

24 NCAC 03 .0101 is adopted with changes as published in 39:24 NCR 1624 as follows:

24 NCAC 03 .0101 DEFINITIONS

As used herein:

- (1) "Act" means the Occupational Safety and Health Act of North Carolina, Article 16, Chapter 95 of the General Statutes.
- (2) "Affected employee" means an employee of a cited employer who is exposed to or has access to the alleged hazard described in the citation.
- (3) "Hearing ~~examiner~~ Examiner" is synonymous with the "Administrative Law Judge" and means a person appointed by the Chairman of the ~~Safety and Health Review Board of North Carolina~~, North Carolina Occupational Safety and Health Review Commission pursuant to G.S. 95-135(c).
- (4) "Authorized employee representative" means a labor organization whether local or international which has a collective bargaining relationship with the cited employer and which represents affected employees. Such an organization may appear through an authorized representative. Affected employees may appear pro se (unrepresented by counsel), through an attorney at law law, or through an authorized employee representative. See Rules .0202 and .0203 of this Chapter.
- (5) "Authorized representative" includes an authorized employee representative; a bona fide full-time officer or employee of a party or intervenor which is an association, partnership, corporation, or other business entity entity; and, for a cited employer, includes its attorney at law of record but excludes private safety consultants.
- (6) "Citation" means a written communication issued by the Commissioner of Labor to an employer pursuant to G.S. 95-137, G.S. 95-137.
- (7) "Notification of proposed penalty" means a written communication issued by the Commissioner of Labor to an employer pursuant to G.S. 95-137, G.S. 95-137.
- (8) "Day" means a calendar day.
- (9) "Working day" means all days except Saturdays, Sundays, and days which North Carolina observes as holidays, which may differ from Federal holidays.
- (10) "Proceeding" means any proceeding before the ~~Safety and Health Review Board of North Carolina~~ North Carolina Occupational Safety and Health Review Commission or ~~hearing examiner~~, Hearing Examiner.
- (11) "Respondent" means an employer who has been issued a citation.
- (12) "Complainant" means the Commissioner of Labor of North Carolina.
- (13) "Pleadings" are complaints and answers filed under Rule .0304 of this Chapter, petitions for modification of abatement and objecting parties' responses filed under Rule .0305 of this Chapter, and statements of reasons and contestants' responses filed under Rule .0306 of this Chapter. A "motion" is not a pleading within the meaning of these Rules.

1 (14) “E-File System” means to file documents with the Occupational Safety and Health Review
2 Commission by email to the Review Commission’s filing email address:
3 NCOSHRC@oshrc.labor.nc.gov.

4 (14)(15) Unless otherwise specified, definitions set forth in G.S. 95-127 are hereby adopted.

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6 *History Note: Authority G.S. 95-135;*
7 *Temporary Rule Eff. October 2, 1991 For a Period of 180 Days to Expire on March 30, 1992;*
8 *Eff. February 3, 1992;*
9 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest ~~Eff. December~~*
10 *~~16, 2014~~ Eff. December 16, 2014;*
11 *Amendment Eff. October 1, 2025.*

24 NCAC 03 .0105 is amended as published in 39:24 as follows:

24 NCAC 03 .0105 EXTENSIONS OF TIME

Requests for extensions of time for the filing of any pleading or documents must be received in the Review ~~Board~~ Commission office ~~three days~~ in advance of the date on which the pleading or document is due to be filed. Such requests may be oral or in writing. Oral requests shall be followed by a letter or email addressed to the Office of the Review ~~Board~~, Commission, setting out the substance of the request. In exigent circumstances an extension of time may be granted even though the request was filed after the designated time for filing has expired. In such circumstances, the party requesting the extension must show, in writing, the reasons for the party's failure to make the request before the time prescribed for the filing had expired. The motion may be acted upon before the time for response has expired.

History Note: Authority G.S. 95-135;

Temporary Rule Eff. October 2, 1991 For a Period of 180 Days to Expire on March 30, 1992;

Eff. February 3, 1992;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest ~~Eff. December 16, 2014.~~ Eff. December 16, 2014;

Amendment Eff. October 1, 2025.

