

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

Raleigh, North Carolina

Field Information System

Operational Procedures Notice 129

Subject: Interim Inspection Procedures for Blasting Operations in the Construction Industry

A. Purpose.

This instruction describes OSHNC inspection policy for uniform enforcement of standards addressing blasting in the construction industry.

B. Scope.

This policy applies to construction activity throughout North Carolina.

C. Discussion.

North Carolina Department of Labor, Division of Occupational Safety and Health adopted the sections of 29 CFR 1926 Subpart U as promulgated by federal OSHA. The Department promulgated section (5) of 13 NCAC 7F.0201 in 2000, which was designed to update Subpart U and address inconsistencies and technological changes. The state-specific standard was designed to “sit atop” the federal standard. Where the State adopted an amended version of a standard, it replaced the federal standard. Where no amended version was adopted, the federal standard remained in effect. The two documents must be viewed as a single combined document to establish the North Carolina standards for blasting. Neither is complete or accurate without the other.

For compliance purposes, however, citations for violations must quote the actual standard being cited. Violations of standards amended by the administrative code (hereafter referred to as NCAC standards) must reference 13 NCAC 7F.0201(5). Violations of unamended standards (hereafter referred to as CFR standards) must reference the appropriate paragraph of 29 CFR 1926 Subpart U. However, in many instances the scope and/or application of a CFR standard has in fact been changed by an associated NCAC standard, so citations for CFR standards must also include a reference to the appropriate NCAC standard that changes its scope or application.

In addition, within many NCAC and CFR standards there are references to another standard in Subpart U. It is unclear whether these references refer to the NCAC or CFR standard. This has led to a great deal of confusion for both the regulated public and the compliance staff.

The Department is in the process of revising the administrative code to correct these problems, and will pursue rulemaking in the 2004 session. In the interim, compliance officers shall follow these procedures while conducting inspections of and issuing citations for blasting operations on construction sites.

D. **Action.**

1. Blasting operations on construction sites shall be assessed against the requirements of the combined NCAC and CFR regulations, and not one or the other separately. A copy of the combined regulations is included as [Attachment I](#).
2. A copy of the combined document shall be given to the employer conducting the assessed blasting operations regardless of whether citations are issued or not.
3. Citations for violations of an NCAC standard shall be formatted as follows:
 - a. reference 13 NCAC 7F.0201(5). No further paragraph numbers or letters shall be included.
 - b. restate the NCAC standard in the negative.
 - c. within parentheses, reference the 1926 standard followed by the words "as amended by 13 NCAC 7F.0201(5)."

Example:

13 NCAC 7F.0201(5): Drill holes were not sufficiently large to admit easy insertion of the cartridges of explosives (1926.905(b) as amended by 13 NCAC 7F.0201(5));

4. Citations for violations of a CFR standard shall be formatted as follows:
 - a. reference the 1926 Subpart U standard and restate the CFR standard in the negative
 - b. carefully review the combined document to determine if an NCAC standard alters the scope or application of the cited CFR standard. If so, include in parentheses the following: "applicable via," then reference the 1926 standard followed by "as amended by 13 NCAC 7F.0201(5)."

Example:

29 CFR 1926.900(s)(1): Buildings used for the mixing of water-based explosives were not of noncombustible construction or sheet metal on wood studs (applicable via 1926.900(s) as amended by 13 NCAC 7F.0201(5))

(1926.900(s)(1) was not amended by the NCAC, applies to water-based explosives only because 1926.900(s) was amended by the NCAC.)

5. Do not cite for the following standards:

1926.900(c)
1926.900(k)(1)
1926.900(t) and 1926.900(t)(1)-(6)

6. The combined document will be used to trace a reference to another part of Subpart U that is contained within either an NCAC or a CFR standard. The reference shall be considered to refer to the NCAC standards, and will only point to a CFR standard if there is no amending NCAC standard.

For example, 1926.902(a) as amended states in part: "Where DOT regulations do not exist, 1926.902(b) through 1926.902(l) apply." This reference points to the NCAC version of 1926.902(b), (d), (f), (h), (i), and (j). The reference also points to the CFR version of 1926.902(c), (g), and (k), because there are no corresponding standards in the NCAC version.

E. **Expiration.**

This OPN is effective upon date of signature and shall remain in effect until changes to 13 NCAC 7F.0201(5) are successfully promulgated.

Signed on Original
Ed Preston III
Safety Standards Officer

Signed on Original
John H. Johnson
Director

11/5/02
Date of Signature