSECTIONS (A), (B), AND (C) OF THIS SECTION, THE COMMISSIONER SHALL GRANT A HEARING, WHEN PRACTICABLE, WITHIN 30 DAYS AFTER THE RECEIPT BY THE COMMISSIONER OF THE NOTICE TO CONTEST.

(F) THE COMMISSIONER MAY APPOINT A HEARING EXAMINER TO HEAR AND MAKE A DETERMINATION UPON ANY PROCEEDING INSTITUTED BEFORE THE COMMISSIONER AND ANY MOTION IN CONNECTION WITH IT ASSIGNED TO HIM BY THE COMMISSIONER.

(1) THE HEARING EXAMINER SHALL PREPARE AN OFFICIAL RECORD THAT INCLUDES TESTIMONY AND EXHIBITS, AND A WRITTEN REPORT OF HIS DECISION WHICH CONSTITUTES HIS FINAL DISPOSITION OF THE PROCEEDINGS.

(2) THE REPORT OF THE HEARING EXAMINER BECOMES FINAL UNLESS:

(I) WITHIN 15 WORKING DAYS AFTER THE REPORT THE AFFECTED RAILROAD OR ANY AFFECTED PERSON REQUESTS IN WRITING A REVIEW BY THE COMMISSIONER OF THE PROCEEDINGS BEFORE THE HEARING EXAMINER; OR

(II) THE COMMISSIONER ORDERS A REVIEW OF THE PROCEEDINGS.

(G) AFTER A REVIEW OF THE PROCEEDINGS PURSUANT TO SUBSECTION (F)(2) OF THIS SECTION, WITH OR WITHOUT A HEARING, THE COMMISSIONER SHALL ISSUE AN ORDER, BASED ON FINDINGS OF FACT, AFFIRMING, MODIFYING, OR VACATING THE CITATION OR PROPOSED PENALTY, OR DIRECTING OTHER APPROPRIATE RELIEF. THE COMMISSIONER'S ORDER BECOMES FINAL ON DATE OF ISSUANCE.

(H) AFTER AN OPPORTUNITY FOR HEARING AS PROVIDED IN THIS SECTION, THE COMMISSIONER MAY ISSUE AN ORDER AFFIRMING OR MODIFYING THE ABATEMENT REQUIREMENTS IN THE CITATION UPON A SHOWING BY AN AFFECTED RAILROAD OF:

(1) A GOOD FAITH EFFORT TO COMPLY WITH THE ABATEMENT REQUIREMENTS OF THE CITATION; AND

(2) THAT ABATEMENT HAS NOT BEEN COMPLETED BECAUSE OF FACTORS BEYOND ITS REASONABLE CONTROL.

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