

CHAPTER 5210
DEPARTMENT OF LABOR AND INDUSTRY
SAFETY AND HEALTH ADMINISTRATION

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5210.0007 FILING; FACSIMILE.

Subpart 1. **Filing by mail and personal delivery.** Filing of documents required by this chapter or Minnesota Statutes, chapter 182, may be accomplished by postage prepaid first class mail or personal delivery. Filing is timely if the document is deposited in the United States mail and postmarked within the time fixed for filing. Filing is effective on the postmark date or the date of personal delivery.

Subp 2 **Filing by facsimile.** Documents may be filed by facsimile. Filing is completed at the time that the facsimile is received by the commissioner and has the same force and effect as the original. A faxed document will not be considered filed unless all pages are successfully transmitted via facsimile. Documents received by facsimile after 4:30 p.m. Central Standard Time are deemed filed on the next day.

Within five days after the commissioner has received the transmission, the party filing the document must file with the commissioner the original signed document.

Subp 3 **Time computation.** In computing any period of time prescribed or allowed by this chapter or Minnesota Statutes, chapter 182, the day of the act, event, or default from which the designated period of time 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 seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

Statutory Authority: *MS s 182.657*

History: 22 SR 1758

5210.0060 OBJECTIONS.

[For text of subpart 1, see M.R.]

Subp. 2 **Notice of public hearing.** Within 30 days after the last day for filing objections, if 25 or more persons request a public hearing, the commissioner shall, and in any other case may, publish in the State Register a notice of a public hearing. The notice must contain:

[For text of items A to G, see M.R.]

[For text of subp 3, see M.R.]

Statutory Authority: *MS s 182.657*

History: 22 SR 1758

5210.0150 INCORPORATION BY REFERENCE OF FEDERAL STANDARDS.

Federal Occupational Safety and Health Standard 1910.20, Access to Employee Exposure and Medical Records, Code of Federal Regulations, title 29, as published at Federal Register, volume 53, number 189, on September 29, 1988, the clarification published at Federal Register, volume 55, number 125, on June 28, 1990, and the redesignation of this standard as section 1910.1020 as published at Federal Register, Volume 61, number 120, June 20, 1996, are adopted by reference.

Revisions to Code of Federal Regulations, title 29, section 1910, subpart T (Commercial Diving Operations) and subpart Z (Toxic and Hazardous Substances) adopted by the

Federal Occupational Safety and Health Administration on May 23, 1980, and published at Federal Register, volume 45, number 102, pages 35281 to 35284 are adopted by reference

Statutory Authority: *MS s 182 657*

History: *22 SR 1758*

5210.0160 MODIFIED DEFINITION.

The terms "Assistant Secretary of Labor for Occupational Safety and Health" and "assistant secretary" as used in Code of Federal Regulations; title 29, section 1910.1020, shall mean the commissioner of the Department of Labor and Industry for the purpose of part 5210 0150

Statutory Authority: *MS s 182.657*

History: *22 SR 1758*

5210.0310 CLAIM PROCEDURES.

[For text of subpart 1, see M R]

Subp 2 **Manner of filing.** The complaint may be filed, either orally or in writing, with the commissioner. Written complaints must be filed according to part 5210 0007.

Statutory Authority: *MS s 182 657*

History: *22 SR 1758*

5210.0420 REQUIRED POSTINGS.

Subpart 1 **OSHA poster.** Each employer shall post and keep posted the "Safety and Health Protection on the Job" poster issued by the Department of Labor and Industry, informing employees of the protections and obligations provided for in the act. The poster must direct employees to contact the employer or the Department of Labor and Industry for assistance and information, including copies of the act and of specific safety and health standards. The poster shall be posted by the employer in each place of employment in a conspicuous place or places where notices to employees are customarily posted. Each employer shall take steps to ensure that the posters are not altered, defaced, or covered by other material.

Subp 2 **Complaints.** An employer who receives written notification, by fax or mail, from the commissioner indicating that the commissioner has received a complaint alleging that occupational safety or health hazards exist at the employer's work site, must post a copy of the commissioner's written notification and the employer's response, if any, in a conspicuous place or places where notices to employees are customarily posted. The employer shall take steps to ensure that the notification and response are not altered, defaced, or covered by other material. The notification and response shall remain posted for 15 days.

Subp 3 **Citation and notification of penalty.** Upon receipt of a citation and notification of penalty or notification of failure to abate, the employer must post the citation and notification of penalty or notification of failure to abate according to part 5210 0530, subparts 3 and 4.

Subp 4 **Abatement certification.** The employer must post abatement certification documents according to part 5210 0532, subpart 4.

Subp 5 **Employer notice of contest.** The employer must post an employer's notice of contest according to part 5210 0536, subpart 1.

