

§215.15

(4) The appeal is illegible for any reason, including those submitted electronically in a format different from that specified in the legal notice.

§215.15 Appeal time periods and process.

(a) *Time to file an appeal.* Written appeals, including any attachments, must be filed with the Appeal Deciding Officer within 45 days following the publication date of the legal notice of the decision in the newspaper of record (§215.7). It is the responsibility of appellants to ensure that their appeal is received in a timely manner.

(b) *Computation of time periods.* (1) All time periods are computed using calendar days, including Saturdays, Sundays, and Federal holidays. However, when the time period expires on a Saturday, Sunday, or Federal holiday, the time is extended to the end of the next Federal working day (11:59 p.m.).

(2) The day after the publication of the legal notice of the decision in the newspaper of record (§215.7) is the first day of the appeal-filing period.

(3) The publication date of the legal notice of the decision in the newspaper of record is the exclusive means for calculating the time to file an appeal. Appellants should not rely on dates or timeframe information provided by any other source.

(c) *Evidence of timely filing.* When there is a question about timely filing of an appeal, timeliness shall be determined by:

(1) The date of the postmark, e-mail, fax, or other means of filing (for example, express delivery service) an appeal and any attachment;

(2) The time and date imprint at the correct Appeal Deciding Officer's office on a hand-delivered appeal and any attachments; or

(3) When an appeal is electronically mailed, the appellant should normally receive an automated electronic acknowledgment from the agency as confirmation of receipt. If the appellant does not receive an automated acknowledgment of the receipt of the appeal, it is the appellant's responsibility to ensure timely receipt by other means.

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(d) *Extensions.* Time extensions, except as noted in paragraph (b) of this section, are not permitted.

(e) *Other timeframes.* Unless an appeal is resolved through the informal disposition process (§215.17), the following timeframes and processes shall apply:

(1) *Transmittal of decision documentation.* Within 15 days of the close of the appeal-filing period, the Responsible Official shall transmit the decision documentation to the Appeal Reviewing Officer including a list of those individuals or organizations who submitted substantive comments.

(2) *Appeal disposition.* Within 45 days following the end of the appeal-filing period, the Appeal Deciding Officer should render a written decision to the appellant(s) concerning their appeal. When an appeal decision is not rendered by day 45, the Appeal Deciding Officer shall notify the appellant(s) in writing that an appeal decision will not be issued (§215.18(b)).

(3) When an appeal decision is not issued within 45 days, the Responsible Official's decision is deemed the final agency action.

§215.16 Dismissal of appeal without review.

(a) The Appeal Deciding Officer shall dismiss an appeal without review when one or more of the following applies:

(1) The postmark on an appeal mailed or otherwise filed (for example, express mail service) or the evidence of the date sent on an e-mailed or faxed appeal is not within the 45-day appeal-filing period (§215.15).

(2) The time and date imprint at the correct Appeal Deciding Officer's office on a hand-delivered appeal is not within the 45-day appeal-filing period (§215.15).

(3) The requested relief or change cannot be granted under law or regulation.

(4) The appellant has appealed the same decision under part 251 (§215.11(d)).

(5) The decision is not subject to appeal (§215.12).

(6) The individual or organization did not submit substantive comments during the comment period (§215.6).

(7) The Responsible Official withdraws the decision.