

North Carolina Department of Labor

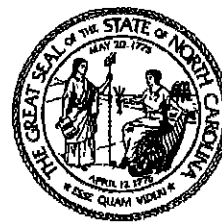
Occupational Safety and Health Division

1101 Mail Service Center

Raleigh, NC 27699

Phone: 919-707-7820 FAX: 919-707-7967

JRamirez/BR



Citation and Notification of Penalty

To:

Barnes Farming Corporation
7840 Old Bailey Highway
Spring Hope, NC 27882

Inspection Number: 318273042

CSHO ID: S0709

Activity ID No.: 155068

Inspection Date(s): 9/6/2023

Issuance Date: 3/4/2024

Inspection Site:

7385 Old Bailey Highway
Spring Hope, NC 27882

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty describes violation(s) of the labor laws of Chapter 95 of the North Carolina General Statutes. The penalty(ies) listed herein is (are) based on these violations. You must correct the violation(s) referred to in this citation by the date(s) listed and pay the penalty proposed, unless within 15 working days (excluding weekends and holidays) from receipt of this Citation and Notification of Penalty, you mail a request for an informal conference or Notice of Contestment to the North Carolina Department of Labor district office at the address shown above.

Posting - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and State holidays), whichever is longer. **The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.**

Informal Conference - You may request an informal conference. To request an informal conference, you must return the enclosed form marking the block requesting an informal conference or provide other written notice to the district supervisor within 15 working days of receipt of the citation. **Do not mark more than one block on the enclosed form if you want an informal conference.** The informal conference must be held no longer than 20 working days from the date you receive the Citation and Notification of Penalty, so your immediate response is necessary if you choose this option.

If you make a timely request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you preserve your right to contest. The time for contestment does not begin until after the informal conference is held and you have been notified of the result(s). At that time you

have an additional 15 working days during which you may file a notice of contest, should you so desire.

If you decide to request an informal conference, obtain the date, time and location of the informal conference by contacting the District Supervisor, then complete and post the enclosed Notice to Employees near the Citation and Notification of Penalty. Please bring to the conference all supporting documentation of existing conditions and any corrections made thus far. The results of the informal conference will be a revised citation, a notice of no change or an informal settlement agreement. An informal settlement agreement will resolve the matter without litigation or contestment.

Right to Contest - You have the right to contest this Citation and Notification of Penalty now or after an informal conference. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations.

15 working days after you receive this Citation and Notification of Penalty (if you do not request an informal conference) or 15 working days after you receive the results of the informal conference, the citation(s) and/or proposed penalty(ies) will become a final order of the North Carolina Occupational Safety and Health Review Commission and may not be reviewed by any court or agency, unless you file a notice of contestment.

Penalty Payment - Penalties are due within 15 working days of receipt of this notification unless a request for an informal conference or notice of contestment is forwarded. Make your check or money order payable to the North Carolina Department of Labor, OSHA Division and remit to the Financial Services Division at 1101 Mail Service Center, Raleigh, NC 27699-1101. Pay online at www.labor.nc.gov. We accept VISA, MasterCard, and E-Checks. You may also fax your payments to (919) 715-9094, or mail it to: N.C. Department of Labor, Financial Services Division, 1101 Mail Service Center, Raleigh NC 27699-1101. You may also make payment by credit card. A form is provided for your convenience. Please indicate the inspection number on the remittance.

Pursuant to N.C. Gen. Stat. Section 147-86.23 interest shall be charged at the rate of five percent (5%) per year on a past-due account receivable from the date the account receivable was due until it is paid. In addition, a late payment penalty of ten percent (10%) of the account receivable shall be added to a past-due account receivable. A late-payment penalty may be waived for good cause shown.

The North Carolina Department of Labor does not agree to any restriction or conditions or endorsements you put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Notification of Corrective Action - For violations which you do not contest, you should return the OSHA Form 2D (Certification of Abatement) within ten (10) calendar days after the abatement date, to indicate that appropriate corrective action has been taken within the time frame set forth in this citation. You are not required to certify abatement if the inspector observed the abatement during the on-site portion of the inspection or observes within 24 hours after identifying the hazard and notes in the citation that abatement has occurred. The certification that abatement is complete must include, for each cited violation, the date and method of abatement and a statement that affected employees and their representatives have been informed of the abatement.

In addition, for repeat, willful and other serious violations as indicated, additional documents demonstrating that abatement is complete is required. This additional documentation may include, but is not limited to, evidence of the purchase or repair of equipment, photographic or video evidence of

abatement or other written records.

