

OVERVIEW OF ABATEMENT VERIFICATION REGULATION

What is abatement?

Abatement is the correction of the safety or health hazard/violation that led to a State of Connecticut, Department of Labor, Division of Occupational Safety and Health (CONN-OSHA) Citation.

Does this regulation apply to me?

This regulation applies to you only if you have received a citation from CONN-OSHA.

What do I have to do?

- Fix** the hazard.
- Certify** that you've fixed the hazard.
- Notify** your employees and their representatives that you have fixed the hazard.
- Send** document(s) to CONN-OSHA saying that you have abated the hazard.
- Tag** any cited movable equipment with a warning tag or a copy of the citation.

What happens if I don't comply?

You could get a citation for failure to **certify** to CONN-OSHA, **notify** employees, and **tag** movable equipment.

Abatement Verification: Who Does What

Employers must:

Certify that hazards/violations cited by CONN-OSHA during an inspection have been abated. CONN-OSHA has provided examples of simple abatement certification letters that employers may use to certify that they have abated each cited hazard.

Provide abatement documentation, abatement plans, and progress reports for some violations.

Inform affected employees and their representatives of the abatement action the employer has taken.

Allow employees to examine and copy abatement documents sent to CONN-OSHA.

Tag cited movable equipment to warn employees of the hazard. Employers can use tags of their own design or those that are available through CONN-OSHA.

CONN-OSHA will:

Document, during the inspection, any cited conditions that the employer permanently corrects; no further abatement certification is required for these corrected items.

Employees must:

Notify their employer, within three (3) working days of the time abatement information is sent to CONN-OSHA, that they wish to review or copy that information.

**STATE OF CONNECTICUT
DEPARTMENT OF LABOR
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH**

Guidelines for Preparing an Adequate Abatement Verification/Certification Letter

Abatement letters must contain the following:

- Specific corrective action taken to correct citation items
- The date stated corrections were completed
- Certification by the employer or authorized employer representative that
 - § Information provided in the letter is accurate
 - § Affected employees and their representatives have been informed of the abatement activities

State the Citation Number(s), the Item Number(s), and the Instance (Location) Letter. Enter date of completion and the specific corrective action taken, including any applicable dimensions, photographs, materials, specifications, personal protective equipment, engineering controls, measurements or readings and purchase orders. If overexposure to an air contaminant or noise has been cited, sampling results need to be reported to verify compliance and document effectiveness of controls.

Example: **The hazard referenced in Inspection Number 123456789 for the violation identified as Citation 1 and Item 1 was corrected on 01/04/16 by installing a lower blade guard on the table saw. (photo included)**

The hazard referenced in Inspection Number Same for the violation identified as Citation 2 and Item 1 was corrected on 01/05/16 by buying gloves for the employee who stocks the bulk supplies in the loft and making sure he uses them (copy of purchase order included).

I attest that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement activities described in this certification. Signature Mr. John Doe

Your file cannot be closed if the abatement verification/certification letter does not provide the proper information and, if applicable, assessed penalties are not paid. An inadequate employer response increases the possibility of scheduled follow-up inspections.

If an informal conference is scheduled, you should provide information regarding the status of corrective actions taken to abate the cited violation.

Please direct correspondence to:

**State of Connecticut, Department of Labor
Division of Occupational Safety and Health
38 Wolcott Hill Road
Wethersfield, CT 06109**

SAMPLE ABATEMENT CERTIFICATION (Blank)

Mr. John Rosa, Occupational Safety & Health Program Manager
State of Connecticut, Department of Labor
Division of Occupational Safety and Health
38 Wolcott Hill Road
Wethersfield, CT 06109

[Name of Municipality or State Agency]
[Address of Municipality or State Agency]

The hazard referenced in Inspection Number _____ for the violation identified as Citation _____ and Item _____ was corrected on _____ by _____.

The hazard referenced in Inspection Number _____ for the violation identified as Citation _____ and Item _____ was corrected on _____ by _____.

The hazard referenced in Inspection Number _____ for the violation identified as Citation _____ and Item _____ was corrected on _____ by _____.

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The hazard referenced in Inspection Number _____ for the violation identified as Citation _____ and Item _____ was corrected on _____ by _____.

I attest that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement activities described in this certification.

