

**7512.2770 CEASE AND DESIST ORDER.**

Subpart 1. **Cease and desist order; immediate risk.** The commissioner shall issue an order to cease and desist an activity that violates Minnesota Statutes, chapter 299M, or any rule adopted under Minnesota Statutes, section 299M.04, and is considered to be an immediate risk to public health or public safety. Generally, a cease and desist order under this part is appropriate if an individual or group is in danger of specific harmful consequences in the immediate future if an action or activity goes unchecked.

Subp. 2. **Contents of order.** An order to cease and desist an activity must be in writing and include the following:

- A. the reasons for issuing the order and a statement of the evidence compiled;
- B. the statute, rule, variance, order, or term or condition of a permit that was violated, if any;
- C. the length of time the order is effective; and
- D. notice that a contested case hearing will be held within seven working days.

Subp. 3. **Maximum length of order.** An order issued under this part is valid for no longer than 20 working days.

Subp. 4. **Public notice.** The commissioner, in conjunction with a cease and desist order, may physically tag each violation. This public notice must contain the information required for an order under subpart 2, items A to C.

Subp. 5. **Administrative hearings.** The commissioner shall initiate proceedings for a contested case hearing according to Minnesota Statutes, sections 14.57 to 14.69, of the Minnesota Administrative Procedure Act, and items A to C:

- A. An administrative hearing must be held within seven working days of issuing the cease and desist order.
- B. The administrative law judge shall issue an order to vacate, modify, or make permanent a cease and desist order within five working days of the administrative hearing.
- C. If the person to whom the order is issued fails to appear at a hearing after notice of the hearing, the party is in default and the cease and desist order becomes permanent.

Subp. 6. **Noncompliance.** In the event of noncompliance with a cease and desist order, in addition to licensing sanctions allowed under Minnesota Statutes, chapter 299M, or any rule adopted under Minnesota Statutes, section 299M.04, the commissioner shall assess a civil penalty as set forth in part 7512.2750 and Minnesota Statutes, section 299M.04.

Subp. 7. **Other enforcement.** Issuance of a cease and desist order does not preclude the commissioner from pursuing other enforcement actions available to the commissioner.

Subp. 8. **Elimination of immediate risk.** The commissioner shall vacate the cease and desist order when the person proves that the immediate risk to public health or public safety has been eliminated.

Subp. 9. **Determination that no immediate risk remains.** When the person asserts that the situation has been resolved so that no immediate risk remains, the commissioner shall verify that assertion according to items A to D:

A. review all information related to the issuance of the order to determine if violations have been corrected and there is no longer an immediate risk;

B. as may be reasonable under the facts of the case, verify with a site visit, reinspection, examination of documentation, or other means;

C. on determining that the situation has been corrected so that no immediate risk remains, notify the person within 36 hours and lift the cease and desist order; and

D. document a determination that the situation has been corrected in case further infractions, incidents, or situations occur involving the person at issue.

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

**History:** *24 SR 1780*

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