**Section 350.210 Abatement Verification**

Illinois OSHA inspections are intended to result in the abatement of violations of the Act. This Section sets forth the procedures the Division will use to ensure abatement. These procedures are tailored to the nature of the violation and the employer's abatement actions.

a) Scope and Application

This Section applies to employers who receive a citation for a violation of the Act.

b) Definitions

1) Abatement means action by an employer to comply with a cited standard or regulation or to eliminate a recognized hazard identified by the Division during an inspection.

2) Abatement date means:

A) For an uncontested citation item, the later of:

i) The date in the citation for abatement of the violation;

ii) The date approved by the Division or established in litigation as a result of a petition for modification of the abatement date (PMA); or

iii) The date established in a citation by an informal settlement agreement.

B) For a contested citation item for which the Administrative Law Judge has issued a final order affirming the violation, the later of:

i) The date identified in the final order for abatement; or

ii) The date computed by adding the period allowed in the citation for abatement to the final order date;

iii) The date established by a formal settlement agreement.

3) Affected employees means those employees who are exposed to the hazards identified as violations in a citation.

4) Final order date means:

A) For an uncontested citation item, the 15th working day after the employer's receipt of the citation;

B) For a contested citation item:

i) The 30th calendar day after the date on which a decision or order of an ALJ has been docketed; or

ii) When review has been directed, the 30th calendar day after the date on which the ALJ issues a or order disposing of all or pertinent parts of a case; or

iii) The date on which an appeals court issues a decision affirming the violation in a case in which a final order of an ALJ has been stayed.

5) Movable equipment means a hand-held or non-hand-held machine or device, powered or unpowered, that is used to do work and is moved within or between worksites.

c) Abatement Certification

1) Within 10 calendar days after the abatement date, the employer must certify to the Division Manager that each cited violation has been abated, except as provided in subsection (c)(2).

2) The employer is not required to certify abatement if the Enforcement Inspector, during the on-site portion of the inspection:

A) Observes, within 24 hours after a violation is identified, that abatement has occurred; and

B) Notes in the citation that abatement has occurred.

3) The employer's certification that abatement is complete must include, for each cited violation, in addition to the information required by subsection (h), the date and method of abatement and a statement that affected employees and their representatives have been informed of the abatement.

d) Abatement Documentation

1) The employer must submit to the Division Manager, along with the information on abatement certification required by subsection (c)(3), documents demonstrating that abatement is complete for each willful or repeat violation and for any serious violation for which the Division Manager indicates in the citation that abatement documentation is required.

2) Documents demonstrating that abatement is complete may include, but are not limited to, evidence of the purchase or repair of equipment, photographic or video evidence of abatement, or other written records.

e) Abatement Plans

1) The Division Manager may require an employer to submit an abatement plan for each cited violation when the time permitted for abatement is more than 90 calendar days. If an abatement plan is required, the citation must so indicate.

2) The employer must submit an abatement plan for each cited violation within 25 calendar days from the final order date when the citation indicates that a plan is required. The abatement plan must identify the violation and the steps to be taken to achieve abatement, including a schedule for completing abatement and, when necessary, how employees will be protected from exposure to the violative condition in the interim until abatement is complete.

f) Progress Reports

1) An employer who is required to submit an abatement plan may also be required to submit periodic progress reports for each cited violation. The citation must indicate:

A) That periodic progress reports are required and the citation items for which they are required;

B) The date on which an initial progress report must be submitted, which may be no sooner than 30 calendar days after submission of an abatement plan;

C) Whether additional progress reports are required; and

D) The dates on which additional progress reports must be submitted.

2) For each violation, the progress report must identify, in a single sentence if possible, the action taken to achieve abatement and the date the action was taken.

g) Employee Notification

1) The employer must inform affected employees and their representatives about abatement activities covered by this Section by posting a copy of each document submitted to the Division Manager or a summary of the document near the place where the violation occurred.

2) When the posting does not effectively inform employees and their representatives about abatement activities (e.g., for employers who have mobile work operations), the employer must:

A) Post each document or a summary of the document in a location where it will be readily observable by affected employees and their representatives; or

B) Take other steps to communicate fully to affected employees and their representatives about abatement activities.

3) The employer must inform employees and their representatives of their right to examine and copy all abatement documents submitted to the Division Manager.

A) An employee or an employee representative must submit a request to examine and copy abatement documents within 3 working days after receiving notice that the documents have been submitted.

B) The employer must comply with an employee's or employee representative's request to examine and copy abatement documents within 5 working days after receiving the request.

4) 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 Division Manager and that abatement documents are:

A) Not altered, defaced or covered by other material; and

B) Remain posted for 3 working days after submission to the Division Manager.

h) Transmitting Abatement Documents

1) The employer must include, in each submission required by this Section, the following information:

A) The employer's name and address;

B) The inspection number to which the submission relates;

C) The citation and item numbers to which the submission relates;

D) A statement that the information submitted is accurate; and

E) The signature of the employer or the employer's authorized representative.

2) The date of postmark is the date of submission for mailed documents. For documents transmitted by other means, the date the Division Manager receives the document is the date of submission.

i) Movable Equipment

1) For serious, repeat and willful violations involving movable equipment, the employer must attach a warning tag or a copy of the citation to the operating controls or to the cited component of equipment that is moved within the worksite or between worksites. Attaching a copy of the citation to the equipment is deemed to meet the tagging requirement of this Section, as well as the posting requirements of Section 350.180.

2) The employer must use a warning tag that properly warns employees about the nature of the violation involving the equipment and identifies the location of the citation issued.

3) If the violation has not already been abated, a warning tag or copy of the citation must be attached to the equipment:

A) For hand-held equipment, immediately after the employer receives the citation; or

B) For non-hand-held equipment, prior to moving the equipment within or between worksites.

4) For the construction industry, a tag that is designed and used in accordance with 29 CFR 1926.20(b)(3) and 1926.200(h) is deemed to meet the requirements of this Section when the information required by subsection (i)(2) is included on the tag.

5) The employer must assure that the tag or copy of the citation attached to movable equipment is not altered, defaced or covered by other material.

6) The employer must assure that the tag or copy of the citation attached to movable equipment remains attached until:

A) The violation has been abated and all abatement verification documents required by this Section have been submitted to the Division Manager;

B) The cited equipment has been permanently removed from service or is no longer within the employer's control; or

C) The ALJ issues a final order vacating the citation.

(Source: Amended at 46 Ill. Reg. 3518, effective February 15, 2022)