

## CHAPTER 7 - OFFICE OF OCCUPATIONAL SAFETY AND HEALTH

### SUBCHAPTER 7A - GENERAL RULES AND OPERATIONAL PROCEDURES

#### SECTION .0600 - SAFETY AND HEALTH PROGRAMS AND COMMITTEES

##### 13 NCAC 07A .0601 PURPOSE AND SCOPE

(a) This Section sets forth rules of procedure for implementation of G.S. 95, Article 22 which is entitled "Safety and Health Programs and Committees."

(b) The purpose of this Section is to establish programs which will promote safety and health for all North Carolina employers with a workers' compensation experience rate modifier of 1.5 or above. Employee Safety and Health Committees will be established by all North Carolina employers having 11 or more employees and an experience rate modifier of 1.5 or above.

(c) For the purposes of Rules .0603 and .0606 of this Section, compliance with the safety and health program and the safety and health training requirements of the Mine Safety and Health Administration of the United States Department of Labor shall be deemed sufficient for compliance with Rules .0603 and .0606 of this Section for those operations subject to the federal Mine Safety and Health Act (Public Law 91-173 as amended by Public Law 95-164).

*History Note:* Authority G.S. 95-251; 95-252; 95-254;  
Eff. August 2, 1993.

##### 13 NCAC 07A .0602 DEFINITIONS

(a) "Fixed location worksite" means any worksite to which an employee regularly reports for at least a consecutive three month period.

(b) "Near-miss" means any accident or incident at a worksite that does not result in injury, but the potential for serious physical harm exists.

(c) "FMSHA" means the Federal Mine Safety and Health Act of 1977 [Public Law 95-164].

(d) "MSHANC" means the Mine Safety and Health Act of North Carolina as contained in North Carolina General Statute 74-24.1 et seq.

(e) "Mine Safety Laws" means MSHANC and FMSHA and the rules and standards adopted pursuant thereof.

(f) "OSHANC" means the Occupational Safety and Health Act of North Carolina as contained in North Carolina General Statute 95-126 et seq.

(g) "Regular location worksite" means a single region or geographic area where employees perform work for one employer.

(h) "Mobile work crews" means a group of employees of one specific trade (i.e. carpenters, electricians, roofers) who report to various, non-fixed worksites within one geographic area.

(i) "Multi-employer worksite" means any worksite at which more than one employer has employees reporting to work.

*History Note:* Authority G.S. 95-251;  
Eff. August 2, 1993;  
Amended Eff. June 1, 1995.

##### 13 NCAC 07A .0603 SAFETY AND HEALTH PROGRAMS

(a) All Safety and Health programs established under G.S. 95-251 for both fixed locations and non-fixed locations shall meet or exceed the requirements of G.S. 95-251(b)(1)-(9).

(b) The written program shall also include:

- (1) The manner in which managers, supervisors, and employees are responsible for implementing the program and how the continued participation of management will be

- established, measured, and maintained including specifically what the leadership role of the top employer official at the worksite shall be in regard to the program.
- (2) The manner in which the plan will be communicated to all affected employees so that they are informed of work-related hazards and controls.
  - (3) The manner in which safe work practices and rules will be enforced.
  - (4) The manner in which workplace accidents will be investigated and corrective action implemented. The employer shall keep a comprehensive record of accident investigations, findings, and corresponding corrective action taken.
  - (5) The manner in which near-miss incidents will be investigated. Special emphasis will be placed on identifying all contributing factors to any near-miss incident. The employer shall keep a comprehensive record of each such incident and the findings relating to it, and shall keep a record of all corresponding corrective action taken.
  - (6) The methods used to identify, analyze and control new or existing hazards, conditions and operations, and the manner in which changes will be incorporated into the safety program, safety committee checklist, and communicated to all affected employees.
  - (7) Written compliance plans as required by either the Mine Safety laws or OSHA standards, whichever is applicable to the employer. Written compliance plans shall include, the following OSHA standards, when applicable: Excavations, Hazard Communication, Occupational Noise Exposure, Control of Hazardous Energy Sources (Lockout/Tagout), Respiratory Protection, Process Safety Management of Highly Hazardous Chemicals, Bloodborne Pathogens, Life Safety Code, Cotton Dust, and Confined Spaces.
  - (8) A written checklist of all potential hazards to be inspected during the quarterly inspections required pursuant to G.S. 95-252(c)(4)d, if applicable, including, but not limited to, checking for properly marked doors (including exit doors and doors not leading to an exit); properly working fire extinguishers; unlisted hazardous substances, improperly located hazardous substances, or hazardous substances for which there are no material safety data sheets; doorways or exit pathways that are cluttered; improperly grounded equipment and exposed live wiring and parts; and unguarded machinery. Each item on the aforementioned written checklist shall be checked during the quarterly inspections and a copy of the list shall be retained by the employer for not less than two years. All conditions or items deemed to be out of compliance shall be immediately abated, unless circumstances beyond the control of the employer requires a longer period of time.
  - (9) The employer shall conduct an annual self-audit of all required safety and health programs. Written findings and a statement of remedial actions taken shall be retained for not less than two years. Companies with less than 11 employees that are not required to have safety and health committees shall appoint a company safety officer to conduct the annual self-audit.
  - (10) The purpose and operation of the Safety and Health Committee where such committee exists.
  - (11) The methods used to communicate requirements of the program to other employers or subcontractors and their employees who may be present at the same site.

