Article 22.

Safety and Health Programs and Committees.

§ 95-250. Definitions.

The following definitions shall apply in this Article:

(1) "Experience rate modifier" means the numerical modification applied by the Rate Bureau to an experience rating for use in determining workers' compensation premiums.

(2) "Worksite" means a single physical location where business is conducted or where operations are performed by employees of an employer.

The definitions of Article 16 of this Chapter shall also apply to this Article, except that "employee" for the purposes of G.S. 95-252(a), 95-252(c)(1)b., and 95-256 means an employee employed for some portion of a working day in each of 20 or more calendar weeks in the current or preceding calendar year. (1991 (Reg. Sess., 1992), c. 962, s. 1; 2024-3, s. 8.2.)

§ 95-251. Safety and health programs.

(a) Establishment of safety and health programs.

(1) Except as provided in subdivision (2) of this subsection, each employer with an experience rate modifier of 1.5 or greater shall, in accordance with this section, establish and carry out a safety and health program to reduce or eliminate hazards and to prevent injuries and illnesses to employees.

(2) Employers with an experience rate modifier of 1.5 or greater which provide temporary help services shall, in accordance with this section, establish and implement a safety and health program to reduce or eliminate hazards and to prevent injuries and illnesses to its full-time employees permanently located at the employer's worksite. Employers which provide temporary help services shall not be required to establish and implement a safety and health program under this section for its employees assigned to a client's worksite. This subdivision shall not apply to employee leasing companies.

(3) The Commissioner may modify the application of the requirements of this section to classes of employers where the Commissioner determines that, in light of the nature of the risks faced by the employees of these employers, such a modification would not reduce the employees' safety and health protection.

(b) Safety and health program requirements. A safety and health program established and implemented under this section shall be a written program that shall include at least all of the following:

(1) Methods and procedures for identifying, evaluating, and documenting safety and health hazards.

(2) Methods and procedures for correcting the safety and health hazards identified under subdivision (1) of this subsection.

(3) Methods and procedures for investigating work-related fatalities, injuries, and illnesses.

(4) Methods and procedures for providing occupational safety and health services, including emergency response and first aid procedures.

(5) Methods and procedures for employee participation in the implementation of the safety and health program.

(6) Methods and procedures for responding to the recommendations of the safety and health committee, where applicable.
(7) Methods and procedures for providing safety and health training and education to employees and to members of any safety and health committee established under G.S. 95-252.
(8) The designation of a representative of the employer who has the qualifications and responsibility to identify safety and health hazards and the authority to initiate corrective action where appropriate.
(9) In the case of a worksite where employees of two or more employers work, procedures for each employer to protect employees at the worksite from hazards under the employer's control, including procedures to provide information on safety and health hazards to other employers and employees at the worksite.
(10) Any other provisions as the Commissioner requires to effectuate the purposes of this section.

(c) No loss of pay. The time during which employees are participating in training and education activities under this section shall be considered as hours worked for purposes of wages, benefits, and other terms and conditions of employment. The training and education shall be provided by an employer at no cost to the employees of the employer. (1991 (Reg. Sess., 1992), c. 962, s. 1.)

§ 95-252. Safety and health committees required.

(a) Establishment of safety and health committees. Except as provided in subsection (b) of this section, each employer with 11 or more employees and an experience rate modifier of 1.5 or greater shall provide for the establishment of safety and health committees and the selection of employee safety and health representatives in accordance with this section.

(b) Temporary help services. Temporary employees of employers which provide temporary help services shall not be counted as part of the 11 or more employees needed to establish a safety and health committee under this section, and employers which provide temporary help services shall not be required to establish a safety and health committee under this section for its employees assigned to a client's worksite. This subsection shall not apply to employee leasing companies.

(c) Safety and health committee requirements.
(1) In general. Each employer covered by this section shall establish a safety and health committee at each worksite of the employer, except as provided as follows:
a. An employer covered by this section whose employees do not primarily report to or work at a fixed location is required to have only one safety and health committee to represent all employees.
b. A safety and health committee is not required at a covered employer's worksite with less than 11 employees.
c. The Commissioner may, by rule, modify the application of this subdivision to worksites where employees of more than one employer are employed.
(2) Membership. Each safety and health committee shall consist of:
a. The employee safety and health representatives selected or appointed under subsection (d) of this section.

b. As determined appropriate by the employer, employer representatives, the number of which may not exceed the number of employee representatives.

(3) Chairpersons. Each safety and health committee shall be cochaired by:

a. A representative selected by the employer.

b. A representative selected by the employee members of the committee.

(4) Rights. Each safety and health committee shall, within reasonable limits and in a reasonable manner, exercise the following rights:

a. Review any safety and health program established by the employer under G.S. 95-251.

b. Review incidents involving work-related fatalities, injuries and illnesses, and complaints by employees regarding safety or health hazards.

c. Review, upon the request of the committee or upon the request of the employer representatives or employee representatives of the committee, the employer's work injury and illness records, other than personally identifiable medical information, and other reports or documents relating to occupational safety and health.

d. Conduct inspections of the worksite at least once every three months and in response to complaints by employees or committee members regarding safety or health hazards.

e. Conduct interviews with employees in conjunction with inspections of the worksite.

f. Conduct meetings, at least once every three months, and maintain written minutes of the meetings.

g. Observe the measurement of employee exposure to toxic materials and harmful physical agents.

h. Establish procedures for exercising the rights of the committee.

i. Make recommendations on behalf of the committee, and in making recommendations, permit any members of the committee to submit separate views to the employer for improvements in the employer's safety and health program and for the correction of hazards to employee safety or health, except that recommendations shall be advisory only and the employer shall retain full authority to manage the worksite.

j. Accompany, upon request, the Commissioner or the Commissioner's representative during any physical inspection of the worksite.