24 NCAC 03 .0106 is amended as published in 39:24 as follows:

24 NCAC 03 .0106 RECORD ADDRESS

(a) The initial pleading filed by any person shall contain that person's name, physical address and mailing address, email address, and telephone number. Any change in such information must be communicated promptly in writing to the Review ~~Board,~~ Commission, and to all other parties and intervenors. A party or intervenor who fails to furnish such information shall be deemed to have waived his right to notice and service under these Rules.

(b) Representatives, parties, and intervenors who file case documents electronically in the Commission's E-File System pursuant to Rule .0108 of this Section, are responsible for both maintaining a valid email address associated with the registered account and regularly monitoring that email address.

History Note: Authority G.S. 95-135;

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Eff. February 3, 1992;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest ~~Eff. December 16, 2014.~~ Eff. December 16, 2014;

Amendment Eff. October 1, 2025.

1 Rule 24 NCAC 03 .0107 is amended as published in 39:24 as follows:

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3 **24 NCAC 03 .0107 SERVICE AND NOTICE**

4 (a) At the time of filing pleadings or other documents, a copy thereof shall be served by the filing party or intervenor on
5 every other party or intervenor by postage prepaid first-class or by personal delivery. For electronically-filed documents
6 filed via the Review Commission's E-file System, service shall be deemed accomplished by the simultaneous service of
7 the document by email on all other parties and intervenors in the case, together with proof of service pursuant to
8 paragraph (d) of this section. If affected employees are represented by an authorized employee representative, the
9 Complainant and the Respondent shall serve a copy of the Statement of Employer's/Respondent's Position, and, where
10 applicable under Rule .0304 of this Chapter, copies of the complaint and answer in this case on the authorized employee
11 representative in accordance with Paragraph (c) of this Rule. Both the Complainant and the Respondent shall also serve
12 on any authorized employee representative notice of any request for or proposed modification of abatement. In cases in
13 which employees are represented by an authorized employee representative, the Complainant and Respondent shall
14 notify the ~~Board~~ Review Commission of this fact within 10 days after filing of their Statement of
15 Employer's/Respondent's Position, and in such cases, the ~~Board~~ Review Commission shall serve on the authorized
16 employee representative notice of hearings and copies of any final order of the ~~Board~~ Review Commission or ~~hearing~~
17 ~~examiners~~ Hearing Examiners in the manner prescribed by Paragraph (c) of this Rule.

18 (b) Service upon a party or intervenor who has appeared through an authorized representative or attorney need be made
19 only upon such authorized representative or attorney.

20 (c) Unless otherwise ordered, service may be accomplished by postage prepaid first-class mail, ~~or by personal delivery.~~
21 delivery, or by e-mail if agreed to by all parties. Service is deemed effected at the time of mailing (if by mail) or at the
22 time of personal delivery (if by personal ~~delivery~~), delivery, or at the time the e-mail was sent (if by e-mail).

23 (d) Proof of service shall be accomplished by a written statement attached to the document served which sets forth the
24 date and manner of service. Such certificate of service shall be filed with the ~~pleading or document.~~ pleading, document,
25 or recording.

26 (e) Service to employees shall be accomplished by posting in at least one location where all affected employees have an
27 opportunity to read the notice or pleading. Proof of posting shall be filed not later than the first working day following
28 the posting.

29 (f) The Employer Respondent must post notice of contest, notice of hearing, ~~notice of withdrawal,~~ notice of ~~settlement~~
30 ~~settlement,~~ and any order or decision of a ~~hearing examiner~~ Hearing Examiner or of the ~~Board~~ Review Commission
31 other than a procedural ~~order,~~ order. The Employer Respondent must also post as well as the notice informing affected
32 employees of their right to elect party status in any proceedings pursuant to Rule .0201 of this Chapter and of their right
33 to contest the provisions of the abatement ~~period must be posted.~~ period.

