

WAC 296-900-17005 Appealing a citation and notice (C&N).

IMPORTANT :

1. Employers may appeal C&Ns.
2. Employees of the cited employer, or their designated representatives, may only appeal abatement dates.
3. The filing of an appeal does not stay the abatement date for violations classified as serious, willful, repeat serious, or failure to abate serious. Employers may request a stay of abatement date for these classifications of violations when they appeal a C&N.

(1) You must, when appealing, submit a written appeal to DOSH within fifteen working days after receiving the C&N. Include the following information:

- (a) Business name, address, and telephone number.
- (b) Name, address, and telephone number of any employer representative.
- (c) C&N number.
- (d) What you believe is wrong with the C&N and any related facts.
- (e) What you believe should be changed, and why.
- (f) Requests for stay of abatement date according to WAC 296-900-17006.

(g) A signature and date.

(2) You must send appeals in any of the following ways:

- Mail to:

Assistant Director for DOSH Services
Attn: DOSH Appeals
P.O. Box 44604
Olympia, WA 98504-4604

- Fax to: 360-902-5581

- Electronically to: DOSHappeals@lni.wa.gov

- Take to any department service location.

Reference: See the resources section of the Safety and health core rules, chapter 296-800 WAC, for a list of the local offices.

Note: The postmark is considered the submission date of a mailed request.

(3) Employees or their designated representatives must, when appealing C&N abatement dates, submit a written request to DOSH within fifteen working days after the C&N is received. Include the following information:

(a) Name of employee, address, telephone number.

(b) Name, address, and telephone number of any designated representative.

(c) C&N number.

(d) What is believed to be wrong with the abatement date.

(e) A signature and date.

(4) Employees or their designated representatives must send appeals in any of the following ways:

- Mail to:

Assistant Director for DOSH Services
Attn: DOSH Appeals
P.O. Box 44604
Olympia, WA 98504-4604

- Fax to: 360-902-5581

- Electronically to: DOSHappeals@lni.wa.gov

- Take to any L&I service location.

Reference: See the resources section of the Safety and health core rules, chapter 296-800 WAC, for a list of the local offices.

Note: The postmark is considered the submission date of a mailed request.

What to expect from DOSH:

(5) After receiving an appeal, DOSH will do one of the following:

(a) Reassume jurisdiction over the C&N, and notify the person who submitted the appeal.

(b) Forward the appeal to the board of industrial insurance appeals. The board will send the person submitting the appeal a notice with the time and location of any board proceedings.

Definition:

Reassume jurisdiction. DOSH has decided to provide the employer with an informal conference to discuss their appeal.

(6) When reassuming jurisdiction over a C&N, DOSH has thirty working days after receiving the appeal to review it, gather more information, and decide whether to make changes to the C&N. The review period:

(a) Begins the first working day after the appeal is received. For example, if an appeal is received on Friday, the thirty days will begin on the following Monday unless it's a state holiday.

(b) May be extended up to forty-five additional working days, if everyone involved agrees and signs an extension agreement within the initial thirty-day period.

(c) Will include an informal conference about the appeal that is an opportunity for interested parties to:

(i) Briefly explain their positions.

(ii) Provide any additional information they would like DOSH to consider when reviewing the C&N.

(iii) Provide any additional information they would like DOSH to consider when reviewing stay of abatement date requests.

Note:

DOSH might reassume jurisdiction over a C&N to do any of the following:

1. Provide an employer and affected employees an opportunity to present relevant information, facts, and opinions during an informal conference.

2. Give an employer, affected employees, and the department an opportunity to resolve appeals rapidly and without further contest, especially in routine compliance cases.

3. Educate employers about the C&N, the DOSH appeals process, and DOSH compliance.

4. Review citations, penalties, and abatement dates. Although informal, the conference is an official meeting and it may be either partially or totally recorded. Participants will be told if the conference is recorded.

5. Review requests to stay abatement dates.

(7) On or before the end of the thirty working day review period, or up to seventy-five working days if everyone involved agrees to the extension of up to forty-five additional working days, DOSH will issue a corrective notice of redetermination that:

(a) Reflects any changes made to the C&N.

(b) Grants or denies requests to stay abatement dates and includes the basis of the decision.

(c) Is sent to the employer, employees, and employee representatives participating in the appeal process.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060. WSR 17-22-117, § 296-900-17005, filed 10/31/17, effective 1/1/18. Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060 and 2011 c 91. WSR 12-02-055, § 296-900-17005, filed 1/3/12, effective 7/1/12. Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 06-06-020, § 296-900-17005, filed 2/21/06, effective 6/1/06.]