*History Note:* Authority G.S. 95-251;  
Eff. August 2, 1993;  
Amended Eff. June 1, 1995.

### **13 NCAC 07A .0604 SELECTION OF SAFETY COMMITTEES**

(a) An employer may elect to implement any one of the following selection processes as a means of meeting the requirements for selection of representatives to employee Safety and Health committees pursuant to G.S. 95-252(d). The employer shall retain written documentation outlining any utilized selection process. An employer whose employees are represented by a collective bargaining representative must utilize either subsection 8, 9, or 10 for committee selection purposes. Any non-management

employees who choose not to participate in the collective bargaining process are still considered to be represented by the collective bargaining representative for purposes of this Rule for committee selection purposes.

- (1) The employer may devise and implement any means of employee selection so long as:
  - (A) the employee representatives are selected "by and from among the employer's non-management employees" as specified in the statute,
  - (B) minimum numbers are met, and
  - (C) the intent of the statute is satisfied.
- (2) The employer may require that all non-management employees serve on a Safety and Health Committee. In the instance of a small employer, there may be one committee comprised of all non-management employees which serves the entire organization. In a larger organization, there may be several committees, each addressing one or more of the responsibilities of the safety committee as outlined in G.S. 95-252, with employees divided among the committees.
- (3) The employer may conduct an election at either a meeting or through the distribution of ballots. The election process shall provide for the nomination by non-management employees (including self-nominations) of non-management employees in the numbers specified by the employer, but shall not be less than one nor more than the number of non-management members specified by statute. The number of non-management employees specified by statute receiving the most nominations shall serve on the Safety and Health Committee.
- (4) The employer may conduct an employee meeting at which open nominations are held and secret ballots are used to elect employee representatives. The meeting may be for all non-management employees or by working unit.
- (5) The employer may conduct an employee meeting at which non-management employees nominate one peer by listing that employee's name on a ballot. The ballots shall be tallied and the appropriate number of representatives, in the numbers required by statute, shall be determined by those employees named on the most ballots.
- (6) The employer may solicit nominations from all non-management employees for employee representatives to serve on the committee, then select representatives by lottery from among those nominated to obtain the statutorily appropriate number of employee representatives for the safety and health committee.
- (7) The employer may solicit volunteers and nominations from among the non-management employees for a pool of applicants to serve as employee representatives on the safety committee. (If no volunteers or nominations are received, the employer shall require that nominations be submitted from a cross section of employee work units within the establishment.) The members of the applicant pool shall select from among its ranks the initial employee representatives necessary to meet minimum numbers as specified in the statute.
- (8) Employees shall be selected to serve on a safety and health committee(s) in accordance with any contract that exists between a collective bargaining unit and the employer. Should the contract not otherwise specify selection of a safety and health committee, non-management members shall be selected in a manner approved by the certified collective bargaining agent.
- (9) Employers having more than one collective bargaining unit shall devise and implement a means of employee selection utilizing the provisions of the existing contracts or methods approved by the certified collective bargaining agents. Safety committee members shall be selected in proportionate numbers to the number of employees represented by the certified collective bargaining agents.
- (10) Employers having some non-management employees represented by a collective bargaining agent or agents and some not represented shall devise a means that utilizes language in the contract or methods approved by the certified collective bargaining agent(s) for selection of bargaining unit representatives, and one or more of the above means for selecting non-management employee members not represented by the bargaining agent(s). Safety committee members shall be selected in proportion to the

number of employees represented by the certified collective bargaining agent(s) and the number of employees not represented.

(b) However initial members of the committee are selected, replacement members may be chosen in accordance with one of the procedures in this Rule, or the committee may continue with the same members.

(c) Non-management employee representatives shall serve a term of at least one year, and shall not be allowed to succeed themselves in the same position more than once. Terms may be staggered. However, employers with less than 25 employees may allow non-management employee representatives to serve two successive terms.

(d) It shall not be a violation of any part of the statute if an employer has a safety and health program utilizing some other form of employee involvement which has been in operation for more than one year prior to July 15, 1993, and which is submitted for approval and subsequently approved by the Commissioner or his authorized representative, for that program to be used to satisfy the requirements of Section .0600.

*History Note: Authority G.S. 95-252;  
Eff. August 2, 1993;  
Amended Eff. June 1, 1995.*

### **13 NCAC 07A .0605 SAFETY & HEALTH COMMITTEE REQUIREMENTS**

(a) Multi-Site Employers:

- (1) Employers with 11 or more employees who do not report to a fixed or regular location worksite are required to have a Safety and Health Committee to represent those employees. The employer must have a separate Safety and Health Committee for each mobile work crew consisting of 11 or more employees.
- (2) Employers with employees who report to a fixed or regular location worksite must have a separate safety and health committee for each location with 11 or more employees.

