

**Minnesota
Department of Labor and Industry**

Occupational Safety and Health Division
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St. Paul, MN 55155-4307

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(651) 284-5050
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Reinspection Number	Inspection Number
OSHI ID	Optional Report No.:
Employer's Name and Mailing Address:	

NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES

PURPOSE OF THIS FORM

This Notice of Contest and Service to Affected Employees form (Notice of Contest form) should **ONLY** be completed by an employer who has received a Notification of Failure to Abate from the Minnesota Occupational Safety and Health Division (MNOSHA), who wishes to contest the Notification or Proposed Additional Penalty.

By filing this Notice of Contest form, the employer is initiating a formal contested case proceeding before an administrative law judge of the parts of the Notification of Failure to Abate it is contesting. This form must be filed in good faith and not solely for delay or avoidance of penalties.

Upon receipt of a timely filed Notice of Contest form, MNOSHA will contact the employer and schedule a date, time and location for an informal conference. The purpose of the informal conference is to allow the employer to discuss with a MNOSHA representative the Notification of Failure to Abate and the basis for the employer's contest. The goal of the informal conference is to reach an early informal resolution of the contest. If the employer and MNOSHA are unable to reach a resolution at the informal conference then the contest will proceed to a formal contested case hearing.

FILING THIS FORM

This Notice of Contest form must be filed with the Commissioner of the Department of Labor and Industry at the above address within 20 days after the date the Notification of Failure to Abate is received by the employer. **To be considered filed, all parts of the Notice of Contest form must be completed and the completed form must be deposited in the United States mail and postmarked, or otherwise timely received by the Commissioner at the above address within 20 days after the date the Notification of Failure to Abate is received by the employer. Facsimile (FAX) transmittal of this form is acceptable, followed by receipt of the mailed original within 5 days. If the employer fails to file the Notice of Contest form on time, the Notification of Failure to Abate becomes a final order of the Commissioner which is not subject to review by any court or agency.**

COMPLETING THIS FORM

1. HOW TO IDENTIFY THE INSPECTION BEING CONTESTED.

The employer must complete the box at the top of page 1 of this form using the Re-inspection Number, the Original Inspection Number, OSHI ID, Optional Report Number and Employer's Mailing Address from the Notification of Failure to Abate being contested.

2. HOW TO POST AND SERVE THIS FORM.

The employer must post a fully completed copy of both pages of this form and any additional explanatory pages, documents or letters where the contested Notification of Failure to Abate and a copy of the original Citation and Notification of Penalty is posted no later than the last day this form may be filed. The form must remain posted until the date of the formal contested case hearing or earlier final resolution of the contest.

If there are any affected employees who are represented by an authorized employee representative, the employer shall, on or before the date this form is required to be filed with the Commissioner, serve a fully completed copy of the form upon the representative. Service may be accomplished by either postage prepaid first class mail or personal delivery.

3. **DATE OF POSTING.** The employer must certify in Box A **or** B below the dates on which it posted and served this form

A. Employers who have affected Employees Represented by Authorized Employee Representatives (union)
I hereby certify that I posted fully completed copies of this form on _____ (date) at the locations where the Notification of Failure to Abate and a copy of the original Citation and Notification of Penalty is posted; and I served fully completed copies of this form on _____ (date) upon the authorized employee representatives of affected employees.

B. Employers who have affected Employees Not Represented by Authorized Employee Representatives
I hereby certify that I posted fully completed copies of this form on _____ (date) at the locations where the Notification of Failure to Abate and a copy of the original Citation and Notification of Penalty is posted and that I do not have any affected employees who are represented by authorized employee representatives.

4. **HOW TO CONTEST THE NOTIFICATION OF FAILURE TO ABATE.**

The employer must indicate in the boxes below which part of the Notification of Failure to Abate it wishes to contest. First the employer must identify the citations it is contesting by indicating the citation and item numbers. (For example, "**Citation 1, Item 2**"). Then the employer must indicate which parts of each item is being contested. Finally, the employer must state the reasons for contesting in the space provided below the boxes.

- Check the box NOTIFICATION OF FAILURE TO ABATE, if the employer wishes to contest that the employer failed to abate the original citation.
- Check the box ADDITIONAL PENALTY, if the employer wishes to contest the amount of the additional penalty for failure to abate.

FAILURE TO CHECK ANY PART WILL RESULT IN THAT PART OF THE CITATION BECOMING A FINAL ORDER OF THE COMMISSIONER WHICH IS NOT REVIEWABLE BY ANY COURT OR AGENCY.

CITATION NUMBER AND ITEM NUMBER		
	<input type="checkbox"/> Notification of Failure to Abate	<input type="checkbox"/> Additional Penalty
	<input type="checkbox"/> Notification of Failure to Abate	<input type="checkbox"/> Additional Penalty
	<input type="checkbox"/> Notification of Failure to Abate	<input type="checkbox"/> Additional Penalty
	<input type="checkbox"/> Notification of Failure to Abate	<input type="checkbox"/> Additional Penalty
	<input type="checkbox"/> Notification of Failure to Abate	<input type="checkbox"/> Additional Penalty
	<input type="checkbox"/> Notification of Failure to Abate	<input type="checkbox"/> Additional Penalty
	<input type="checkbox"/> Notification of Failure to Abate	<input type="checkbox"/> Additional Penalty

REASONS FOR CONTEST: (Additional sheets may be attached as necessary, and are considered part of this form.)

5. **OATH.** The employer completing this form must sign and have notarized the following statement.

I SWEAR THAT THE INFORMATION PROVIDED ON THIS FORM AND ATTACHED TO THIS FORM IS ACCURATE AND TRUTHFUL TO THE BEST OF MY KNOWLEDGE.

Name of Employer Representative, Title	Phone	Subscribed and sworn to before me
Signature	Date	this _____ day of _____
		Notary Public _____
		My Commission expires _____