

North Carolina Department of Labor
Occupational Safety and Health Division
Bureau of Compliance

Field Operations Manual
Chapter XVI – Administrative File Activities



Table of Contents

- A. [Purpose](#)
- B. [Scope](#)
- C. [Definitions](#)
- D. [Responsibilities and Authorities](#)
- E. [Requirements](#)
- F. [Action Steps](#)
 - 1. [Petition for Modification of Abatement](#)
 - 2. [Contestment](#)
 - 3. [Case File Assembly](#)
 - 4. [Medical Records Management](#)
 - 5. [Disposition of Inspection or Investigation Case Files](#)
 - 6. [Disposition of FAT/CAT Files and Other Files Containing a "Citation Authorization Form"](#)
 - 7. [No Inspection Files](#)
 - 8. [Non-formal Complaints](#)
 - 9. [Additional Case File Information](#)
 - 10. [Disclosures](#)

[Appendix XVI-A: Case File Assembly](#)

[Appendix XVI-B: Case File Retention/Disposition Guide](#)

[Appendix XVI-C: Preparing Case Files for Mailing](#)

[Appendix XVI-D: Penalty Payment/Collection Process](#)

[Appendix XVI-E: Processing Complaint Letters](#)

[Appendix XVI-F: Updating the Closed File Log](#)

Chapter XVI

Administrative File Activities

A. **Purpose.**

The purpose of this chapter is to provide guidance to OSH Division personnel in conducting administrative file activities for OSH inspections and investigations.

B. **Scope.**

This procedure applies to all OSH personnel.

C. **Definitions.**

Administrative Support Staff (admin staff) – The clerical staff at the field office.

Case File - A group of forms, information, and completed documents prepared by the CSHO as a result of a compliance inspection.

Case File Summary - A tracking form used to note dates and activities related to the inspection case file.

Citation Authorization Form – The form, from the OSH compliance intranet site, used to submit significant cases for review and approval by the citation authorization review group.

Complaint Desk - The complaint desk is staffed by CSHOs and is the central intake point for OSH complaints.

Compliance Officer (CSHO) – A safety compliance officer or health compliance officer.

District Supervisor – A supervisor managing a geographical district that is staffed by CSHOs.

Field Operations Manual (FOM) - An electronically maintained document which defines the activities and procedures that the OSH Division bureaus are to follow.

Final Order – The point when a case file is finalized which is determined by one of the following: fifteen working days after the employer has received citations and failed to request an informal conference or contest, an informal settlement agreement is signed, fifteen working days after receipt of informal conference results and an employer has failed to contest, or having all contested items resolved through a formal hearing process.

Green Card – The card received from the U.S. Postal Service verifying delivery of certified mail.

Informal Conference (IFC) - A meeting held between the OSH Division and an employer to discuss an inspection after citations have been issued.

Informal Settlement Agreement (ISA) - An agreement between the OSH Division and an employer reached after citations are issued and prior to contestment, normally reached during the IFC.

Integrated Management Information Systems (IMIS) manual - The federal OSHA forms documentation manual.

Medical Record - For purposes of this procedure, medical record means a record concerning the health status of an employee which is made or maintained by the employer, a physician, nurse, or health care personnel, or technician, including: (1) medical and employment questionnaires or histories (including job description and occupational exposures); (2) the results of medical examinations (pre-employment, pre-assignment, periodic, or episodic) and laboratory tests (including chest and other x-ray examinations taken for the purposes of establishing a baseline or detecting occupational illness, and all biological monitoring not defined as an "employee exposure record" per 29 CFR 1910.1020); (3) medical opinions, diagnoses, progress notes, and recommendations; (4) first aid records; (5) description of treatments and prescriptions; (6) employee medical complaints, (7) EMS reports, and (8) *Photographs or videos of autopsies*.

Medical Records Administrator - *The OSH employee at each field location designated to maintain a log of uses and transfers of all medical records for each applicable file.*

Medical Records Coordinator - *The OSH employee designated to ensure that the security procedures are being followed at each field location and to provide assistance and information regarding the rules to the Medical Records Administrators.*

Medical Records Chain of Custody Form – *The form the CSHO will complete and maintain as a part of their case file that tracks all activity related to medical records received for a specific employee. This form is in FOM Chapter III, Appendix G.*

NCR – The federally controlled computer hardware and software used for gathering, storing, and processing data from OSHA activities.

No Change Letter (NCL) - A letter issued by the district supervisor after an informal conference indicating no change in the citation package.

OSHA-1 – A data documentation form prepared for every compliance inspection. It provides information about the employer, the type of inspection and the CSHO conducting the inspection. More information concerning the OSHA-1 can be found elsewhere in the N.C. FOM and in the IMIS manual.

OSHA-7 – The intake form for gathering and documenting information from employee complainants.

OSHA-36 – The intake form for gathering information on fatalities, catastrophes, and accidents.

OSHA-90 - The intake form for gathering information from a referral source.

OSHA-91A - An NCR form used to record air sampling data.

OSHA-92 - An NCR form used to record noise measurement data.

OSHA-93 - An NCR form used to record data from direct reading instruments.

OSHA-98 – An NCR form used to record data from screening activities.

D. **Responsibilities and Authorities.**

1. **Management** - Bureau management (assistant director, bureau chief, district supervisor) provides the CSHO with necessary resources to accomplish their identified tasks. Bureau management, through the FOM, provides adequate and controlled activities that ensure proper process standards are met.
2. **Compliance Bureau Personnel** - Employees within the compliance bureaus use a combination of job knowledge, training, and experience to ensure processes are meeting all quality standards and requirements.
3. **District Supervisors** - The district supervisor has first level supervisory responsibility over CSHOs in the discharge of their duties and may also conduct compliance inspections. They receive and evaluate inspection assignments, assign inspections, evaluate case files, sign citations, hold informal conferences, issue informal settlement agreements, along with providing guidance and support to the CSHOs, all in accordance with the N. C. FOM. District supervisors ensure technical adequacy in applying the policies and procedures in effect in the agency.
4. **CSHOs** - The primary responsibility of the CSHO is to carry out the mandate given to the N. C. commissioner of labor, namely, "to assure so far as possible every working man and woman in North Carolina safe and healthful working conditions...." To accomplish this mandate, the NCDOL, OSH Division employs a wide variety of programs and initiatives, one of which is enforcement of standards through the conduct of effective inspections. They receive inspection assignments, conduct inspections, prepare case files, make corrections as needed, ensure abatement of hazards, and complete case file management all in accordance with the N. C. Field Operations Manual. Through inspections and other employee/employer contact, the CSHO can help ensure that hazards are identified and abated to protect workers. During these processes, the CSHO must use professional judgment to adequately document hazards in the case file, as required by the policies and procedures in effect in the division. The CSHO is responsible for the technical adequacy of each of their case files.
5. **Administrative Staff** - The admin staff has the responsibility to process citations, copy case file information, mail documents to employers and employees, receive and distribute the incoming mail, along with other tasks associated with keeping the field office running smoothly.