34 (g) The notice to affected employees in the following form shall be required to be posted to comply with the
35 requirements pursuant to Paragraph (f) of this Rule and shall be as follows:

36 TO THE EMPLOYEES OF:

1 Your employer has been charged with a violation of the Occupational Safety and Health Act of North Carolina and is
2 contesting this alleged violation before the Safety and Health Review ~~Board~~, Commission, an independent agency. If
3 you want to have a say in this matter, you must write to:

4 ~~Safety and Health~~
5 ~~Review Board of~~ North Carolina Occupational
6 Safety and Health Review Commission
7 ~~121 West Jones Street~~
8 1101 Mail Service Center
9 Raleigh, North Carolina ~~27603~~, 27699
10 NCOSHRC@oshrc.labor.nc.gov.

11 As an affected employee, you have a right to participate in this matter as a party. To participate as a party, you must
12 request party status.

13 Write to:

14 ~~Safety and Health~~
15 ~~Review Board of~~ North Carolina Occupational
16 Safety and Health Review Commission
17 ~~121 West Jones Street~~
18 1101 Mail Service Center
19 Raleigh, North Carolina ~~27603~~, 27699
20 NCOSHRC@oshrc.labor.nc.gov.

21 (h) The notice of settlement and notice for modification of abatement must be posted.

- 22 (1) Settlement. In any case where a settlement is proposed, a hearing shall be held on request of any party,
23 intervenor, employee, or authorized employee representative. The employer must post a notice
24 indicating that a settlement is proposed and that the settlement may be approved by a ~~hearing~~
25 ~~examiner~~, Hearing Examiner without a hearing, unless objection is received from any party,
26 intervenor, employee, or authorized employee representative within 15 working days of the date of the
27 posting of the notice of proposed settlement. Such notice of proposed settlement shall be posted
28 promptly after the parties agree on the proposed settlement, and in no case later than five days after the
29 agreement on the proposed settlement. The notice must inform employees that they have a right to
30 object to the reasonableness of any abatement time and that to protect such rights they must write to
31 the ~~Safety and Health Review Board of North Carolina, 121 West Jones Street, Raleigh, North~~
32 ~~Carolina 27603~~, North Carolina Occupational Safety and Health Review Commission, 1101 Mail
33 Service Center, Raleigh, North Carolina, 27699, NCOSHRC@oshrc.labor.nc.gov., stating the grounds
34 for their objection and their desire to participate.
- 35 (2) Modification of Abatement. In any case where a petition for modification of abatement is filed, the
36 employer must post a notice in a conspicuous place of this fact, together with a notice that employees
37 or authorized employee representatives have a right to object to the proposed modification of

1 abatement. The notice must inform affected employees that they have a right to appear to object to the
2 proposed modification of abatement; and that to protect such a right they must file notice of their
3 objection within 15 working days from the date of posting of such petition for modification of
4 abatement and documents pertaining to the case may be inspected at the Review ~~Board~~ Commission
5 office. Such notice must be filed with the ~~Safety and Health Review Board of North Carolina, 121~~
6 ~~West Jones Street, Raleigh, North Carolina 27603.~~ North Carolina Occupational Safety and Health
7 Review Commission, 1101 Mail Service Center, Raleigh, North Carolina, 27699,
8 NCOSHRC@oshrc.labor.nc.gov.

9 (i) ~~Where a notice of objection to an abatement period is filed by an employee or employee representative, it an~~
10 ~~employee or employee representative files notice of objection to an abatement period, the notice~~ must be served on the
11 Complainant, the ~~Department of Labor, Commissioner of Labor of North Carolina,~~ and on the employer in the manner
12 described in Paragraph (c) of this Rule. The employer shall then post the notice.

13 (j) Where posting is required by this Rule, such posting shall be maintained until the commencement of a hearing or
14 until earlier disposition unless otherwise provided in these Rules.

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16 *History Note: Authority G.S. 95-135;*

17 *Temporary Rule Eff. October 2, 1991 For a Period of 180 Days to Expire on March 30, 1992;*

18 *Eff. February 3, 1992;*

19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~December 16,~~*
20 *~~2014.~~ December 16, 2014;*

21 *Amended Eff. October 1, 2025.*

1 Rule 24 NCAC 03 .0303 is amended as published in 39:24 as follows:

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3 **24 NCAC 03 .0303 CITATION**

4 (a) The Commissioner of Labor shall serve on the Respondent a citation stating each standard, regulation, or section
5 of the Act allegedly violated, a description of the alleged violation, and the date by which the violation must be
6 corrected.