If indicated in the citation, you may be required to submit an abatement plan for each cited violation, when time permitted for abatement is more than 90 calendar days. The plan must identify the violation and the steps to be taken to achieve abatement, including a schedule for completing abatement and how employees will be protected from exposure to the violative condition in the interim until abatement is complete. An employer who submits an abatement plan may be required to also submit periodic progress reports for each cited violation. The citation will indicate whether progress plans are due and the date(s) when the progress reports are due.

The employer must include, in each submission required by this notification, company name and address, inspection number, citation and item numbers, a statement that the information submitted is accurate, and a signature of the employer or the employer's authorized representative. The date of the postmark is the date of submission for mailed documents.

Employee Notification of Corrective Action - The employer must inform affected employees and their representative(s) about abatement activities, covered by the citations, by posting a copy of each document submitted to the North Carolina Department of Labor, or a summary of the document near the place where the violation occurred, or where it will be readily observable. The employer must inform employees of their right to examine and copy all abatement documents submitted. Posted documents must remain posted for three working days after submission to the Department.

Employer Discrimination Unlawful - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 180 days after the discrimination occurred with the NC Department of Labor at the address shown above.

Notice to Employees - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be in writing and signed. It must be mailed to the North Carolina Department of Labor at the address shown above and postmarked within 20 days of the receipt by the employer of this Citation and Notification of Penalty.

Notice to Employer - Enclosed are citations and proposed penalties levied against your facility resulting from the Division of Occupational Safety and Health's compliance inspection of your facility. The penalty for each violation has been reduced depending on your facility's size, good faith and history.

Notice to Employer - To view your establishment(s) inspection on the Federal OSHA web site please use the Activity ID number on Page one (1).

CREDIT CARD PAYMENT

Complete and return to:

North Carolina Department of Labor
Financial Services Division
1101 Mail Service Center
Raleigh, NC 27699-1101
Telephone: (919) 707-7742
Fax: (919) 715-9094

Name: _____

Address: _____

Phone #: _____

Amount: \$ _____ (circle one) Mastercard Visa

Name (as it appears on credit card): _____

Credit Card Number: _____ Exp. Date: _____
Mo./Yr.

Cardholder Signature: _____ Date: _____

Payment for Invoice Nos.: _____

Pay online at www.labor.nc.gov. We accept VISA, MasterCard, and E-Checks. You may also fax your payments to (919) 715-9094, or mail it to: N.C. Department of Labor, Financial Services Division, 1101 Mail Service Center, Raleigh, NC 27699-1101.

North Carolina Department of Labor
Occupational Safety and Health Division



THIS FORM IS FOR YOUR CONVENIENCE IN REQUESTING AN INFORMAL CONFERENCE OR FOR CONTESTING PART OR ALL OF THE ENCLOSED CITATION(S). THE FORM OR YOUR REQUEST FOR AN INFORMAL CONFERENCE OR NOTICE TO CONTEST MUST BE POSTMARKED WITHIN 15 WORKING DAYS OF RECEIPT OF THE CITATION(S).

Barnes Farming Corporation
7840 Old Bailey Highway
Spring Hope, NC 27882

Inspection Number 318273042

Please mark only one of the following boxes and return to the address indicated below. Forms returned with more than one box marked will be treated as a request for an informal conference.

☐ **PENALTY PAYMENT ENCLOSED IN THE AMOUNT OF \$** _____

Remit to: NC Department of Labor
ATTN: Financial Services Division
1101 Mail Service Center
Raleigh, NC 27699-1101

Pay online at www.labor.nc.gov. We accept MasterCard, VISA, E-Checks. You may also fax your payment to (919) 715-9094, or mail it to: N.C. Department of Labor, Financial Services Division, 1101 Mail Service Center, Raleigh, NC 27699-1101.

☐ **REQUEST AN INFORMAL CONFERENCE (YOUR RIGHT TO CONTEST IS RESERVED PENDING THE RESULTS OF THE INFORMAL CONFERENCE)**

☐ **NOTICE OF CONTEST OF CITATION(S) AND/OR PROPOSED PENALTY**

Contest of Violation(s) Date(s)/Abatement Dates(s) _____

Contestment of Penalty Amount(s) _____

Return to: NC Department of Labor
Division of Occupational Safety and Health
Attention: Beth Rodman-Bureau Chief
1101 Mail Service Center
Raleigh, NC 27699
Tel: 919-707-7820 Fax: 919-707-7967

Signature: _____ Name (Print): _____

Title: _____ Email Address: _____

Telephone No.: (____) _____ Fax No.: (____) _____ Date: _____

NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 3/4/2024. The conference will be held at the OSHA office located at Division of Occupational Safety and Health, 1101 Mail Service Center, Raleigh, NC 27699 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