E. **Requirements.**

1. OSH Compliance management and/or personnel may reject any service or work product that does not meet the established quality standards and criteria.
2. All compliance personnel will comply with the requirements identified here and in the IMIS manual.

F. **Action Steps.**

1. **Petition for Modification of Abatement (PMA).**
 - a. Per 29 CFR 1903.14a, a PMA must be submitted in writing. Employers who attempt to request a PMA over the phone will be notified of this requirement.

FOM Chapter XVI, cont'd

- b. When a PMA is received, the admin staff will forward the request to the CSHO for review with the district supervisor. This review will determine whether the PMA contains the information outlined in 29 CFR 1903.14(b).
- c. Since the employees have 15 working days to contest a PMA request, the PMA will be held for 15 working days from the date stamped as received by the OSH field office. The PMA will be dated 15 working days from the request. The employer must post "Notice to Employees" and "Certificate of Posting" of their request for extension when they request a PMA from NCDOL.
- d. The admin staff will process the PMA after the district supervisor approves the request.
- e. The admin staff will return the case file with the PMA to the district supervisor for signature.
- f. The admin staff will mail the approved (signed by supervisor) PMA information to the employer stating the new extended employee abatement date.

2. Contestment.

- a. When a Notice of Contest (contestment) is received, the district supervisor will follow the procedures in Chapter XIII, Section B.2.a. However, if the district supervisor determines that the notice of contest was received more than 15 working days from the date either the citations, No Change Letter or Proposed Settlement Agreement Cover Letter were received by the employer, then such late notice should be indicated in the appropriate place on the Contested Case Checklist – Fax and Contested Case Checklist – Mail. In addition, the district supervisor will inform the AG's office (OSH paralegal) about concerns with the timeliness of the notice of contest. The district supervisor will delineate the results of these contacts in the Case File Summary.
- b. The district supervisor will notify the admin staff when a Notice of Contest is received and the admin staff will:
 - i. Date stamp the contestment correspondence when it is received.
 - i. Forward the case file to the district supervisor for review.
 - ii. The admin staff will enter the specifics of what is being contested into the NCR. From the main NCR menu, hit 'F', then 'I', enter 'INSPECTION NUMBER'. Go to '4A' if everything is being contested or use '4B' for specifics.
 - iii. Pull the case file and stamp the outside "CONTESTED".
 - iv. Once the district supervisor has determined that the employer intended to contest the citations, the admin staff will fax a copy of the following information to the OSH Review Commission:
 - A. [Contested Case Checklist](#) – Fax form;
 - B. Notice of Contest from employer w/ date stamp – can be received via U.S. Mail, fax or e-mail. Be sure to indicate if the

Notice of Contest was received late, in accordance with Section F(2)(a), above ;

- C. Copy of envelope containing Notice of Contest, fax cover sheet OR original e-mail and attachment w/ date stamp (if applicable);
- D. No Change Letter OR Proposed Settlement Agreement cover letter (if applicable) – NOT the Proposed Settlement Agreement;
- E. White Certified Mail Receipt for No Change Letter OR Proposed Settlement Agreement Cover Letter (if applicable);
- F. Signed Green Card for No Change Letter OR Proposed Settlement Agreement Cover Letter w/ Date Stamp (front and back) (if applicable);
- G. Page 1 of citation package;
- H. Page 1 of Invoice/Debt Collection Notice from citation package OR Summary of Proposed Penalties;
- I. White certified mail receipt for citation package; and
- J. Signed green card for citation package w/ date stamp (front and back).

Fax the information to the OSH Review Commission at the fax number indicated on the Contested Case Checklist – Fax. A copy of the fax receipt should be placed in the case file and an entry should be made in the Case File Summary. The information can also be scanned and e-mailed to the OSH Review Commission to the e-mail addresses indicated on the Contested Case Checklist – Fax.

- v. Check the case file for photos/floppy disk/CD and request duplicate photos (request the CSHO have additional photos processed if they are not on disk/CD). If there are no negatives, disk or CD in the case file, the admin staff will verify with the CSHO if photos should be included in the file and request that the CSHO include a photo/floppy disk or CD in the original case file and certified copy.
- vi. Make four (4) copies of the contestment letter and envelope, two (2) copies of the green card and corresponding white slip, and four (4) complete copies of the citations.
- vii. Mail or fax a copy of the OSHA-1 from the case file, stamped "CONTESTED", to NCDOL, Budget Division, 1101 Mail Service Center, Raleigh, NC 27699-1101.
- viii. Within 10 working days of receipt of the Notice of Contest, mail the following information to the OSH Review Commission:
 - A. [Contested Case Checklist](#) – Mail form;
 - B. [Contested Case Record](#);

- C. Original Notice of Contest from employer w/ date stamp – can be received via U.S. Mail, fax or e-mail. Be sure to indicate if the Notice of Contest was received late, in accordance with Section F(2)(a), above;
- D. Copy of envelope containing Notice of Contest, fax cover sheet OR original e-mail and attachment w/ date stamp (if applicable);
- E. No Change Letter OR Proposed Settlement Agreement cover letter (if applicable) – NOT the Proposed Settlement Agreement;
- F. White certified mail receipt for No Change Letter OR Proposed Settlement Agreement cover letter (if applicable);
- G. Signed green card for No Change Letter OR Proposed Settlement Agreement cover letter w/ date stamp (front and back) (if applicable);
- H. Two complete copies of citation package;
- I. Complete copy of Invoice/Debt Collection Notice from citation package OR Summary of Proposed Penalties;
- J. White certified mail receipt for citation package; and
- K. Signed green card for citation package w/ date stamp (front and back)

Mail the OSH Review Commission's package to: OSH Review Commission, 1101 Mail Service Center, Raleigh, NC, 27699-1101.

