

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.

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.

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