

24 NCAC 03 .0107 SERVICE AND NOTICE

(a) At the time of filing pleadings or other documents, a copy thereof shall be served by the filing party or intervenor on every other party or intervenor by postage prepaid first-class or by personal delivery. For electronically-filed documents filed via the Review Commission's E-file System, service shall be deemed accomplished by the simultaneous service of the document by email on all other parties and intervenors in the case, together with proof of service pursuant to Paragraph (d) of this Section. If affected employees are represented by an authorized employee representative, the Complainant and the Respondent shall serve a copy of the Statement of Employer's/Respondent's Position, and, where applicable under Rule .0304 of this Chapter, copies of the complaint and answer in this case on the authorized employee representative in accordance with Paragraph (c) of this Rule. Both the Complainant and the Respondent shall also serve on any authorized employee representative notice of any request for or proposed modification of abatement. In cases in which employees are represented by an authorized employee representative, the Complainant and Respondent shall notify the Review Commission of this fact within 10 days after filing of their Statement of Employer's/Respondent's Position, and in such cases, the Review Commission shall serve on the authorized employee representative notice of hearings and copies of any final order of the Review Commission or Hearing Examiners in the manner prescribed by Paragraph (c) of this Rule.

(b) Service upon a party or intervenor who has appeared through an authorized representative or attorney need be made only upon such authorized representative or attorney.

(c) Unless otherwise ordered, service may be accomplished by postage prepaid first-class mail, by personal delivery, or by e-mail if agreed to by all parties. Service is deemed effected at the time of mailing (if by mail) or at the time of personal delivery (if by personal delivery), or at the time the e-mail was sent (if by e-mail).

(d) Proof of service shall be accomplished by a written statement attached to the document served which sets forth the date and manner of service. Such certificate of service shall be filed with the pleading, document, or recording.

(e) Service to employees shall be accomplished by posting in at least one location where all affected employees have an opportunity to read the notice or pleading. Proof of posting shall be filed not later than the first working day following the posting.

(f) The Employer Respondent must post notice of contest, notice of hearing, notice of settlement, and any order or decision of a Hearing Examiner or of the Review Commission other than a procedural order. The Employer Respondent must also post the notice informing affected employees of their right to elect party status in any proceedings pursuant to Rule .0201 of this Chapter and of their right to contest the provisions of the abatement period.

(g) The notice to affected employees in the following form shall be required to be posted to comply with the requirements pursuant to Paragraph (f) of this Rule and shall be as follows:

TO THE EMPLOYEES OF:

Your employer has been charged with a violation of the Occupational Safety and Health Act of North Carolina and is contesting this alleged violation before the Safety and Health Review Commission, an independent agency. If you want to have a say in this matter, you must write to:

North Carolina Occupational
Safety and Health Review Commission
1101 Mail Service Center
Raleigh, North Carolina 27699
NCOSHRC@oshrc.labor.nc.gov.

As an affected employee, you have a right to participate in this matter as a party. To participate as a party, you must request party status.

Write to:

North Carolina Occupational
Safety and Health Review Commission
1101 Mail Service Center
Raleigh, North Carolina 27699
NCOSHRC@oshrc.labor.nc.gov.

(h) The notice of settlement and notice for modification of abatement must be posted.

(1) Settlement. In any case where a settlement is proposed, a hearing shall be held on request of any party, intervenor, employee, or authorized employee representative. The employer must post a notice indicating that a settlement is proposed and that the settlement may be approved by a Hearing Examiner without a hearing, unless objection is received from any party, intervenor, employee, or authorized employee representative within 15 working days of the date of the posting of the notice of proposed settlement. Such notice of proposed settlement shall be posted

promptly after the parties agree on the proposed settlement, and in no case later than five days after the agreement on the proposed settlement. The notice must inform employees that they have a right to object to the reasonableness of any abatement time and that to protect such rights they must write to the North Carolina Occupational Safety and Health Review Commission, 1101 Mail Service Center, Raleigh, North Carolina, 27699, NCOSHRC@oshrc.labor.nc.gov, stating the grounds for their objection and their desire to participate.

(2) Modification of Abatement. In any case where a petition for modification of abatement is filed, the employer must post a notice in a conspicuous place of this fact, together with a notice that employees or authorized employee representatives have a right to object to the proposed modification of abatement. The notice must inform affected employees that they have a right to appear to object to the proposed modification of abatement; and that to protect such a right they must file notice of their objection within 15 working days from the date of posting of such petition for modification of abatement and documents pertaining to the case may be inspected at the Review Commission office. Such notice must be filed with the North Carolina Occupational Safety and Health Review Commission, 1101 Mail Service Center, Raleigh, North Carolina, 27699, NCOSHRC@oshrc.labor.nc.gov.

(i) Where an employee or employee representative files notice of objection to an abatement period, the notice must be served on the Complainant, the Commissioner of Labor of North Carolina, and on the employer in the manner described in Paragraph (c) of this Rule. The employer shall then post the notice.

(j) Where posting is required by this Rule, such posting shall be maintained until the commencement of a hearing or until earlier disposition unless otherwise provided in these Rules.

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;

Amended Eff. October 1, 2025.