Whenever an original of a document is removed from a case file for transmittal to the OSH Review Commission, a copy of that document will be made and placed in the case file.

- ix. Type an acknowledgement letter to the employer.
- x. The district supervisor or point of contact (POC) will sign the certification certificate.
- xi. Within 30 calendar days of receipt of the Notice of Contest, create a certified copy of the case file for the CSHO. *Medical records from the medical records locked file cabinet will **not** be duplicated for this copy.* Place the certified copy of the file in a purple folder and return the original and certified copy to the CSHO. After the case is settled, all contents of the purple folder will be shredded.
- xii. Within 10 calendar days of receipt of the Notice of Contest, create and deliver a certified copy of the case file to the Attorney General's office. The file should include a duplicate set of photographs, diskettes, CD's and or videotapes. *If the case file includes a Medical Records Chain of Custody Form, the admin staff copying the file will request a sealed copy of the medical records from the CSHO. Only the CSHO will make copies of medical records for a contested file. The CSHO will place all medical*

*records related to a file in a single Kraft envelope and the envelope will be marked "Medical Records - Confidential" with company name and inspection number included on the outside of the Kraft envelope. Medical records sent to the AG's office do not need to be separated by employee and do not need to include the medical record identifiers. The CSHO will provide the sealed Kraft envelope to the admin staff who requested the records. The certified copy will be sent to the N.C. Department of Justice, Attn: Labor Section, P.O. Box 629, Raleigh, NC 27602, by certified U.S Mail, hand delivery or other secure means (such as UPS or FedEx) only. Medical records will **not** be sent to the Attorney General's office by fax, e-mail or interoffice mail.*

- xiii. Any subsequent documents pertaining to the notice of contest filed by the employer, affected employees or representatives of affected employees will be transmitted promptly to the AG's office. In the event the director or any other personnel is served with any pleading after the filing of a notice of contest, the pleading will not be transmitted to the OSH Review Commission, but rather will be transmitted to the AG's office immediately upon being date stamped. These records will be copied and forwarded following the procedure in paragraph xiii above.

3. Inspection Case File Assembly.

Case file reports that have an inspection type on the OSHA-1 classified as "No Inspection" (i.e., triple zero/ "000") will be kept by the admin staff in a folder for each fiscal year. These reports will be maintained in accordance with the Occupational Safety and Health Division, Compliance Bureau (Safety and Health Compliance, East and West) Record Retention Schedule. *Medical records associated with these files will be destroyed by the CSHO as soon as the file is determined to be a "000" and is closed. Except triple zero files, case files will be assembled in accordance with Appendix A. Case file documents will be two-hole punched and placed in the appropriately colored folder that has the "File Purge and Closeout Procedure" label placed on the folder. When a report is too thick for a regular folder, it will be placed in an expandable file with the appropriate color spine or use an additional regular folder and label the files "1 of 2 ", etc. The "File Purge and Closeout Procedure" label should only be placed on folder "1" of multiple folders.*

Any documents discarded from a case file will be returned to the source or shredded. This procedure will be followed when discarding draft documents (for example) or purging the file when closed.

- a. Files are to be color coded as follows:
 - i. Red - safety construction
 - ii. Manila - safety general industry
 - iii. Blue - health construction and general industry
 - iv. Yellow - any public sector
 - v. Green - agriculture safety and health

FOM Chapter XVI, cont'd

- b. Orange - non-formal complaints (investigation with no inspection) The CSHO should enter the date and type of inspection on the Case File Summary
- c. Draft letters and citations may be temporarily placed in the case file without holes punched. Also, any CD's, floppy disks, etc., that contain Narrative's, OSHA-1B's, witness statements, etc., will be treated the same way as a draft document and removed from a file when final hard copies of these documents are made a part of the case file.
- d. Reports with no citations ("In Compliance") will be assembled and filed in the same manner as other reports.
- e. After the case file has been approved for processing, based on the inspection type from the OSHA-1, the admin staff will stamp the outside of the case file folder "FATALITY", "ACCIDENT", "COMPLAINT", "REFERRAL", or "FOLLOW-UP".
- f. The admin staff should print two (2) labels for the case file, one for the front and one for the back, and place them on the folder tab so that the label is right side up when the file is in a vertical position. Each label will include the date entered (opening conference date), the OSHA-1 inspection number, the CSHO ID, and the establishment name. The admin staff will verify that the inspection number and establishment name on all labels are identical to the information on the OSHA-1.
- g. The admin staff should print three (3) more labels for the certified mailer label.
- h. The admin staff should attach "alpha tabs" for the first three (3) letters of the establishment name from the OSHA-1. If the establishment name begins with "The", use the next part of the name. Attach number tabs on the folder tab to denote the appropriate federal fiscal year.
- i. Case File Management. Prior to closing a case file the CSHO will complete the "File Purge and Closeout Procedure" label on the front of the folder.
- j. Closed case files located in the field office will not be removed from the file storage area without being replaced by an "Out Card". Whenever a case file is requested, the person making the request will enter the date and action taken on the Case File Summary sheet. A separate "Out Card" must be completed (name of requestor, file name and number, and date) for each file requested.

Note: No original case file will be removed from the building without approval from the bureau chief.
- k. The admin staff should refile case files. CSHOs and district supervisors will return case files for re-filing to a designated space.
- l. The CSHO may add information to existing open case files. The CSHO will note such additions and date on the Case File Summary sheet.
- m. The CSHO is responsible for ensuring that all open case files under their management are properly maintained, stored and documented. CSHOs will periodically verify that selected case files *and medical records* are being handled according to appropriate procedures. If it is necessary to produce a certified copy

of an open case file, the CSHO is responsible for ensuring that the copy is true and accurate and that all documents, photos, etc., that are applicable to a particular case file are actually contained in the original case file and the certified copy.

