

5210.0570 COMPLAINT; NOTICE; ANSWER.

Subpart 1. **Complaint.** The commissioner shall serve the contesting party and every other party with a complaint no later than 90 days after receiving the notice of contest.

The complaint must set forth alleged violations and proposed penalties that are contested, by stating or referring to the contested citation and notification of penalty or notification of failure to abate:

- A. the basis for jurisdiction;
- B. the date, location, place, and circumstances of alleged violations; and
- C. the abatement date and the proposed penalty for the alleged violation.

The commissioner may amend the complaint at any time before the close of the hearing without filing a motion with the administrative law judge, provided that, should the amended complaint raise new issues or allegations, if requested by a party, a reasonable time to prepare to respond to the new issues or allegations must be provided.

Subp. 2. **Withdrawal of contest.** A person who filed a notice of contest may withdraw the notice at any time in the proceedings.

Subp. 3. **Summons and notice to respondent.** The commissioner shall serve on all parties a notice with the complaint that states the following:

- A. that the respondent has 20 days within which to file an answer;
- B. that the parties have a right to be represented by legal counsel in all proceedings;
- C. that the rules of the commissioner and the rules of the Office of Administrative Hearings apply to the proceedings and where a copy of those rules may be obtained; and
- D. the name of the agency official or member of the attorney general's staff to be contacted to discuss informal disposition under part 1400.5900 or discovery under part 1400.6700, subparts 2 and 3.

Subp. 4. **Answer.** Within 20 days after service of the complaint, the party or parties against whom the complaint was issued shall file with the commissioner an answer and serve the answer on every other party.

The answer must contain a short and plain statement denying those allegations in the complaint that the party intends to contest and assert any and all affirmative defenses. Any allegation not denied is deemed admitted and any affirmative defense not asserted is deemed waived.

Subp. 5. **Failure to serve or file.** If the complaint is not served or the answer is not filed and served within the time prescribed by this part, the administrative law judge, upon

a motion by a party, may enter an order affirming or vacating the contested citation and notification of penalty or notification of failure to abate.

Statutory Authority: *MS s 182.657*

History: *20 SR 2428*

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