

**7512.2750 CIVIL PENALTY.**

Subpart 1. **Proceeding against contractor, manager, journeyman; good cause.** When the commissioner has good cause to believe a fire protection contractor, managing employee, or journeyman is engaging or has engaged in conduct that violates Minnesota Statutes, chapter 299M, or a rule adopted under Minnesota Statutes, section 299M.04, the commissioner, in place of or in addition to licensing sanctions allowed under that chapter 299M or any rule adopted under that section 299M.04, shall impose a civil penalty upon the fire protection contractor, managing employee, or journeyman.

Subp. 1a. **Definition of good cause to believe.** For purposes of this part, "good cause to believe" means grounds put forth in good faith that are not arbitrary, irrational, unreasonable, or irrelevant and that are based on at least one of the following sources:

- A. written information from an identified person;
- B. facts supplied by a contractor, managing employee, journeyman sprinkler fitter, or municipality;
- C. facts of which the commissioner, or an agent of the commissioner, has personal knowledge; or
- D. information obtained by the department during an inspection.

Subp. 2. **Maximum penalty.** Penalties imposed must not be greater than \$1,000 for each violation of Minnesota Statutes, chapter 299M, or rule adopted under Minnesota Statutes, section 299M.04, for each day of violation.

Subp. 3. **Assessment factors.** When determining the amount of penalty to be assessed, the commissioner shall consider:

- A. those factors listed in Minnesota Statutes, section 14.045, subdivision 3, paragraph (a);
  - B. the following factors:
    - (1) the degree of the person's culpability;
    - (2) the person's ability to pay;
    - (3) good faith on the part of the person in attempting to remedy the cause of the violation; and
    - (4) the effect of the penalty on the person's ability to continue in business;
- and

C. for a second or succeeding violation, the factors listed in items A and B and listed in Minnesota Statutes, section 14.045, subdivision 3, paragraph (b).

Subp. 4. **Notice of civil penalty.** The commissioner shall issue a notice of civil penalty when the commissioner has good cause to believe a violation of Minnesota Statutes, chapter 299M, or any rule adopted under Minnesota Statutes, section 299M.04, has occurred.

A. The contents of a notice of civil penalty must include:

- (1) a statement of the statute or rule allegedly violated and a description of the evidence on which the allegation is based;
- (2) notice of response options available; and
- (3) the amount of the civil penalty proposed.

B. The subject of the penalty shall respond to the notice within 15 days. The subject may select one or more of the following options for response:

- (1) pay the penalty and close the case;
- (2) submit an offer in compromise of the proposed civil penalty;
- (3) submit a written explanation, information, or other material in answer to the allegations or in mitigation of the proposed civil penalty; or
- (4) request the commissioner to initiate a hearing under Minnesota Statutes, sections 14.50 to 14.69.

C. The commissioner shall review any written explanations, information, or other materials that are submitted in response to a notice of civil penalty. The commissioner shall determine whether to enforce, negotiate, modify, or withdraw the notice or to initiate a hearing under Minnesota Statutes, sections 14.57 to 14.69.

Subp. 5. **Payment procedure.** The subject of the civil penalty shall pay the penalty that has been assessed and proposed, or compromised, by submitting to the commissioner a check or money order in the correct amount, payable to the commissioner of public safety, to be deposited in the state treasury and credited to the general fund.

Subp. 6. **Other enforcement provisions.** Unless the commissioner determines that other enforcement provisions are unnecessary or inapplicable to the particular violation at issue, neither payment of the civil penalty nor negotiation, modification, or withdrawal of the notice of civil penalty prohibits:

A. the commissioner from pursuing other enforcement provisions provided for in Minnesota Statutes, chapter 299M, and rules adopted under Minnesota Statutes, section 299M.04; or

B. the subject of the civil penalty from abiding by the terms of other enforcement provisions.

Subp. 7. **Hearings.** A penalty imposed under Minnesota Statutes, section 299M.04, is subject to the contested case and judicial review provisions of Minnesota Statutes, chapter 14.

**Statutory Authority:** *MS s 299M.04*

**History:** *24 SR 1780*

**Published Electronically:** *November 8, 2006*