

13 NCAC 07A .0303 DISCLOSURE

- (a) The Department shall disclose documents in investigative and other files in accordance with G.S. 132 and the exceptions set forth in G.S. 95-136. Specific guidelines for OSH division files are set forth in this Rule. The department shall disclose all documents to which the public is entitled under North Carolina's statutory provisions, while safeguarding the rights of complainants and witnesses required to be protected by law.
- (b) Prior to the issuance of a citation, the contents and copies of the case file, including any complaints, samples, photographs, testing results, trade secrets, and the narrative of the investigator's report, shall not be disclosed.
- (c) After a citation and notice of proposed penalty have been issued, the citation and notice are disclosable, upon request. Disclosure shall be issued by the director or his authorized representative. Prior to the contestment deadline, no other file contents shall be disclosable.
- (d) If an employer or employee files a notice of contest respecting a citation, the case file (except for the citation and proposed penalty) shall not be disclosable until a final order is issued and the dates for all further appeals have expired. The disclosure of documents in proceedings before the Safety and Health Review Board shall take place in accordance with the rules of evidence of the Safety and Health Review Board.
- (e) Case files shall be disclosed, upon written request, in the following situations:
- (1) if a determination is made that no citation will be issued and that no court action will be initiated, unless further inspection is contemplated, in which case the file shall not be disclosed until a final decision is made not to issue a citation; or
 - (2) if no notice of contest is filed within the statutory period, or if a notice of contest is filed but a settlement is reached, the notice is withdrawn, or the case is otherwise closed; or
 - (3) if a notice of contest is filed and the statutory requirements of G.S. 95-136(e) have been met.
- (f) The following information contained in a releasable case file shall not be released at any time:
- (1) Trade secrets;
 - (2) Personnel or medical files unless permission is granted for release by the employee;
 - (3) Complainant and witness names or statements unless permission is granted for release by the complainant or witness, pursuant to the statutory requirements of G.S. 95-136(e); and
 - (4) Interagency or intra-agency documents otherwise protected by law
- (g) Documents that are matters of public record may be disclosed at any time; for example, pleadings and briefs filed with the Safety and Health Review Board or the courts.

*History Note: Authority G.S. 95-129; 95-136(e); 95-136(g);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Recodified from 13 NCAC 7B .1001 Eff. August 2, 1993;
Amended Eff. February 1, 2004; August 2, 1993;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,
2016.*