North Carolina Department of Labor

Occupational Safety and Health Division

1101 Mail Service Center

Raleigh, NC 27699

Phone: 919-707-7820 FAX: 919-707-7967

Request for Abatement Date Extensions

In the event it becomes necessary to request an extension of the abatement date for any violation listed on the enclosed citation(s), certain information must be submitted, in writing, before this request can be considered. Please send your request to:

North Carolina Department of Labor
Occupational Safety and Health Division
1101 Mail Service Center
Raleigh, NC 27699

The Division of Occupational Safety and Health has the authority to approve or deny any request for abatement extension. However, this approval or denial will not be exercised until the expiration of fifteen (15) working days from the date your employees were notified of the request for an extension. This notification will be accomplished by posting the enclosed "Request for Abatement Date Extension" or by delivering notice to an authorized employee representative. During this fifteen (15) working days period, you are responsible for assuring the safety and health of your employees in the area of the cited hazard.

Attached to this letter is the information you need to include with your request for an extension of any abatement date. Please answer each item completely and forward to this office as soon as it becomes apparent that an extension will be necessary.

If you have any questions regarding this procedure, please call our office at: 919-707-7820.



Request for Abatement Date Extension

The employer must indicate in the boxes below which item(s) of the Citation and Notification of Penalty it wishes to extend. First, the employer must identify the citation and item number(s). (For example, "Citation 1, Item 2" or "1-2.") Then the employer must indicate all actions taken, their dates, to achieve compliance during the original abatement period. The employer must also include: the specific additional time necessary, the reasons for the additional time, all available interim steps being taken to safeguard employees, a certification that a copy of this PMA has been posted and served upon the authorized employee representative, and the date the posting and service was completed.

Inspection Number
318273042

CSHO ID
S0709

Issuance Date
3/4/2024

Employer's name and mailing address
Barnes Farming Corporation
7840 Old Bailey Highway
Spring Hope, NC 27882

Citation and Item no.	Abatement Date on Citation	Anticipated Completion Date	Reason for requesting an additional abatement period	Interim steps taken to safeguard employees, including dates, during any extended abatement period

The employer completing this form must sign the form.

Name of Employer Representative, Title

Phone

Signature

Date

Certificate of Posting

I hereby certify that the Request for Abatement Date Extension form and this Certificate of Posting were posted as required on _____, 20_____, and a copy furnished to the authorized employee representative, if appropriate, and will remain posted for a period of 15 working days.

If any affected employees, or their representative, feel that this extension should not be granted, they should file an objection to the request in writing to:

North Carolina Department of Labor
Occupational Safety and Health Division
1101 Mail Service Center
Raleigh, NC 27699

The Division of Occupational Safety and Health has the authority to approve or deny any request for abatement extension. However, this approval or denial will not be exercised until the expiration of fifteen (15) working days from the date your employees were notified of the request for an extension. This notification will be accomplished by posting the enclosed "Request for Abatement Date Extension" or by delivering notice to an authorized employee representative. During this fifteen (15) working days period, you are responsible for assuring the safety and health of your employees in the area of the cited hazard.

Failure to file such objection within fifteen (15) working days of the date of posting of the petition shall constitute a waiver of any further right to object to the petition.

Company Name _____

Authorized Signature _____

Date _____

A copy of this Certificate of Posting must be returned with your request for abatement extension.

North Carolina Department of Labor
Occupational Safety and Health Division

Inspection Number: 318273042
Inspection Date(s): 9/6/2023
Issuance Date: 3/4/2024

Citation and Notification of Penalty

Company Name: Barnes Farming Corporation
Inspection Site: 7385 Old Bailey Highway, Spring Hope, NC 27882

Citation 01 Item 001 Type of Violation: **Willful Serious**

NCGS 95-129(01): The employer did not furnish to each of his employees conditions of employment and a place of employment free from recognized hazards that were causing or were likely to cause death or serious injury or serious physical harm to his employees in that employees were exposed to heat-related hazards associated with working in hot environments:

a) At various sweet potato and tobacco fields located in and around Nash and Johnston County NC, where at least 32 employees performed hand labor activities, such as harvesting sweet potatoes and topping tobacco, while exposed to heat indices exceeding 91 °F, and the employer failed to implement adequate control measures to prevent employees from experiencing heat-related illnesses, including the following deficiencies:

- The employer did not adequately implement a work/rest schedule for high-heat conditions. For the six-hour day, workers were given at most one scheduled 5-minute break.
- Shaded or cool areas were not provided for rest periods away from the heat. Breaks were taken inside of a bus that was hot because it didn't have air conditioning and was often parked in an open field in direct sunlight.
- An adequate supply of drinking water was not available to employees. While a 10-gallon cooler of water was provided, there were no cups, so employees had to drink the water by placing their head under the spigot.
- The employer did not develop and implement an acclimatization program for the H2A migrant farm workers to allow easing into the high heat conditions over a several-day period. Employees worked the full shift on their first day of work.
- The employer did not establish and implement a reporting process, first-aid procedures, and emergency response procedures for employees exhibiting signs and symptoms of heat-related illnesses.

