



THE OSHA 15-DAY RULE

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It's never a happy day for a contractor to find that an OSHA inspector has come to the job site either as part of a general inspection or to investigate an accident. As the inspector moves around the job site, make sure that an experienced management representative walks with him or her. The inspector may note some minor violations that can be corrected immediately. The management representative should ensure that those violations are in fact corrected by the time the inspector is ready to leave the job site and write his/her report.

If you receive a citation for violating the Occupational Safety and Health Act and you are assessed a fine, you can challenge both the citation and the amount of the assessment. You can schedule a meeting with the regional director and argue either that you have not violated the Act, the level of the citation, or the amount of the fine. If you cannot reach an agreement at the regional director level, you must file a notice that you are contesting the citation finding of liability and the amount of the fine. This notice must be filed within 15 days of the time that you receive the citation. If you file a notice contesting the finding, your case will automatically be referred to the OSHA

Review Commission and an Administrative Law Judge will be assigned to hold the hearing on the matter. If you do not file within the 15 days provided, you will have waived your right to appeal.

Often employers believe that if they contact the Regional Administrator and start negotiating a settlement, they have provided a notice that they are contesting the citation. This is wrong. Once you get the citation, you have 15 working days to file your notice that you are contesting the citation. If you are in the middle of negotiations and the 15-day period is drawing to a close, file your notice even if you believe that you will settle. Failure to file can cost you the right to appeal.

The 15-day rule for filing appeals is a rule that OSHA takes very seriously. Whenever you get an OSHA citation, you should consider automatically filing a notice of appeal just to preserve your rights. NEA contractors should check with their OSHA counsel to ensure that company employees dealing with OSHA inspectors are following the proper procedures.