Signature

Typed or Printed Name

SAMPLE ABATEMENT CERTIFICATION (Completed)

Mr. John Rosa, Occupational Safety & Health Program Manager
State of Connecticut
Department of Labor
Division of Occupational Safety and Health
38 Wolcott Hill Road, Wethersfield, CT 06109

My Municipality/State Agency
111 High Street
Any Town, ST 99999

The hazard referenced in Inspection Number 123456789 for the violation identified as Citation 1 and Item 1 was corrected on 01/04/16 by installing a lower blade guard on the table saw .

The hazard referenced in Inspection Number Same for the violation identified as Citation 1 and Item 2 was corrected on 01/05/16 by installing a 42 inch high guardrail per OSHA across the storage loft's opening where OSHA said I needed one .

The hazard referenced in Inspection Number Same for the violation identified as Citation 2 and Item 1 was corrected on 01/04/16 by buying gloves for the employee who stocks the bulk supplies in the loft and making sure he uses them .

The hazard referenced in Inspection Number _____ for the violation identified as Citation _____ and Item _____ was corrected on _____ by _____

The hazard referenced in Inspection Number _____ for the violation identified as Citation _____ and Item _____ was corrected on _____ by _____

I attest that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement activities described in this certification.

John Smith

Signature

John Smith

Typed or Printed Name

QUESTIONS MOST FREQUENTLY ASKED ABOUT ABATEMENT VERIFICATION

SCOPE, APPLICATION, AND GENERAL ISSUES

- What is abatement?**
Abatement is the correction of the safety or health hazard/violation that led to a CONN-OSHA citation.
- What is abatement verification?**
It is the process by which an employer informs CONN-OSHA, affected employees, and their representatives that a hazard cited by CONN-OSHA has been corrected.
- When does the regulation affect an employer?**
When the employer receives a CONN-OSHA citation from an inspection.
- How will employees benefit from the new rule?**
Employees and their representatives now will be informed of the abatement activities taken by their employers. Movable equipment that is cited must be tagged to alert employees to the danger posed by the equipment.
- By regulation, how long after transmission of an abatement document to CONN-OSHA, must an employer retain the submitted document?**
Three (3) working days is the required employee-notification period.
- What effect does the regulation have on an employer's right to contest a citation?**
None. The regulation does not restrict the right of employers, employees, and employee representatives to contest citation item(s).
- When do abatement verification obligations begin if an employer contests a citation?**
Until a contested item is resolved, the abatement verification process is delayed for that item.

ABATEMENT CERTIFICATION

- What is the difference between abatement certification and abatement documentation?**
Abatement certification is the "affidavit or signed statement" the employer sends to CONN-OSHA. Abatement documentation is the "proof of correction" the employer sends to CONN-OSHA as evidence that the hazard has been corrected, such as pictures or receipts or work orders.

What does CONN-OSHA mean by the phrase "the employer must certify" in paragraph (c)(1) of the regulation?

Certification means that the employer must submit a brief signed statement that the hazardous condition(s) has been corrected.

How is abatement certification accomplished?

An employer or an authorized employer representative must inform CONN-OSHA in a signed letter of the abatement actions they have taken. A sample abatement certification letter is available in Appendix A of the regulation. The letter must include the following identifying information:

- Inspection, citation, and item numbers for each violation.
- Date of abatement.
- A statement that the violation was abated.
- A brief description of how the hazardous condition was abated.
- A statement informing CONN-OSHA that affected employees and their representatives were informed of the abatement actions.
- A statement that the information provided in the letter is accurate.

ABATEMENT DOCUMENTATION

What is acceptable documentation?

Documentation is acceptable if it clearly proves that the violation has been corrected. [The quality or acceptability of documentary evidence will be assessed by CONN-OSHA, either during abatement negotiations with the employer or after receipt of the abatement documentation.] CONN-OSHA will discuss documentation with you at the inspection closing conference, or when citations are issued. If the documentation you send is not acceptable, CONN-OSHA will let you know.

Which citations require documentary evidence of abatement in addition to certification?

All "willful" and "repeat" violations and those serious violations for which the CONN-OSHA Director requires such evidence.

Are there examples of appropriate documentary evidence of abatement other than those examples provided in the regulation?