- n. *A copy of the bureau chief's review response letter will be added to the case file.*

4. *Medical Records Management.*

- a. *Medical Records Cabinet. Each field office will have at least one file cabinet capable of being locked. The medical records administrator will secure the key to the file cabinet. Only the medical records administrator or in their absence, their alternate, will unlock the cabinet. An additional key for each cabinet will be provided to the medical records coordinator. The medical records administrator will remain at the cabinet at all times while it is unlocked to verify that the records are added to or removed from the proper folder.*
- b. *Transferring medical records to the medical records file cabinet.*
 - i. *After the principal OSH investigator (lead CSHO) has separated and marked each employee's medical record with a medical record identifier as described in FOM Chapter III and filled out the Medical Records Chain of Custody Form, the CSHO will transfer all medical records to the locked medical records file cabinet in their field office*
 - ii. *The CSHO will take each envelope and its associated Medical Records Chain of Custody Form to the medical records administrator in their office. The medical records administrator will verify that each Kraft envelope is labeled "Medical Records – Confidential," coded with a medical record identifier and the CSHO's first initial and last name. The medical records administrator will complete the Medical Records Activity Log for each record added to the cabinet. The CSHO will sign the Medical Records Activity Log for each record added to the cabinet. The medical records administrator will also initial the Medical Records Chain of Custody Form each time a record is added. The Medical Records Activity Log will be kept in the file cabinet.*
 - iii. *After the Medical Records Activity Log has been filled out, the medical records administrator will unlock the file cabinet and the lead CSHO will place the files into a hanging file. The hanging file will be labeled with the lead CSHO's first initial and last name.*
 - iv. *After all files have been transferred to the cabinet; the medical records administrator will lock the cabinet and secure the key.*
- c. *Removing medical records from the medical records file cabinet.*
 - i. *When the lead CSHO needs access to medical records, the medical records administrator will unlock the cabinet. The CSHO will remove the needed files from the cabinet and the medical records administrator will log out all files that were removed from the cabinet on the Medical Records Activity Log and initial the Medical Records Chain of Custody Form. No other OSH employee may access or remove medical records*

except the lead CSHO for the inspection, their immediate supervisor or bureau chief, without the authorization of the OSH director or his designee.

- ii. *Medical Records that are removed from the medical records cabinet must be placed back in the cabinet at the end of each work day and logged on the Medical Records Activity Log and the Medical Records Chain of Custody Form by the medical records administrator.*
- iii. *Medical Records that are removed and transported to another location (such as a teleworker) for review must remain secure at all times. Additionally, the medical records administrator will note on the Medical Records Activity Log the location of the records if they are removed from the field office. The medical records will be transferred back to the medical records cabinet in the field office as soon as possible but no later than 5 working days after removal and logged back in immediately.*

d. *Entering medical records information on the Medical Records Database.*

The medical records administrator or their alternate will enter information from the Medical Records Activity Log onto the medical records database at least once a week. The database will be maintained on the f: drive and will be accessible by the medical records coordinator and the medical records administrators and alternates.

5. Disposition of Closed Inspection or Investigation Case Files. [Refer to paragraph F.6 for Fatality/Catastrophe (FAT/CAT) and other files requiring a "Citation Authorization Form"]

In accordance with the Occupational Safety and Health Division, Compliance Bureau (Safety and Health, Compliance East and West) Record Retention Schedule, review the case file and transfer the following case file contents to the Planning, Statistics, and Information Management (PSIM) Bureau: final orders, informal settlement agreements; all inspection generated OSHA forms including abatements, sampling forms, investigative summaries (narratives), inspection and accident reports, citation(s), worksheets (1B's), workplace measurement summary, letters to the employer, and letters to the complainant. Destroy photos, and audio/video tapes (disks and tapes may be recycled). Destroy or return to the rightful owner any remaining evidence and/or paper records (evidence provided by an employer/employee may be returned only to the employer/employee who provided the material). The Confidential Information Log and medical records of employees and employers must be shredded. Draft documents in a case file will also be shredded. The CSHO will document on the case file summary sheet that the file has been purged in accordance with Appendix XVI-B - Case File Retention/Disposition Guide.

6. Disposition of Closed Fatality/Catastrophe (FAT/CAT) Inspection or Investigation Case Files and Other Files Containing a "Citation Authorization Form".

In accordance with the Occupational Safety and Health Division, Compliance Bureau (Safety and Health, Compliance East and West) Record Retention Schedule, review the case file and transfer the following file contents to the Planning, Statistics, and Information Management (PSIM) Bureau: final orders, informal settlement agreements; final copy of all inspection generated OSHA forms including abatements, sampling

forms, investigative summaries (narratives), inspection and accident reports, citation(s), Worksheets (1B's), letters to the employer, letters to the complainant, witness statements, CSHO created sketches and diagrams, photographs, digital images, video and audio media. Destroy or return to rightful owner remaining evidence and/or paper records (evidence provided by an employer/employee may be returned only to the employer/employee who provided the material). The Confidential Information Log and medical records of employees and employers must be shredded. Draft documents in a case file will also be shredded. The CSHO will document on the case file summary sheet that the file has been purged in accordance with the "Case File Retention/Disposition", Appendix XVI-B.

The CSHO will ensure that all FAT/CAT and high profile cases contain all diskettes, photos, videos, and other forms of media that pertain to each case file (especially photos). If there is more than one version of a form or letter in a case file, the CSHO is responsible for ensuring that only the current version of the form or letter is contained in the closed case file. (E.g. there should only be one version of the narrative). The CSHO will not reference media (specifically photos) contained in other case files.

Photos in FAT/CAT or high profile case files that are considered to be very graphic will be maintained separate from other photos. Hard copies of graphic photos will be enclosed in a separate envelope and labeled "GRAPHIC PHOTOS" along with the inspection number and name of the employer. Graphic photos on a CD or other media form will be placed on a separate CD or media form and labeled "GRAPHIC PHOTOS" along with the inspection number and name of the employer.

