

North Carolina Department of Labor
Division of Occupational Safety and Health
Raleigh, North Carolina

Field Information System

Operational Procedure Notice #84

Subject: Revision of Procedures for Appeal under OSHANC

A. Purpose. This OPN transmits the revised procedures for appeal under the Occupational Safety and Health Act at N.C.G.S. 95 -137(b), and the placement of agricultural contestments under the authority of the Safety and Health Review Board. These statutory revisions have an effective date of October 1, 1993.

B. Discussion. Pursuant to House Bill 1047, enacted by the 1993 Session of the General Assembly, employers now have the option of requesting an informal conference and staying their request for a contestment or contesting the citation or proposed assessment of penalty. Following an inspection, the employer will be mailed a citation and proposed assessment of penalty. The employer has 15 working days from receipt of the citation and penalty to notify the Director that the employer wishes to either request an informal conference or contest the citation or penalty. If the employer does not notify the Director within the 15 working day period of either a request for an informal conference or intention to contest, and no notice is filed by an employee or employee representative, the citation and assessment as proposed by the Director shall be deemed final. If an informal conference is requested and held, the results will be the issuance of one of three documents: (1) an amended citation, (2)a notice of no change or (3) a settlement agreement. If the Director sends either an amended citation or a notice of no change to the employer, that employer has 15 working days from receipt of the amended citation or notice of no change to notify the director of any plans to contest the citation or proposed assessment of penalty, whether or not amended.

House bill 1047 also repealed G.S. 95-147(b)(5) which previously put agricultural contestments under the authority of the Office of Administrative Hearings. All agricultural contestments shall now follow the procedure for Occupational Safety and Health contestments, and any hearings shall be held before the Safety and Health Review Board.

C. Action. The revisions to N.C.G.S. 95-137(b) have an effective date of October 1, 1993, and **apply to citations issued on or after that date.** Revisions have also been made to the standard cover letter for citations and to Form 59. Use these new forms for all citations issued on or after October 1, 1993. Begin advising employers

of this change at all inspections taking place on or after September 1, 1993.

August 30, 1993
Date

(Signed on Original)
Charles N. Jeffress
Director