The regulation does not mandate specific types of documentary evidence of abatement; making this determination is the employer's responsibility.

The following types of documentation that are generally acceptable are:

- A photograph or videotape of the abated condition.
- A copy of an invoice or sales receipt for equipment used to achieve abatement.

- A report by a safety and health professional describing actions taken to abate the hazard or describing the results of analytical testing that substantiates abatement.
- Documentation from the manufacturer that the article repaired is within the manufacturer's specifications.
- A copy of a signed contract for goods and services (for example, for needed protective equipment, an evaluation by a safety engineer, etc.).
- Records of training completed by employees (if the citation is related to training).
- A copy of program documents if the citation relates to a missing or inadequate program, such as a deficiency in the employer's respirator program or hazard communication program.

ABATEMENT PLANS

- When is an abatement plan required by CONN-OSHA?**
When the abatement period on the citation is more than 90 calendar days and the citation states that an abatement plan is required.
- For which violations can CONN-OSHA require abatement plans?**
For serious, willful, and repeat violations having abatement periods lasting more than 90 days.
- Are abatement plans required for Other Than Serious violations?**
No.
- What happens if an employer asks for more time to abate, and this additional time extends the period of abatement to more than 90 days?**
The CONN-OSHA Director may require abatement plan if the violation is a serious, willful, or repeat violation. Your Petition for Modification of Abatement date (PMA) normally would require speaking to CONN-OSHA. Full compliance with the conditions for requesting additional abatement time may convince the CONN-OSHA Director that abatement plans are not needed.
- Does an employer have to submit an abatement plan if a violation is corrected before the plan is due?**
No. The employer must, however, still certify that abatement has occurred.
- Can employers combine abatement plans into one submission to CONN-OSHA?**
Yes, provided each plan is submitted on time.

PROGRESS REPORTS

- How do I know if a progress report is required?**
The citation will say so.

- Can an employer use the same form for the progress report and the abatement plan if these are required?**

Yes.

- Does an employer have to submit a progress report if a violation is corrected before the report is due?**

No. The employer must, however, still certify to CONN-OSHA that abatement has occurred.

EMPLOYEE NOTIFICATION OF ABATEMENT ACTIONS

- What abatement information must be provided to affected employees?**

The same information that is given to CONN-OSHA, as well as a notice of their right to examine and copy the information.

- Who are "affected employees"?**

Affected employees are those employees exposed to the hazard(s) identified as a violation(s).

- Do employees have to be notified of the abatement certification letter?**

Yes. A copy of the letter must be posted unless posting it will not inform affected employees because they work off site or travel from one work site to another. In such cases, other methods of notifying employees must be used. (see next question)

- When posting would not fully inform employees, what are examples of methods that an employer can use to inform affected employees about abatement actions?**

Employers who have mobile work operations, or who do not assemble employees routinely at a central location, may use a means other than posting to communicate with employees.

The following are examples of methods acceptable to CONN-OSHA when posting is ineffective:

- Including the document or summary of it in affected employees' pay envelopes or with their paychecks.
- Posting the document inside the lid of the toolbox (gang box) or in a visible location in the compartment where the cited equipment is normally stored.
- Attaching the document to the visible surface of a vehicle's sun visor where the cited equipment is located.
- Attaching the document to a clipboard on a vehicle's dashboard where the cited equipment is located (but not inside a vehicle's glove compartment).
- Presenting or discussing the contents of the documents at a training, safety, or other meeting with affected employees.
- Publishing the contents of the document in an employee newsletter or another general communication medium that reaches affected employees and their representatives.

Any method that creates a hazard (such as a visibility hazard) cannot be used.

For how long must the abatement materials be posted?

Three working days after submission to CONN-OSHA.

TRANSMITTING ABATEMENT DOCUMENTS TO CONN-OSHA

In addition to the mail, what other means of transmitting abatement documents are acceptable to the Agency?

Hand delivery and facsimile (fax) are two examples of acceptable methods of transmitting documents. If the materials submitted are not legible, they may be deemed unacceptable by the Agency.

What about e-mail?

At present, e-mail transmission is not acceptable.

TAGGING MOVABLE EQUIPMENT

What does tagging mean?