On or about September 5, 2023, a 29-year-old employee harvesting sweet potatoes in direct sunlight began showing signs and symptoms of a heat-related illness, including but not limited to heavy sweating, confusion, fatigue, difficulty walking, talking, and breathing, and loss of consciousness. He died approximately one hour later, while still at the field.

One feasible and acceptable abatement method to correct this hazard is to develop and implement all elements of a heat stress prevention program, such as those previously agreed to by Barnes Farming Corporation in the Informal Settlement Agreement to OSH Inspection 318181815 that was executed on May 21, 2020. The Agreement included the following elements, at a minimum:

- 1) The development of a heat stress training program to inform the employer and employees about the effects of heat stress and how to recognize heat-related symptoms and prevent heat-related illnesses.
- 2) The utilization of an acclimatization program for new employees when they begin working in hot environments.
- 3) The monitoring of weather conditions and establishment of work schedules and break periods to minimize heat exposure.
- 4) Providing shaded areas and/or other cool areas for breaks.
- 5) Implementation of a screening program to determine any causal factors that may affect the employee's heat illness susceptibility.
- 6) Ensuring an adequate supply of drinking water is available and training employees on the importance of adequate fluid intake and hydration.
- 7) Establishing and implementing a program and method for reporting employees exhibiting signs and symptoms of heat-related illness.
- 8) Establishing and implementing first-aid procedures for employees exhibiting signs and symptoms of heat-related illnesses.
- 9) Establishing and implementing emergency response procedures for employees exhibiting signs and symptoms of heat-related illnesses.

Date By Which Violation Must Be Abated:
Proposed Penalty:

Immediately Upon Receipt
\$156,259.00

North Carolina Department of Labor
Occupational Safety and Health Division

Inspection Number: 318273042
Inspection Date(s): 9/6/2023
Issuance Date: 3/4/2024

Citation and Notification of Penalty

Company Name: Barnes Farming Corporation
Inspection Site: 7385 Old Bailey Highway, Spring Hope, NC 27882

Citation 02 Item 001 Type of Violation: **Serious**

NCGS 95-129(01): The employer did not furnish to each of his employees conditions of employment and a place of employment free from recognized hazards that were causing or were likely to cause death or serious injury or serious physical harm to his employees in that employees were exposed to a lack of timely emergency medical care:

a) jobsite, sweet potato field – where, on or about September 5, 2023, a farmworker harvesting sweet potatoes became confused, demonstrated difficulty walking, talking, and breathing and lost consciousness, and management representatives never summoned professional healthcare services or provided first aid treatment. Another employee finally called 911 approximately 50 minutes after the farmworker first exhibited signs and symptoms of a medical emergency. He went into cardiac arrest prior to EMS arrival and was pronounced deceased on scene.

One feasible means of abatement, among others, is to develop and implement emergency response procedures to effectively respond to medical emergencies in a timely manner. At a minimum, the procedures shall include having appropriately trained personnel and adequate medical supplies on site; instruction on how and when to call 911; the addresses of the work sites; the list of emergency contacts for the company to be available onsite; a reliable means of communication for employees to either call 911 or someone on the company's emergency contact list, and designated employees onsite responsible for implementing first aid procedures until emergency responders arrive.

Date By Which Violation Must Be Abated:
Proposed Penalty:

Immediately Upon Receipt
\$15,625.00

North Carolina Department of Labor
Occupational Safety and Health Division

Inspection Number: 318273042
Inspection Date(s): 9/6/2023
Issuance Date: 3/4/2024

Citation and Notification of Penalty

Company Name: Barnes Farming Corporation
Inspection Site: 7385 Old Bailey Highway, Spring Hope, NC 27882

Citation 02 Item 002 Type of Violation: **Serious**

29 CFR 1928.110(c)(1)(iii): Water was not dispensed in single-use drinking cups or by fountains:

a) At various sweet potato and tobacco fields located in and around Nash and Johnston County NC - where single-use drinking cups were not provided for 32 employees engaged in hand labor activities such as harvesting sweet potatoes and topping tobacco.

