1.1 **Department of Labor and Industry**

1.2 **Adopted Permanent Rules Relating to OSHA Filing and Service**

1.3 **5210.0007 FILING.**

1.4 [For text of subp 1, see M.R.]

1.5 Subp. 2. **Filing by facsimile.** Documents may be filed by facsimile. Filing is
1.6 completed at the time that the facsimile is received by the commissioner and has the same
1.7 force and effect as the original. A faxed document will not be considered filed unless all
1.8 pages are successfully transmitted via facsimile. Documents received by facsimile after
1.9 4:30 p.m. are deemed filed on the next day.

1.10 Subp. 2a. **Filing electronically.** Notices of contest and letters of contest under parts
1.11 5210.0536 and 5210.0539 and progress reports and other abatement documentation under
1.12 part 5210.0532, subpart 2, item C, may be filed electronically by e-mail or other reliable
1.13 method of electronic transmission. Filing is completed at the time that the electronic
1.14 transmission is received by the commissioner and has the same force and effect as the
1.15 original. An electronically transmitted document will not be considered filed unless all
1.16 pages are successfully transmitted electronically. Documents received electronically after
1.17 4:30 p.m. are deemed filed on the next business day.

1.18 [For text of subp 3, see M.R.]

1.19 **5210.0536 EMPLOYER CONTEST.**

1.20 Subpart 1. **Posting and service.**

1.21 A. The employer shall, on or before the date a notice of contest is required to be
1.22 filed with the commissioner, post a copy of the notice of contest form where the citation
1.23 and notification of penalty or notification of failure to abate is required to be posted.
1.24 The notice of contest form must remain posted until the date of the hearing or earlier
1.25 final disposition of the contest.

2.1 B. If there are any affected employees who are represented by an authorized
2.2 employee representative, the employer shall, on or before the date a notice of contest is
2.3 required to be filed with the commissioner, serve a copy of the notice of contest form
2.4 upon the representative.

2.5 C. Certification of the service and posting required by this subpart must be
2.6 notarized and filed with the commissioner as provided on the notice of contest form.

2.7 Subp. 2. **Filing.** The notice of contest form must be filed within 20 calendar days
2.8 of the date the employer receives the citation and notification of penalty or notification
2.9 of failure to abate. The day the notice of contest form is received shall not be included
2.10 in calculating the 20 calendar days. The last day of the 20-day period shall be included,
2.11 unless it is a Saturday, Sunday, or state holiday, in which event the period runs until the
2.12 next day which is not a Saturday, Sunday, or state holiday. A notice of contest form may
2.13 be filed with the commissioner by postage prepaid first class mail, personal delivery,
2.14 facsimile, or electronic transmission according to part 5210.0007. If the notice of contest
2.15 form is not posted, served, and filed within 20 days of the date the employer receives the
2.16 citation and notification of penalty or notification of failure to abate, the citation and
2.17 notification of penalty or notification of failure to abate become a final order of the
2.18 commissioner and is not subject to review by any court or agency.

2.19 **5210.0539 EMPLOYEE AND AUTHORIZED EMPLOYEE REPRESENTATIVE**
2.20 **CONTESTS.**

2.21 Subpart 1. **Posting and service.**

2.22 A. The employee or authorized employee representative shall, on or before the
2.23 date the employee notice of contest form is filed with the commissioner, serve the fully
2.24 completed employee notice of contest form upon the cited employer. Immediately upon
2.25 receipt, the employer shall post a copy of the employee notice of contest form where the
2.26 citation and notification of penalty or notification of failure to abate is required to be

3.1 posted by part 5210.0530, subpart 3. The notice of contest form must remain posted until
3.2 the date of the hearing or earlier final disposition of the contest.

3.3 B. If there are any other affected employees who are represented by another
3.4 authorized employee representative, the contesting employee or authorized employee
3.5 representative shall, on or before the date the employee notice of contest form is required
3.6 to be filed with the commissioner, serve a copy of the notice of contest form upon that
3.7 authorized employee representative.

3.8 C. The certification of posting and service required by this subpart must be
3.9 notarized and filed with the commissioner as provided on the employee notice of contest
3.10 form.

3.11 Subp. 2. **Filing.**

3.12 [For text of item A, see M.R.]

3.13 B. Within seven days of the employee's or authorized employee representative's
3.14 receipt of the employee notice of contest form, the employee or authorized employee
3.15 representative shall file the fully completed form with the commissioner. The day the
3.16 notice of contest form is received shall not be included in calculating the seven calendar
3.17 days. The last day of the seven-day period shall be included, unless it is a Saturday,
3.18 Sunday, or state holiday, in which event the period runs until the next day which is not
3.19 a Saturday, Sunday, or state holiday. An employee notice of contest form may be filed
3.20 with the commissioner by postage prepaid first class mail, personal delivery, facsimile,
3.21 or electronic transmission according to part 5210.0007.

3.22 [For text of item C, see M.R.]

3.23 **EFFECTIVE DATE.** The amendments to Minnesota Rules, parts 5210.0007 to
3.24 5210.0539, are effective five working days after the notice of adoption is published in the
3.25 State Register, or January 1, 2014, whichever is later.

Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to OSHA Filing and Service

AGENCY: Department of Labor and Industry

MINNESOTA RULES: Chapter 5210

FILED
MAR 2014
(SEAL) SECRETARY OF STATE

RULE APPROVED
OFFICE OF ADMINISTRATIVE HEARINGS

March 10, 2014
DATE

Barbara Case
ADMINSTRATIVE LAW JUDGE.

The attached rules are approved for filing with the Secretary of State

Sheree Speer
Sheree Speer
Senior Assistant Revisor

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