Subp 6 **Employee notice of contest.** The employer must post a copy of the employee notice of contest form, immediately upon receipt of an employee's or authorized employee representative's notice of contest, according to part 5210 0539, subpart 1.

Subp 7 **Notice of hearing.** The employer must post a copy of the notice of hearing before an administrative law judge according to part 5210 0595, subpart 2.

Subp 8 **Settlement agreement.** The employer must post a settlement agreement according to part 5210 0596, subpart 1.

Subp 9 **Petition for modification of abatement date.** The employer must post a petition for modification of abatement date according to part 5210 0542, subpart 4. A copy of the approval or denial of the petition must be posted with the petition and the citation according to part 5210 0542, subpart 6.

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SAFETY AND HEALTH ADMINISTRATION 5210.0532

Subp 10 **Annual summary of occupational injuries and illnesses.** Employers required to maintain the log of occupational injuries and illnesses must post an annual summary according to part 5210 0650, subpart 4

Statutory Authority: *MS s 182 657*

History: *22 SR 1758*

5210.0530 CITATIONS; POSTING.

[For text of subparts 1 to 3, see M R]

Subp 4 **Posting time.** Each uncontested citation and notification of penalty or uncontested notification of failure to abate, or an unedited copy, shall remain posted until the violation has been abated, or for 20 days, whichever is later. The filing by the employer, an employee, or an authorized employee representative of a notice of contest or letter of contest extends the employer's posting responsibility under this part until the contest is resolved through settlement agreement or other final disposition. If the contest is resolved through settlement agreement, the citation and notification of penalty or notification of failure to abate, or unedited copy, shall remain posted with the settlement agreement as required in part 5210 0596

[For text of subp 5, see M R]

Statutory Authority: *MS s 182 657*

History: *22 SR 1758*

5210.0532 ABATEMENT VERIFICATION.

Subpart 1 **Scope and application.** This part applies to employers who receive a citation for a violation of the act and establishes procedures to ensure that employers who have been cited for workplace hazards have abated those hazards

Subp 2 **Abatement certification.** The employer must certify to the commissioner that each cited violation not immediately corrected has been abated. Abatement certification shall be submitted within 30 days after receipt of the citation or by the latest abatement date, whichever is earlier. For violations with abatement periods longer than 30 days, the employer must submit additional progress reports every 30 days until all cited violations have been abated, unless otherwise specified in the citation

A Abatement certification shall be submitted on the progress report form provided by the commissioner, or a similar alternative format. A fully completed progress report must include the following information

- (1) the employer's name and address,
- (2) the inspection number for the citation and notification of penalty or the reinspection number for the notification of failure to abate,
- (3) identification of each citation and item for which abatement certification is being submitted,
- (4) a description of the corrective actions taken,
- (5) the abatement date noted on the citation for each item,
- (6) the date on which abatement occurred,
- (7) the anticipated abatement date for uncompleted items,
- (8) a statement that affected employees and their representatives have been informed of the abatement,
- (9) a statement that the information is accurate,
- (10) the signature, title, and telephone number of the employer or the employer's authorized representative,
- (11) the date on which the progress report form was prepared, and
- (12) a statement that employees and their representatives have been informed of their right to examine and copy all abatement documents submitted to the commissioner

B If the anticipated completion date is beyond the abatement date established in the citation, the employer must submit a written Petition for Modification of Abatement Date as required by part 5210 0542 to request an extension of the time allowed for abatement

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C Progress reports and other abatement documentation shall be submitted according to part 5210 0007

D The employer is not required to certify abatement if the investigator, during the on-site portion of the investigation, observes, within 24 hours after a violation is identified, that abatement has occurred and notes in the citation that abatement has occurred

Subp 3 **Abatement documentation.** In addition to the information required in subpart 2, the employer must submit documents demonstrating that abatement is complete for any violation for which the citation indicates that such abatement documentation is required. Documents demonstrating that abatement is complete include, but are not limited to, evidence of the purchase or repair of equipment, photographic or video evidence of abatement, or other written records

Subp 4 **Employee notification.** The employer must inform affected employees and their representatives about abatement activities covered by this part by posting a copy of each progress report submitted to the commissioner where the citation and notification of penalty or notification of failure to abate is required to be posted by part 5210 0530, subpart 3.

The employer must ensure that notice to employees and employee representatives is provided at the same time, or before, the information is provided to the commissioner and that abatement documents are not altered, defaced, or covered by other material and remain posted for 15 days after submission to the commissioner

Subp 5 **Movable equipment.** For serious, repeat, and willful violations involving equipment moved within the work site or between work sites, the employer must attach a warning tag or a copy of the citation to the operating controls or to the cited component of the equipment. Attaching a copy of the citation to the equipment meets the tagging requirements of this subpart and the posting requirements of subpart 4

A The employer must use a warning tag that identifies the equipment cited, properly warns employees about the nature of the violation involving the equipment, and identifies the location where a copy of the citation is posted.