Date By Which Violation Must Be Abated:
Proposed Penalty:

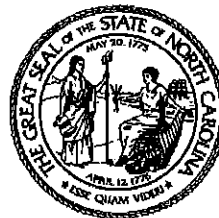
Immediately Upon Receipt
\$15,625.00



Bureau Chief
for the Director

North Carolina Department of Labor

Occupational Safety and Health Division
1101 Mail Service Center
Raleigh, NC 27699
Phone: 919-707-7820 FAX: 919-707-7967



INVOICE/ DEBT COLLECTION NOTICE

Company Name: Barnes Farming Corporation
Inspection Site: 7385 Old Bailey Highway, Spring Hope, NC 27882
Issuance Date: 3/4/2024

Summary of Penalties for Inspection Number: 318273042

Citation 1, Willful Serious	= \$156,259.00
Citation 2, Serious	= \$31,250.00
TOTAL PENALTIES	= \$187,509.00

Please remit payment promptly to Attn: Financial Services Division - Collections, NC Department of Labor at 1101 Mail Service Center, Raleigh, NC 27699-1101, for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: NC Department of Labor, OSHA Division. For payment by credit card, complete the form provided. Please indicate OSHA's Inspection Number (indicated above) on the remittance. Pay online at www.labor.nc.gov. We accept VISA, MasterCard, and E-Checks. You may also fax your payment to (919) 715-9094, or mail to: N.C. Department of Labor, Financial Services Division, 1101 Mail Service Center, Raleigh, NC 27699-1101.

OSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

CONFIRMATION OF ABATEMENT

RETURN THIS FORM TO:



NORTH CAROLINA DEPARTMENT OF LABOR

Occupational Safety and Health Division
1101 Mail Service Center
Raleigh, NC 27699
919-707-7820

FAILURE TO RESPOND BY THE DUE DATE MAY RESULT IN A FOLLOW-UP INSPECTION

DATE FORM DUE: Immediately Upon Receipt

FILE NO: 318273042

COMPANY: Barnes Farming Corporation

LOCATION: 7385 Old Bailey Highway, Spring Hope, NC 27882

THE ALLEGED VIOLATIONS LISTED BELOW THAT WERE OBSERVED ON THE 9/6/2023
OSHA INSPECTION BY THE NORTH CAROLINA DEPARTMENT OF LABOR WERE CORRECTED ON OR BEFORE

THE FOLLOWING ABATEMENT DATE: Immediately Upon Receipt

ITEM NUMBER	STANDARD OR REGULATION ALLEGEDLY VIOLATED	ACTION TAKEN TO CORRECT VIOLATION (attach additional pages if needed)
Citation 01 Item 001	NCGS 95-129(01)	
Citation 02 Item 001	NCGS 95-129(01)	

*** To be acceptable the Action Taken To Correct Violation must be described in detail. Photos or other evidence of abatement may be attached.

THE UNDERSIGNED ATTEST THAT THE ABOVE ITEMS WERE CORRECTED ON OR BEFORE THE PRESCRIBED ABATEMENT DATE:

SIGNATURE: _____

TITLE: _____

DATE: _____

CONFIRMATION OF ABATEMENT

RETURN THIS FORM TO:



NORTH CAROLINA DEPARTMENT OF LABOR

Occupational Safety and Health Division

1101 Mail Service Center

Raleigh, NC 27699

919-707-7820

FAILURE TO RESPOND BY THE DUE DATE MAY RESULT IN A FOLLOW-UP INSPECTION

DATE FORM DUE: Immediately Upon Receipt

FILE NO: 318273042

COMPANY: Barnes Farming Corporation

LOCATION: 7385 Old Bailey Highway, Spring Hope, NC 27882

THE ALLEGED VIOLATIONS LISTED BELOW THAT WERE OBSERVED ON THE 9/6/2023
OSHA INSPECTION BY THE NORTH CAROLINA DEPARTMENT OF LABOR WERE CORRECTED ON OR BEFORE

THE FOLLOWING ABATEMENT DATE: Immediately Upon Receipt

ITEM NUMBER	STANDARD OR REGULATION ALLEGEDLY VIOLATED	ACTION TAKEN TO CORRECT VIOLATION (attach additional pages if needed)
Citaiton 02 Item 002	29 CFR 1928.110(c)(1)(iii)	

*** To be acceptable the Action Taken To Correct Violation must be described in detail. Photos or other evidence of abatement may be attached.

THE UNDERSIGNED ATTEST THAT THE ABOVE ITEMS WERE CORRECTED ON OR BEFORE THE PRESCRIBED ABATEMENT DATE:

SIGNATURE: _____

TITLE: _____

DATE: _____