(b) Multi-Employer Worksites:

- (1) At multi-employer fixed or regular location worksites, any employer required to establish a Safety and Health Committee pursuant to G.S. 95-252 shall notify the general contractor or equivalent of the requirements of this legislation and of the chairpersons of their committee.
- (2) The general contractor or equivalent shall designate a representative to attend the Safety and Health Committee meetings of the notifying employer(s).
- (3) The notifying employer shall work with the general contractor or equivalent to distribute information as required by G.S. 95-251(b)(9).

*History Note: Authority G.S. 95-252;  
Eff. August 2, 1993;  
Amended Eff. June 1, 1995.*

### **13 NCAC 07A .0606 TRAINING AND EDUCATION**

(a) All safety and health committee members shall receive training and education based on the type of business activity in which the employer is involved and the scope of the committee's duties. At a minimum, employers shall provide training regarding the following:

- (1) Hazard identification in the workplace.
- (2) Principles regarding effective accident and incident investigations.
- (3) Employee and employer rights and responsibilities under the Safety and Health Programs and Committees Act (G.S. 95-250 et al.) and the Mine Safety laws or OSHANC.
- (4) Recordkeeping requirements of the North Carolina Workers' Compensation Act (G.S. 97-1 et seq.) and the Mine Safety laws or OSHANC.
- (5) The most common causes of on-the-job accidents.
- (6) The most frequently cited violations of either the Mine Safety laws or OSHANC.

- (b) There shall also be established for employees whether or not a safety and health committee is required:
- (1) A system for training and education of all employees in occupational safety and health hazards at the worksite. The system shall contain specific requirements that new employees not be allowed to begin work, except when participating in carefully supervised on-the-job training, until thoroughly trained in the safe use of all applicable equipment and substances, and procedures relating to their workplace environment.
  - (2) A system of training and education for any existing employee given a new work assignment.
  - (3) A system of training and education for all affected employees when a new substance, process, procedure or piece of equipment is introduced into the workplace and presents a new hazard to safety or health.
  - (4) A system of training and education for all affected employees when any new personal protective equipment or different work practice is used on existing hazards.
  - (5) Training to comply with all applicable OSHA employee training requirements, including, but not limited within General Industry to Means of Egress; Powered Platforms, Manlifts, and Vehicle-Mounted Work Platforms; Occupational Health and Environmental Control; Hazardous Materials; Personal Protective Equipment; General Environmental Controls; Medical and First Aid; Fire Protection; Materials Handling and Storage; Machinery and Machine Guarding; Welding, Cutting and Brazing; Special Industries; Electrical; Commercial Diving Operations; Toxic and Hazardous Substances, and Occupational Exposure to Hazardous Chemicals in Laboratories; including, but not limited within the Construction Industry to General Safety and Health Provisions; Occupational Health and Environmental Controls; Personal Protective and Life Saving Equipment; Fire Protection and Prevention; Signs, Signals, and Barricades; Tools - Hand and Power; Welding and Cutting; Electrical; Ladders and Scaffolding; Cranes, Derricks, Hoists, Elevators and Conveyors; Motor Vehicles, Mechanized Equipment, and Marine Operations; Excavations; Concrete and Masonry Construction; Underground Construction, Caissons, Cofferdams and Compressed Air; Demolitions; Blasting and Use of Explosives; Power Transmission Distribution; Stairways and Ladders; including, but not limited within Agriculture to Roll-Over Protective Structures, and Safety for Agricultural Equipment; and including, but not limited to the Process Safety Management Standard, the Confined Spaces Standard, Hazard Communication Standard, and the Bloodborne Pathogens Standard.
- (c) The required safety and health training shall be provided by someone trained to recognize, evaluate and control safety and health hazards. The training may be provided on-site or off-site.

*History Note: Authority G.S. 95-254;  
Eff. August 2, 1993.*

### **13 NCAC 07A .0607 REPORTS**

The report forms required from employers within 60 days of notification by the Commissioner of Labor of inclusion in the program shall include the following information:

- (1) Name of the employer.
- (2) Address of employer.
- (3) Telephone number of employer.
- (4) Number of employees.
- (5) SIC Code.
- (6) Unemployment Insurance ID number of the employer.
- (7) Description of the manufacturing or work processes at this location.
- (8) Name and address of any authorized collective bargaining agent.
- (9) Date and Certification of compliance with G.S. 95-251 and, if applicable, G.S. 95-252.
- (10) A timetable for delivery of training to employees and committee members. In no case shall the timetable for delivery of training exceed an additional 90 days beyond notification to the Commissioner of Labor of compliance with these Rules.

*History Note: Authority G.S. 95-255;  
Eff. August 2, 1993.*