B If the violation has not already been abated, a warning tag or copy of the citation must be attached to the equipment

(1) for hand-held equipment, immediately after the employer receives the citation, and

(2) for non-hand-held equipment, prior to moving the equipment within or between work sites

C For the construction industry, a tag that is designed and used according to Code of Federal Regulations, title 29, sections 1926.20(b)(3) and 1926.200(h), meets the requirements of this subpart when the information required by item A is included on the tag

D The employer must ensure that the tag or copy of the citation attached to the movable equipment is not altered, defaced, or covered by other material

E The employer must ensure that the tag or copy of the citation attached to movable equipment remains attached until

(1) the violation has been abated and all abatement verification documents required by this part have been submitted to the commissioner,

(2) the cited equipment has been permanently removed from service or is no longer within the employer's control, or

(3) a final order is issued vacating the citation

Statutory Authority: *MS s 182 657*

History: 22 SR 1758

5210.0536 EMPLOYER CONTEST.

[For text of subpart 1, see MR]

Subp 2 **Filing.** The notice of contest must be filed within 20 calendar days of the date the employer receives the citation and notification of penalty or notification of failure to abate. The day the notice of contest is received shall not be included in calculating the 20 calendar days. The last day of the 20-day period shall be included, unless it is a Saturday, Sunday, or state holiday, in which event the period runs until the next day which is not a Sat-

urday, Sunday, or state holiday. A notice of contest may be filed with the commissioner by postage prepaid first class mail, personal delivery, or facsimile transmission according to part 5210 0007. If the notice of contest form is not posted, served, and filed within 20 days of the date the employer receives the citation and notification of penalty or notification of failure to abate, the citation and notification of penalty or notification of failure to abate become a final order of the commissioner and is not subject to review by any court or agency.

Statutory Authority: *MS s 182 657*

History: 22 SR 1758.

5210.0539 EMPLOYEE AND AUTHORIZED EMPLOYEE REPRESENTATIVE CONTESTS.

[For text of subpart 1, see M R]

Subp 2 Filing.

[For text of item A, see M R]

B Within seven days of the employee's or authorized employee representative's receipt of the employee notice of contest form, the employee or authorized employee representative shall file the fully completed form with the commissioner. The day the notice of contest is received shall not be included in calculating the seven calendar days. The last day of the seven-day period shall be included, unless it is a Saturday, Sunday, or state holiday, in which event the period runs until the next day which is not a Saturday, Sunday, or state holiday. An employee notice of contest form may be filed with the commissioner by postage prepaid first class mail, personal delivery, or facsimile transmission according to part 5210 0007.

[For text of item C, see M R.]

Statutory Authority: *MS s 182 657*

History: 22 SR 1758

5210.0542 PETITIONS FOR MODIFICATION OF ABATEMENT DATE.

[For text of subs 1 and 2, see M R]

Subp 3 **Time to file.** A petition for modification of abatement date must be filed with the commissioner according to part 5210 0007 no later than the next working day following the date on which abatement was originally required.

[For text of subs 4 to 6, see M R]

Statutory Authority: *MS s 182 657*

History: 22 SR 1758

5210.0551 SERVICE AND NOTICE.

[For text of subs 1 and 2, see M R]

Subp 3 **Methods of service.** Unless otherwise ordered, service may be made by postage prepaid first class mail or personal delivery according to part 5210 0007, subpart 1.

[For text of subp 4, see M R.]

Statutory Authority: *MS s 182 657*

History: 22 SR 1758

5210.0554 FILING.

Subpart 1 **Filing by mail and personal delivery.** All pleadings and other documents must be filed with the commissioner before a case is assigned to an administrative law judge. After the case has been assigned to an administrative law judge, all pleadings or other documents must be filed with the administrative law judge at the address given in the notice informing the parties of the assignment. All pleadings and documents may be filed by postage prepaid first class mail, personal delivery, or facsimile transmission according to part 5210.0007.

Subp 2 [Repealed, 22 SR 1758]

Subp 3 [Repealed, 22 SR 1758]

Statutory Authority: *MS s 182 657*

History: 22 SR 1758

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5210.0596 SETTLEMENT; MISCELLANEOUS PROVISIONS.

Subpart 1. **Service and notice.** A settlement agreement must be posted where the citation and notification of penalty or notification of failure to abate is required to be posted and must be served on authorized employee representatives by the employer. The citation and notification of penalty or notification of failure to abate, or an unedited copy, shall remain posted with the settlement agreement for ten days, until all stipulations of the settlement agreement have been satisfied, or until all violations have been abated, whichever is later.

[For text of subps 2 and 3, see M R]

Statutory Authority: *MS s 182 657*

History: 22 SR 1758