Note: Paragraphs F.5. and F.6. apply to the shipment of closed case files to permanent archived storage or for temporary storage pending archiving and do not apply to the routine transfer of files for review, disclosure or litigation purposes.

7. No Inspection Files.

"No Inspection" files will be destroyed in the office after 2 years in accordance with the Occupational Safety and Health Division, Compliance Bureau (Safety and Health, Compliance East and West) Record Retention Schedule. The admin staff in each field office will maintain the "No Inspection" folders. The admin staff will maintain a list on the F: drive of all "No Inspection" case files which have been destroyed. The list will include: CSHO name; inspection/OSHA-1 number; company name; date of inspection; date destroyed, *and the name of the admin staff that destroyed the file*. A list will be created for each federal fiscal year. The lists will be created beginning with the 2006 federal fiscal year case files.

8. Non-Formal Complaint Investigations.

Each Occupational Safety and Health Division field office will maintain complaint investigation files for two complete years in accordance with the Occupational Safety and Health Division, Compliance Bureau (Safety and Health, Compliance East and West) Record Retention Schedule. Files will then be transferred to the Planning, Statistics and Information Management (PSIM) Bureau.

9. Additional Case File Information.

Information for a case file received after the case file has been closed and submitted to PSIM, probably does not have any administrative value and does not need to be added to the case file. The bureau chief will determine if any of this type information does have administrative value, and will make arrangements with PSIM to have the information added to the case file.

10. Disclosures.

a. Processing.

- i. The PSIM Bureau will process all case file disclosure requests. They will request case files from the field offices, if they are not already under their control and notify the field office of the date that the file must be submitted to PSIM. If the case file has been contested, field office admin staff should be able to make the certified disclosure copy from the CSHO's certified copy. Make sure nothing has been added since the CSHO's certified copy was made that needs to be copied. If nothing has been added, make one (1) copy from the CSHO's copy. *Medical records that are stored in the medical records locked file cabinet will **not** normally be duplicated with the exception of F.10.a.ii. below.*
- ii. *If the PSIM Bureau has a signed, notarized release from an employee or their next of kin for medical records per FOM Chapter XIII, paragraph C.3.g., the CSHO will make copies of the medical records specifically requested in the release, place them in a sealed Kraft envelope marked "Medical Records – Confidential" with company name and inspection number and provide them to the admin staff requesting the records.*
- iii. All two-sided pages will be copied one-sided. All pages will be reproduced on 8 ½" x 11" paper, except drawn to scale documents. A copy will be made of the diskettes, CD's photos, videos, and any other forms of media.
- iv. If the case file is still in the field office, the admin staff will request the original case file and have the CSHO review the case file for accuracy and completeness to ensure that the file includes all applicable documents, photos, etc., that relate to that particular file *except medical records.*
- v. If the case file is closed, the original case file can be forwarded to the PSIM Bureau. If the file is not closed or the original closed file needs to be maintained in the field office, the admin staff will make one copy of the reviewed case file, including the front of the file folder, and any photos, videotapes, cassette tapes, CD's, diskettes, etc., and return the copy/original to the CSHO for verification. *This copy will not contain medical records.*
- vi. The CSHO will ensure that all forms of media (photos, including graphic photos, videos, etc.) that pertain to the case file will contain only information pertaining to the requested case file. If there are draft copies or more than one version of a form or letter in the case file, the CSHO is

responsible for ensuring that only the current version of the form or letter is contained in the case file. (E.g. there should only be one version of the narrative transmitted to PSIM.). It is not the responsibility of PSIM to discern which version(s) of forms and letters should be disclosed. Where case file evidence is maintained in a secured location or cannot be duplicated (e.g. soil sample), a page will be inserted in the original and certified copy of the case file in the appropriate location to delineate the existence and location of the evidence. Large manuals which are a part of a case file are usually not copied in their entirety. Admin staff will contact PSIM staff to verify if the entire manual is needed or if only the title page and table of contents or index of the manual will be copied (with a notation that the entire manual is a part of the original case file).

Photos in case files that are considered to be very graphic will be maintained separate from other photos. Hard copies of graphic photos will be enclosed in a separate envelope and labeled "graphic photos" along with the inspection number and name of the employer. Graphic photos on a CD or other media form will be placed on a separate CD or media form and labeled "graphic photos along with the inspection number and name of the employer.

- vii. The CSHO or district supervisor will certify that the file copy is a true and accurate copy of the entire case file to include all documents, photos, etc., that are applicable to that particular file, *excluding medical records*, and have the certification notarized.
- viii. The original closed file or a certified copy should be hand delivered to PSIM if anyone from the area office is going to Raleigh. If no one is visiting Raleigh by the deadline delivery date, the closed file or a certified copy will be forwarded to the OSH Division-PSIM Bureau per the following methods:

A certified file copy may be sent via certified U.S. mail to the attention of the PSIM staff person who requested the file at 1101 Mail Service Center, Raleigh, NC 27699-1101 or via Federal Express, UPS or the equivalent to 111 Hillsborough St., Raleigh, NC 27603 Attn: (the PSIM staff person requesting the file). An actual original closed file will be hand delivered or sent only via Federal Express, UPS, or the equivalent. Original case files will **not** be sent by certified or regular U. S. mail.

Medical records which are released per FOM Chapter XIII paragraph C.3.g., whether part of a disclosure or a separate request will be sent to the PSIM Bureau per the instruction above. If the PSIM Bureau receives a notarized release for medical records only, the records may be faxed by the CSHO only when the PSIM staff person requesting the records has been contacted prior to transmittal and is standing by the fax machine to receive them.

- ix. A copy of citations may be sent to any requestor, free of charge, in accordance with the requirements below.

b. Disclosure Requests.

