

No. 9 The Particulars on OSHA Violations: How Much Notice is Enough?

Article By:

Jared B. Caplan

Anne R. Yuengert

Just what does an OSHA citation have to include? Section 9(a) of the Occupational Safety and Health Act requires that citations

“describe with particularity the nature of the violation, including a reference to the provision of the Act, standard, rule, regulation, or order alleged to have been violated.”

This statutory mandate is designed to ensure that OSHA properly informs employers of alleged violations so they can correct hazards promptly and avoid unnecessary litigation.

However, the Occupational Safety and Health Review Commission and the courts have consistently interpreted this requirement to mean that citations need only provide employers with “fair notice” of the violation. In other words, as long as an employer is put on notice that a particular condition may violate OSHA standards, additional specifics can be obtained through discovery. As a result, OSHA often issues citations with broad language rather than granular detail.

Why Broad Citations Matter

Broad or vague citations can create real challenges for employers. Without concrete details about the alleged violation, it is more difficult to prepare a defense or implement targeted abatement measures. It also raises the risk that OSHA may later characterize a future, different condition as a “repeat” violation, potentially triggering higher penalties.

Practical Tips for Employers

1. Request Specifics Immediately

Upon receiving an ambiguous citation, promptly *ask the OSHA safety and compliance officer* for more details. The sooner you clarify the alleged violation, the better you can address it — or dispute it if necessary.

2. Leverage OSHA Informal Conferences

During the informal conference process, request a clear explanation of the violation. If you reach a settlement, consider asking OSHA to amend the citation to include more precise language. This not only helps with abatement but can safeguard you against future mischaracterizations.

3. **Document Everything**

Keep a written record of all communications with OSHA, including your requests for clarification and any responses from the agency. Solid documentation can help build a stronger case if you need to contest the citation.

4. **Seek Legal Counsel**

Engaging experienced OSHA counsel early in the process can be invaluable. Your attorney can help you formulate strategic requests for specificity, negotiate the terms of any settlement, and ensure you are well-positioned to avoid repeat citations down the road.

Final Thoughts

OSHA citations, even when vaguely worded, carry significant consequences. Understanding your rights under Section 9(a) and proactively seeking clarity on any ambiguous charges is essential. By requesting more detail and keeping thorough records, you can better protect your organization — and your workers — from both immediate and future hazards.

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