

5210.0530 CITATIONS; POSTING.

Subpart 1. **Issuance.** The commissioner shall review the investigation report of the investigator. If on the basis of the report the commissioner believes that the employer has violated a requirement of Minnesota Statutes, section 182.653, or any standard, rule, or order adopted under the act, the commissioner shall issue to the employer either a citation and notification of penalty or a notification of failure to abate. A copy of the citation and notification of penalty or notification of failure to abate shall also be mailed to:

A. the authorized employee representative and, in the case of the death of an employee, to the next of kin if requested by the next of kin; and

B. the complainant in a complaint inspection.

A citation and notification of penalty or notification of failure to abate shall be issued even though, after being informed of an alleged violation by the investigator, the employer immediately abates or initiates steps to abate the alleged violation. A citation and notification of penalty or notification of failure to abate shall be issued with reasonable promptness and in no event later than six months following the completion of the investigation of the alleged violation.

Subp. 2. Contents.

A. A citation and notification of penalty shall describe with particularity the nature of the alleged violation, including a reference to the provisions of the act, standard, rule, or order alleged to have been violated. A citation and notification of penalty shall also fix a reasonable time or times for the abatement of the alleged violation.

B. A notification of failure to abate shall reference the original citation and standard which the employer has allegedly failed to abate, the date by which the original citation was to have been abated, and the amount of the additional penalty issued by the commissioner under Minnesota Statutes, section 182.661, subdivision 2.

Subp. 3. **Employer's duty to post.** Upon receipt of a citation and notification of penalty or notification of failure to abate, the employer shall immediately post the citation and notification of penalty or notification of failure to abate, or an unedited copy, at or near each place an alleged violation referred to in the citation occurred, except as provided in this subpart. If, because of the nature of the employer's operations, it is not practicable to post the citation and notification of penalty or notification of failure to abate at or near each place of alleged violation, the unedited citation and notification of penalty or notification of failure to abate shall be posted in a prominent place where it will be readily observable by all affected employees. If the employer is engaged in activities that are physically dispersed, the citation and notification of penalty or notification of failure to abate shall be posted at the location to which affected employees report each day. Where affected employees do not primarily work at or report to a single location, the citation and notification of penalty

or notification of failure to abate shall be posted at the locations from which the affected employees operate to carry out their activities. The employer shall take steps to ensure that the citation and notification of penalty or notification of failure to abate are not altered, defaced, or covered by other material.

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.

Subp. 5. **Noncompliance.** An employer that fails to comply with subparts 3 and 4 shall be subject to citation and penalty according to Minnesota Statutes, section 182.666, subdivision 5.

Statutory Authority: *MS s 182.657; 182.66*

History: *17 SR 1279; 20 SR 2428; 22 SR 1758; 41 SR 337*

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