When a case file is still open, a redacted copy of a case file may be released by the PSIM Bureau. Factors that affect the release of case files include, but are not limited to, the following:

- i. When the inspection is still in process and/or the case file has not been completed, no part of the case file can be released to anyone outside of OSH, unless approved by the OSH director or assistant director.
- ii. When citation(s) have been issued to the employer but there is no final order, copies of the citation(s) can be released to anyone but the expunged case file cannot be released to anyone outside of OSH except the company or their attorney, unless approved by the director or assistant director of OSH. When copies of citations have been requested and the employer may not have received the mailed original citations, the district supervisor will immediately contact the employer and fax or hand deliver copies of the citations.
- iii. Upon request, and after citations have been issued, the PSIM Bureau may provide a redacted copy of the case file to the employer or their attorney. Requests for copies of the case file from 3rd parties (anyone other than the employer or the employer's attorney is considered a 3rd party), will not be processed until the criteria in N.C. FOM, Chapter XIII, Sections C.5. and C.6. have been met.
- vi. When an Informal Conference has been requested, sections B.1. and B.2. above still apply.
- v. When an Informal Conference has resulted in an Informal Settlement Agreement (ISA) and the ISA has been fully executed, the PSIM Bureau can release redacted copies of the case file to any requestor. The case file does not have to be closed.
- vi. When the case file has been contested, the PSIM Bureau may release a redacted copy of the case file to the employer or their attorney per section B.3. above. Copies of Citation(s) associated with the case file may be released to anyone per section B.2. above.
- vii. When a Formal Settlement Agreement (FSA) has been fully executed or there is a final order, the PSIM Bureau may release redacted copies of the case file to any requestor 30 calendar days after the court order or after the execution of the FSA.
- viii. When the time period to request an Informal Conference or contest the case file has elapsed without any action by the employer, the case file becomes a final order and the PSIM Bureau may release redacted copies of the case file to any requestor.

APPENDIX XVI-A: Case File Assembly

Left Side of Folder

1. Case File Summary Sheet
2. Confidential Information Log
3. Authorization Case File Review
4. Notice of Contest Request Form
5. Disclosure Request Form
6. Photos, Floppy Disks, CD's, DVD's
Thumbnail prints, etc. (each marked with
company name and inspection number.)
7. Certified Mail Receipt(s) and Green
Card(s) stapled to the inside left cover
8. *Medical Records Chain of Custody
Form(s)*

Right Side of Folder

1. Case File Audit
2. Abatement(s) [2D(s) with detailed
information; specific documentation;
written programs for programmatic
citations, etc.]
3. All Legal Documents (Signed Copy of
Settlement Agreement, Settlement
Agreement Cover Letter, No Change
Letter, Notice of Docketing, Orders, Final
Order, etc.)
4. Correspondence Received Subsequent to
Citation Issuance
5. Copy(s) of Issued Citation(s)
6. Draft Response to Complainant/Referral
Source
7. Draft Citation(s) (Note: Replaced by
Issued Citations)
8. OSHA-1

9. OSHA-1 Narrative (Including OSHA-300
Data Printout)
10. Copy of response letter mailed to
Complainant/Referral Source/NOK
11. OSHA-36: Event Report
12. Copy of OSHA-7 given to employer and
original OSHA-7 Complaint File Form
13. OSHA-90: Referral Report
14. Copy of Workplace Measurement
Summary Sheet
15. OSHA-170: Investigative Summary
16. OSHA-2B(s): Failure to Abate Notice(s)
17. OSHA-1B(s)
18. OSHA Field Sampling Sheet(s): OSHA
91-Air Sampling; OSHA 92-Noise Survey;
OSHA 93- Direct Reading; OSHA 98-
Screening; OSHA 99- Octave Band
Analysis and Impact Noise
19. Sampling Equipment Data Printout(s)
(Direct Reading Equipment)
20. Sampling Chain of Custody Form
21. Property/Evidence Form
22. Air and Bulk Lab/Test Analysis Request
and Analysis Results Form(s)
23. Sketches and Diagrams
24. Copy of Original Programmed Inspection
Assignment Sheet
25. Witness Statement(s)
26. OSHA-59: Employee/Employer Rights and
Responsibilities
27. OSHA 300 Logs/Summary Sheets
28. Appendices/Other Documents (Include a
Table of Contents for Appendices)

APPENDIX XVI-B: Case File Retention/Disposition Guide for Closed Files**Yes** = Retain the Document in the Case File**No** = Do Not Retain the Document – **Shred or Return to Source**

* - Entire certified copy of a contested case file (purple folder) will be shredded after Final Order.

Case File Retention/Disposition Guide		
FAT/CAT HP	All Other Cases	Left Side of Folder
YES	YES	1. Case File Summary Sheet
NO	NO	2. Confidential Information Log
YES	YES	3. Authorization Case File Review
YES	YES	4. Notice of Contest Request Form
NO	NO	5. Disclosure Request Form
YES	NO	6. Photos, floppy disks, CDs, DVDs, thumbnail prints, etc., (each marked with company name and inspection number.). This applies to left and right sides of folders.
NO	NO	7. Certified Mail Receipt(s) and Green Card(s)
NO	NO	8. <i>Medical Records Chain of Custody Form(s)</i>
FAT/CAT HP	All Other Cases	Right Side of Folder
YES	YES	1. Case file audit
YES	YES	2. Abatements [2D(s) with detailed information; specific documentation; written programs for programmatic citations; etc.] Note: district supervisors must review abatement information to ensure appropriate documentation is retained in case file that will show hazard was abated. (Refer to FOM Chapter III Section E.4 “Verification of Abatement”.
YES	YES	3. All legal documents (Signed copy of settlement agreements, settlement agreement cover letter, no change letter, notice of docketing, orders, final order, etc.) Note: If the employer refuses to sign the Settlement Agreement, maintain unsigned copy of Settlement Agreement in the case file.
YES	NO	4. Correspondence received subsequent to citation issuance in the order received; and all documents should be date stamped.
YES	YES	5. Copy(s) of issued citation(s)
NO	NO	6. Draft response to complainant/referral source.
NO	NO	7. Draft citation(s) (Note: Replaced by issued citations)
YES	YES	8. OSHA-1
YES	YES	9. OSHA-1 narrative (including OSHA-300 data printout)
YES	YES	10. Copy of response letter mailed to complainant/referral/source/NOK

