

**North Carolina Department of Labor
Occupational Safety and Health Division**

Administrative Information System

Administrative Procedure Notice 17B

Subject: Informal Review by Director of a Decision Not to Issue Citations

- A. **Purpose.** This Administrative Procedure Notice describes the procedure for the director's review of field decisions not to issue a citation in response to alleged violations brought by an employee or employee representative.
- B. **Background.** The Occupational Safety and Health Act of North Carolina allows any employee who believes that a violation of a safety or health hazard exists in the work place to request an inspection by contacting an authorized agent of the director. If the alleged violation does not result in the issuance of a citation, NCGS 95-136(d)(2) requires an opportunity for appeal to the director regarding the final disposition of the case
- C. **Field Review.**
 1. All appeals must be exhausted at the field level before a final review can be initiated by the director's office. This would include a review by the district supervisor and compliance bureau chief.
 2. Information compiled during district supervisor and compliance bureau chief reviews should be sent to the director if the complainant was not satisfied with the field review.
 3. Results of the review by the district supervisor and compliance bureau chief will be sent to the complainant with instructions on how to appeal to the director.
- D. **Pre-Director's Review Activity.**
 1. Once reviews have been completed by the district supervisor and compliance bureau chief, any subsequent appeals should be directed to the director's office.
 2. The right of appeal to the director should be communicated to the complainant in correspondence from the field office.
 3. Any letter of appeal from the complainant will not be pursued by the director's office until it can be determined that the review process has been completed at the field level. If an appeal has not been conducted at the field level, the letter of appeal received in the director's office will initially be submitted to the appropriate compliance bureau chief for processing.
- E. **Director's Review.**
 1. The state plan coordinator will compile inspection/investigation information relating to any specific written appeal received from the complainant or their representative.
 2. The state plan coordinator will review the associated electronic inspection files in OSHA Express (OE) and/or contact the appropriate personnel in the Planning, Statistics and Information Management (PSIM) Bureau who will assist in the

collection of specific inspection/investigation information. This information should include the appropriate case file(s).

3. After reviewing all relevant case file documents and other information provided, the state plan coordinator will provide a summary of the review and their findings to the director. The director will review the summary and findings and either affirm the determination of the compliance bureau chief, order an inspection or re-inspection, or recommend the issuance of a citation if it is determined that an inspection documents a violation. If the director is not available, the state plan coordinator will provide this information to the assistant director for review.
4. Where the director's review does not affirm the determination of the compliance bureau chief, a written explanation of the decision will be prepared by the state plan coordinator for the director's signature. This decision will include the action to be taken and will be submitted to the appropriate compliance bureau chief for implementation.
5. The director's decision as to the final disposition of the case will be shared in writing with the employee or employee representative. This will include the reason for the determination.
6. The decision by the director will be final and not subject to further review within the North Carolina Department of Labor.



Scott Mabry
Assistant Director

Kevin Beauregard
Director

9/2/19
Date of Signature