

24 NCAC 03 .0303 CITATION

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

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

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

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

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

IF YOU DO NOT RESPOND IN WRITING WITH EITHER THIS FORM OR YOUR OWN STATEMENT OF POSITION BY MAILING OR DELIVERING IT TO THE REVIEW BOARD, POSTMARKED, WITHIN 20 DAYS FROM THE DAY YOU RECEIVED THIS FORM, YOUR RIGHT TO CONTEST THE DEPARTMENT OF LABOR'S ALLEGATIONS IS LOST.

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

Safety and Health
Review Board of North Carolina
121 West Jones Street
Raleigh, North Carolina 27603.

A copy shall also be mailed to:

Labor Section
N.C. Attorney General's Office
P.O. Box 629
Raleigh, North Carolina 27602.

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

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

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

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

*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.*