Case File Retention/Disposition Guide		
FAT/CAT HP	All Other Cases	Right Side of Folder (cont'd.)
YES	YES	11. OSHA-36: Event report
YES	YES	12. Copy of OSHA-7 given to employer and original OSHA-7 complaint file forms
YES	YES	13. OSHA-90: Referral report
YES	YES	14. Copy of workplace measurement summary sheet
YES	YES	15. OSHA-170: Investigative summary
YES	YES	16. OSHA-2B(s): Failure to Abate notices
YES	YES	17. OSHA-1B(s)
YES	YES	18. OSHA Field Sampling Sheet(s) (OSHA 91; 92; 93; 98; 99 Sampling/Screening Reports)
YES	YES	19. Sampling Equipment Data Printouts (Direct Reading Equipment)
YES	NO	20. Sampling Chain of Custody Form
YES	NO	21. Property/Evidence Form
YES	NO	22. Air and Bulk Lab/Test Analysis Request Form(s) and Analysis Reports
YES	NO	23. Sketches or Diagrams
NO	NO	24. Copy of Original Programmed Inspection Assignment Sheet
YES	NO	25. Witness Statements(s)
YES	YES	26. OSHA-59: Employee/Employer Rights and Responsibilities
YES	NO	27. OSHA 300 Logs/Summary Sheets
YES	NO	28.. Appendices/ Other Documents (Include a Table of Contents for Appendices)
NO	NO	<i>Medical Records (from locked cabinet)</i>

APPENDIX XVI-C: Preparing Citations for Mailing; Release of Citations to Communications

1. Verify that the citations have been signed by a district supervisor.
2. Make a complete copy of the citations including the Debt Collection Notice through the abatement forms and any other mailed documents. Place the copies in the case file folder on the right side on top of the report.
3. Place original citations in an envelope and tape it shut. Tear off and staple the certified mail white slip inside the left side of file folder. **Important: All citations must be mailed on the issuance date.**
4. Notifications of Failure to Abate are treated the same as citations
5. Additional copies of citation pages 7 (page 5 for CSHO Apps) through the end are required for Complaint Letters, Referral Letters, and sometimes as needed for other groups, such as unions, corporate offices, etc.
6. For complaints and referrals, mailings should include citation items only related to the complaint or referral.
7. If the NCDOL Communications Division *or the PSIM Bureau* request citations from a case file, then as soon as the report is completed and approved, the supervisor needs to contact the employer via phone and either fax or hand deliver copies of the citations and explain that we have received a request for a copy of the citations. For fatality investigations, as soon as the citations are faxed/hand delivered to the employer, contact should be made with the next of kin by phone to brief them on the status of the investigation. If the next of kin cannot be reached in a timely manner, the next of kin ombudsman will be contacted. Copies should then be immediately faxed to the Communications Division *or the PSIM Bureau* (there should be no delay). If citations were faxed to the employer to expedite delivery, then the supervisor will also ensure that a hard copy is sent through the mail.

Note: Do **not** mail the letter to the complainant until the green card is returned. Hold the complaint letter with copies of citations in the box until that time.

APPENDIX XVI-D: Penalty Payment/Collection Process

A. Penalty Payments.

Field offices are required to submit penalty payments (and any other payments received), for deposit, to the NCDOL Budget Division on a daily basis. Payments are always deposited to a specified account. No payments are deposited to a "dummy" account and then transferred to the appropriate account at a later date. A transmittal is created for each field office with a copy being faxed daily to the appropriate office. The Budget Division posts payments to the NCR on the day of the transmittal.

All payments must be forwarded to the Budget Division on a daily basis. If a payment does not have an inspection number on it, the correct inspection number should be placed on the payment. If that information is not known, the check should be forwarded to budget in the **original** envelope along with any accompanying paperwork. This will assist budget in depositing the payment to the correct account. If a refund check is issued, a copy of that check is faxed to the appropriate field office. The refund is posted on the NCR the day the check is mailed to the employer.

Payment information, past due notices, etc. can be viewed by logging onto the Internet at <http://omds.osha.gov/cgi-bin/est>.

B. Collection Process.

Collections cannot begin until the employer's administrative rights have been exhausted. Those rights are exhausted when the time period for requesting an informal conference or review by the OSH Review Commission have expired or the appeal period from a decision at an informal conference or hearing have expired. Once the employer's administrative rights have been exhausted, the amount of the penalty at that point becomes a debt owed the state. A debt owed the state may only be reduced or deleted by a fiscal officer of the state. The fiscal officer for NCDOL is the director of budget.

The Budget Division cannot begin the collection process until they have verification of Proof of Service. This may be satisfied by a **signed** certified mail receipt (green card), a Notice of Service from a sheriff's dept. or a **signed** document from the CSHO that the citations were personally served on the employer, or the printout from the USPS internet site showing delivery of the citation package. The Proof of Service information should be entered on the NCR under the **S 10** code (OSHA-1, field 42). Along with the Proof of Service the CSHO must include a copy of the citation (s) and a copy of the signed Informal Settlement Agreement once the file is turned over to budget for collections.

C. Dunning Letters, Judgments & Notice of Rights.

When a penalty remains unpaid and the above elements have been satisfied, (e.g., employer's administrative rights have been exhausted), the CSHO (or other employee assigned) will notify the Budget Division by e-mail to begin the collection effort. The Budget Division does not receive copies of the citations when they are issued, and does not know when penalties are delinquent. Upon receiving a request to begin the collection process, the Budget Division will

FOM Chapter XVI, cont'd

send the employer a dunning letter requesting payment. After 30 days, if the penalty remains unpaid, a second dunning letter is sent by Budget, which results in the filing of a Notice of Final Order (NOFO/Judgment) if the penalty remains unpaid for 21 days. Judgments which remain unpaid for 30 days have a Notice of Rights (NOR) filed on the employers that are unincorporated and located in North Carolina.

The Notice of Final Order (NOFO/Judgment) and Notice of Rights (NOR) are filed in Superior Court, which means the Budget Division needs accurate employer information. Budget also needs the owner's name for sole proprietorships as a NOFO cannot be filed against an unincorporated business. When the Notice of Rights is served on an employer the sheriff needs the physical/street address, as they cannot serve a mailing address/post office box.