Tagging means that the employer puts a warning tag or a copy of the citation on the operating controls or cited components of the movable equipment.

What is the purpose of tagging?

The tag warns employees about the cited hazard, briefly describes the violation, and tells them where they can find the complete citation.

Are there any advantages to using a copy of the citation instead of a warning tag to meet the tagging requirement?

Yes. Affixing a copy of the citation to the operating controls or cited components of the movable equipment provides the employees with more information than is on the tag and using a copy of the citation for this purpose also fulfills the employer's obligation. If a warning tag is used, the employer must still post a copy of the citation, although the copy does not have to be posted at the point of violation.

What kind of a warning tag can be used?

Employers can use the warning tag displayed in Appendix C of the regulation or the tag provided by CONN-OSHA or they can use any "warning" tag that provides the information required by the regulation.

What is movable equipment?

Any machine or device, hand-held or not that is moved within the work site where it was cited, or is moved to another work site.

- Does an employer have to tag movable equipment that has been cited for an Other Than Serious violation?**
No. Movable equipment has to be tagged only if it is cited for a serious, repeat, or willful violation.
- What is hand-held equipment?**
It is equipment that is hand-held when operated. Examples of hand-held equipment are a hand grinder and a portable electric drill. A drill press is not considered to be hand-held equipment.
- When does cited hand-held equipment have to be tagged?**
The tag or citation has to be put on the operating controls or cited components of the equipment immediately after the citation is received.
- Does cited hand-held equipment have to be tagged immediately, even if it is not moved or used?**
Yes.
- What is movable non-hand-held equipment?**
It is equipment that is not-hand-held when operated, such as a drill press, lathe, or other mounted equipment.
- Does cited personal protective equipment (PPE), including respirators and eye and face protection, have to be tagged?**
No. CONN-OSHA considers PPE deficiencies violations of the PPE standard, not movable equipment violations.
- Does an employer who receives a citation for violations involving rented equipment have to tag it?**
Yes.
- Does an employer have to tag equipment, such as a trailer or a truck, that was cited for not having chocks in place if that equipment has been moved?**
No, because such a violation arises from an administrative or procedural violation (the use of chocks), not a hazard of the truck or trailer itself.
- Does cited movable equipment have to be tagged if it is owned by an affected employee?**
Yes. An employer's duty under the Occupational Safety and Health Act to maintain a safe and healthful workplace applies to employee-owned equipment that the employer allows to be used at the work site.
- Does an employer have to tag all similar movable equipment that poses the same hazard as the cited equipment but was not cited by CONN-OSHA (for example, all ladders if a single ladder was cited)?**
Such tagging is not required by this regulation; however, the employer can be cited for a repeat or willful violation if a CONN-OSHA compliance officer identifies the violation during a later inspection.

When can the tag or copy of the citation be removed from the cited equipment?

The tag may be removed when the employer:

- Corrects the cited violation and submits all required abatement verification documents to the CONN-OSHA Director.
- Permanently removes the cited equipment from service (for example, makes it inoperable).
- Receives a Commission order stating that the Commission has vacated the citation (for contested citations only).
- No longer controls the equipment (for example, sells it and places it under the control of the buyer or returns it to the rental company).

Does a warning tag have to stay on cited equipment that is sold and is no longer under the control of the seller?

No. The seller of the cited equipment is not responsible for tagging or abating a hazard once the equipment is sold and is no longer under the seller's control.

If an employer buys tagged equipment, what will happen?

The buyer isn't responsible for the original citation, but can be cited by CONN-OSHA for having hazardous equipment (just like the former owner) if the hazard is still uncorrected.

Can the buyer of tagged equipment be cited for a willful violation?

If the buyer knew about the hazard (for example, the employer was told about the hazard by the seller or saw the warning tag or citation on the equipment), the buyer can be cited for a willful violation.

What should a buyer do with the tags or citations on cited equipment?

CONN-OSHA recommends that the buyer keep the tags or citations on the equipment until the hazard is corrected.

What if an employer buys equipment that has been cited, but there's no tag on it?

If the buyer knows that it has been cited, or knows that it is hazardous, the buyer must correct the hazard before making the equipment available to employees for their use.

If an employer moves cited equipment for use on another work site of that employer, does the tag stay on the equipment?

Yes.