7 (b) A recipient of the citation shall have 15 working days from receipt of such citation to file his notice of contest with
8 the Commissioner of Labor. Failure to file a notice of contest within a specified time shall be deemed waiver of
9 Respondent's right to contest the citation.

10 (c) The Commissioner of Labor shall, within 10 working days of receipt of a notice of contest, transmit the original to
11 the ~~Board, Review Commission~~, together with copies of the citation and proposed penalty. The notice of contest shall
12 include the employer's name, ~~address, physical address and mailing address, email address,~~ and telephone number.

13 (d) After the notice of contest is filed, the ~~Board Review Commission~~ shall send the employer a form entitled Statement
14 of Employer's/Respondent's Position. The Statement of Employer's/Respondent's Position must include information
15 sufficient to:

- 16 (1) notify the employer and other interested persons that the North Carolina Department of Labor has
17 issued a citation alleging that the employer violated a particular standard(s), including the date of the
18 alleged violation(s);
19 (2) determine whether the employer admits or denies each of the charges or admits the violation but
20 contests the amount of the proposed penalty for that violation; and
21 (3) advise the employer of the consequences of failing to complete and return the form, using a statement
22 such as:

23 IF YOU DO NOT RESPOND IN WRITING WITH EITHER THIS FORM OR YOUR OWN STATEMENT OF
24 POSITION BY ~~MAILING OR DELIVERING~~ PROVIDING IT TO THE REVIEW ~~BOARD, COMMISSION,~~
25 ~~POSTMARKED, POSTMARKED OR DELIVERED OR EMAILED,~~ WITHIN 20 DAYS FROM THE DAY YOU
26 RECEIVED THIS FORM, YOUR RIGHT TO CONTEST THE NORTH CAROLINA DEPARTMENT OF LABOR'S
27 ALLEGATIONS IS LOST.

28 The employer must complete the form in accordance with its instructions and return it to:

29 ~~Safety and Health Review Board of North Carolina~~
30 North Carolina Occupational Safety and Health Review Commission
31 ~~121 West Jones Street~~
32 1101 Mail Service Center
33 Raleigh, North Carolina ~~27603, 27699-1101; or~~
34 NCOSHRC@oshrc.labor.nc.gov (if by email)

35 A copy shall also be mailed to:

36 ~~Labor Section~~
37 ~~N.C. Attorney General's Office~~ Department of Justice

1 Labor Section

2 P.O. Box 629

3 Raleigh, North Carolina 27602.

4 (e) Any notice of contest shall be deemed to adequately raise any issue as to the alleged violation or proposed penalty
5 but the employer will be limited to the specifics set out in the Statement of Employer's/Respondent's Position.

6 (f) In the Statement of Employer's/Respondent's Position the employer must request formal pleadings under Rule
7 .0303 of this Section if desired. If the ~~Complainant~~ Respondent desires formal pleadings, ~~he~~ the Complainant must
8 file a complaint within 20 days of receipt of the Statement of Employer's/Respondent's Position.

9 (g) The form for Statement of Employer's/Respondent's Position shall be ~~mailed~~ provided to the employer with the
10 Notice of Docketing.

11 ~~(h) Failure to set out the reasons for objecting to the citation on the back of the Statement of Employer's/Respondent's~~
12 ~~Position shall not be grounds for dismissing the notice of contest, but may be grounds for a continuance in the~~
13 ~~discretion of the hearing examiner.~~

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15 *History Note: Authority G.S. 95-135;*

16 *Temporary Rule Eff. October 2, 1991 For a Period of 180 Days to Expire on March 30, 1992;*

17 *Eff. February 3, 1992;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~December~~*

19 *~~16, 2014.~~ December 16, 2014.*

20 *Amendment Eff. October 1, 2024.*