D. Collection Agency.

Budget stopped doing Executions on unpaid Judgments several years ago, and files with unpaid Judgments are sent to a collection agency. The files sent to the collection agency have had a Judgment and where applicable a Notice of Rights filed on them with neither resulting in payment of the unpaid citation penalties. The collection agency generally does not work the file for more than a few months before returning it as paid, requesting a settlement amount or returning it unpaid as a result of not being able to locate the employer or the employer refusing to pay.

E. Collection Process Status.

The Budget Division sends a list monthly to OSHA to be placed on their web page that contains the files that have remained unpaid for more than 30 days after the first dunning letter is sent. The list may be viewed at **Penalties Past Due** and there is a key at the top of the list to explain the various notations contained under the status column. These are files that are with the collection attorney and the last action on the file is contained under the status column. The list is arranged in numerical order by inspection number and the status column is cumulative. Therefore, if the status shows COLLECTION AGENCY that means the file is at the collection agency and a dunning letter, NOFO (Judgment) and Notice of Rights if required have all been completed previous to the file going to the collection agency. The following status key explains the various notations.

<i>STATUS KEY</i>	
<i>Notation</i>	<i>Definition</i>
AG	Attorney General's Office
C7, 11 or 13	Chapter 7, 11 or 13 Bankruptcy
Collection Agency	File at collection agency
Coll/AG-Effort Exhstd	Collection agency returned file without collecting Judgment
Coll/AG-Skip	Collection agency returned the file without locating employer
DL	Dunning letter
ER NTF	Letter to employer containing copy of the NOFO (Judgment)
IA	Installment Agreement
NOFO	Notice of Final Order (Judgment)
NOR	Notice of Rights
OOB	Out of business
POC	Proof of claim
Review	File received but not reviewed

F. **Penalty Reductions & Write-offs.**

1. Once the department has exhausted administrative remedies, the penalty may be reduced or written-off. The district supervisor will send a request to the budget director along with the justification for the reduction or write-off. The budget director will prepare and present a memo to the OSH director requesting the action. The Budget Division will send notification to the district supervisor which includes the determination whether or not the OSH director approved the write-off. This notification will be included in the case file.
2. The recommendation to write off the penalty is normally dependent on the justification provided by the district supervisor.
3. The request to write off a penalty may originate with the Budget Division, especially for cases which are in the collection and/or judgment phases. Any Budget Division request will be forwarded to the district supervisor along with the reason for the write-off request. The district supervisor will respond to the Budget Division request with a determination as to whether or not the penalty should be written off.
4. Penalty reductions or write-offs of \$3000 or less may be authorized by the district supervisor. Penalty reductions or write-offs of \$10,000 or less may be authorized by the bureau chief. Penalty reductions or write-offs in excess of \$10,000 must be authorized by the OSH Division director or assistant director.

G. **Processing Penalty Checks (Processed by NCDOL Budget Division).**

1. Check OSHA-OMDS (by company name and inspection number) and print out report.
2. Divide checks and reports by field office (Raleigh, Charlotte, and Winston-Salem).
3. Open check penalty screen (F, J).
4. Go to line 6 (use tab button or F4).
5. Enter inspection number, name of company will appear (computer will automatically tab to the amount column-unless-number begins with "18"), enter amount; tab over until cursor returns to beginning of next line (if you highlight each check that is entered, it will make it much easier to total at the end).
6. Once all checks have been entered, press F8 - put in total; tab to end of line; press F9; press the #5 (safety) on the printer list; transmittal will print.
7. Press F6 (save); if total is correct you should be able to exit the screen; if not screen will read, "Batch total not equal to amount shown."
8. If a check is not on the transmittal or an incorrect number has been typed, you will get a "beep" - backspace until the number is erased and move to the next check. (If there is a dollar amount with an asterisk (*) on any of the transmittals, you will need to deduct that amount from the total showing on the check and use the adjusted amount.

FOM Chapter XVI, cont'd

9. A copy of the transmittal and county code sheet goes with the checks, for deposit.
10. The Budget Division will fax copy of transmittals to the appropriate field office.
11. The admin staff should place a copy of the transmittal in the corresponding case file, record the check # and amount on the case file summary sheet (and if it is the last payment, write, "Paid in full" and give to the CSHO).
12. It is possible that the department will receive some monies for a case file where the penalty has been written off and the case file closed. For these cases, the Budget Division will reopen the file, change the penalty due amount(s) to equal the amount received, post the penalty payment, and reclose the case file. The Budget Division will notify (by fax or email) the district supervisor of these transactions.

Important: Please notice line 2 on your penalty record - the payment number. This number can be found on the total payment sheet. You can always use this number to re-enter a screen if you need to make a correction at any time. If you forget to write it down you can locate the # by going into the Basic Utilities Screen, check other systems so you can verify if checks belongs to them. If payment is 90 days past due, the CSHO may e-mail budget and request a Dunning letter be sent to the employer.

APPENDIX XVI-E: Processing Complaint Letters

1. CSHO, district supervisor, or admin staff will prepare complaint letters in accordance with the IMIS.
2. CSHO, district supervisor or admin staff will make a copy of complaint letters for the file.
3. Non-formal complaint letters to the employer will be faxed if possible, if a fax number is not available then mail by certified U.S. Mail. Write the name of the person sending the letter on the green card so when the card is returned, you will know who to return the card to. Date the white slip, tear it off and staple it inside the left side of the case file folder.
4. Letters to the complainant are not mailed by certified U.S. Mail.
5. Make appropriate entries on the Case File Summary Sheet [Date, information (example "Letter mailed to employer" or "Letter mailed to complainant") and initial].

APPENDIX XVI-F: Updating the Closed File Log

1. When the file comes up, hit "Ctrl" and "END" to take you to the end of the log.
2. Begin here to enter each closed file, following the same pattern as shown.
3. When you get to the end of the line, hit "TAB", which will create the next line.
4. After each case file has been entered, go up to the beginning of the new files.
5. When sorting is complete, again highlight the new files and print the log.
6. When printing is complete, go back to Tools and sort the entire file.
7. Save the log.
8. Write on the case file summary sheet, "Entered in Closed Log", then file, initial and date.
9. Stamp the case file summary sheet and the outside of the folder with "File Closed" stamp.

For "000" Files.

1. Date stamp the back of the OSHA-1.
2. Track in NCR.
3. Give original file back to CSHO.