(5) Time for committee activities. The employer shall permit members of the committee established under this section to take the time from work reasonably necessary to exercise the rights of the committee without suffering any loss of pay or benefits for time spent on duties of the committee.

(d) Employee safety and health representatives.

(1) In general. Safety and health committees established under this section shall include:

a. One employee safety and health representative where the average number of nonmanagerial employees of the employer at the worksite during the preceding year was more than 10, but less than 50.

b. Two employee safety and health representatives where the average number of nonmanagerial employees of the employer at the worksite during the preceding year was 50 or more, but less than 100.
c. An additional employee safety and health representative for each additional 100 such employees at the worksite, up to a maximum of six employee safety and health representatives.
d. Where an employer's employees do not primarily report to or work at a fixed location or at worksites where employees of more than one employer are employed, a number of employee safety and health representatives as determined by the Commissioner by rule.

(2) Selection. Employee safety and health representatives shall be selected by and from among the employer's nonmanagerial employees in accordance with rules adopted by the Commissioner. The rules adopted by the Commissioner may provide for different methods of selection of employee safety and health representatives at worksites with no bargaining representative, worksites with one bargaining representative, and worksites with more than one bargaining representative. (1991 (Reg. Sess., 1992), c. 962, s. 1.)

§ 95-253. Additional rights.

The rights and remedies provided to employees and employee safety and health representatives under this Article are in addition to, and not in lieu of, any other rights and remedies provided by contract or by other applicable law and are not intended to alter or affect those other rights and remedies. (1991 (Reg. Sess., 1992), c. 962, s. 1.)

§ 95-254. Rules.

(a) Safety and health programs. Not later than one year after July 15, 1992, the Commissioner shall adopt final rules concerning the establishment and implementation of employer safety and health programs under G.S. 95-251. Rules adopted shall include provisions for the training and education of employees and safety and health committee members. These rules shall include at least all of the following:

(1) Provision for the training and education of employees, including safety and health committee members, in a manner that is readily understandable by the employees, concerning safety and health hazards, control measures, the employer's safety and health program, employee rights, and applicable laws and regulations.
(2) Provision for the training and education of the safety and health committee concerning methods and procedures for hazard recognition and control, the conduct of worksite safety and health inspections, the rights of the safety and health committee, and other information necessary to enable the members to carry out the activities of the committee under G.S. 95-252.
(3) Requirement that training and education be provided to new employees at the time of employment and to safety and health committee members at the time of selection.
(4) Requirement that refresher training be provided on at least an annual basis and that additional training be provided to employees and to safety and health committee members when there are changes in conditions or operations that

may expose employees to new or different safety or health hazards or when there are changes in safety and health rules or standards under Article 16 of this Chapter that apply to the employer.

(b) Safety and health committees. Not later than one year after July 15, 1992, the Commissioner shall adopt final rules for the establishment and operation of safety and health committees under G.S. 95-252. The rules shall include provisions concerning at least the following:

(1) The establishment of such committees by an employer whose employees do not primarily report to or work at a fixed location.

(2) The establishment of committees at worksites where employees of more than one employer are employed.

(3) The employer's obligation to enable the committee to function properly and effectively, including the provision of facilities and materials necessary for the committee to conduct its activities, and the maintenance of records and minutes developed by the committee.

(4) The provision for different methods of selection of employee safety and health representatives at worksites with no bargaining representative, worksites with one bargaining representative, and worksites with more than one bargaining representative. (1991 (Reg. Sess., 1992), c. 962, s. 1.)

§ 95-255. Repealed by Session Laws 2024-3, s. 8.1, effective June 3, 2024.

§ 95-255.1. Repealed by Session Laws 2024-3, s. 8.1, effective June 3, 2024.

§ 95-256. Penalties.

(a) The Commissioner may levy a civil penalty, not to exceed the amounts listed as follows, for a violation of this Article:

Employers with 10 or less employees	$ 2,000
Employers with 11-50 employees	$ 5,000
Employers with 51-100 employees	$10,000
Employers with more than 100 employees	$25,000.

(b) The Commissioner, in determining the amount of the penalty, shall consider the nature of the violation, whether it is a first or subsequent violation, and the steps taken by the employer to remedy the violation upon discovery of the violation.

(c) An employer may appeal a penalty levied by the Commissioner pursuant to this section to the North Carolina Occupational Safety and Health Review Commission subject to the procedures and requirements applicable to contested penalties under Article 16 of this Chapter. The determination of the Commission shall be final unless further appeal is made to the courts under the provisions of Chapter 150B of the General Statutes.

(d) All civil penalties and interest recovered by the Commissioner, together with any costs, shall be paid into the General Fund of the State. (1991 (Reg. Sess., 1992), c. 962, s. 1; 2005-133, s. 1; 2006-226, s. 30.)

§ 95-257: Reserved for future codification purposes.

§ 95-258: Reserved for future codification purposes.

§ 95-259: Reserved for future codification purposes.