



CHAPTER 95

ARTICLE 16 - OCCUPATIONAL SAFETY AND HEALTH ACT OF NORTH CAROLINA

N.C.G.S. § 95-132.

Variances.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 1997-456, s. 27 — second act in the lineage	21 September 2026, 04:03 UTC	2451d37b66d0a73f131ae52e - 56a2e752ce0c9c749ba8ebdc - fa857cd11262a786

§ 95-132(a)

Temporary Variances. -

- (1) The Commissioner may upon written application by an employer issue an order granting such employer a temporary variance from standards adopted by this Article or promulgated by the Commissioner under this Article. Any such order shall prescribe the practices, means, methods, operations and processes which the employer must adopt or use while the variance is in effect and state in detail a program for coming into compliance with the standard.
- (2) An application for a temporary variance shall contain all information required as enumerated in 29 C.F.R. 1905.10(b) which is hereby incorporated by reference, as if herein fully set out.
- (3) Upon receipt of an application for an order granting a temporary variance, the Commissioner to whom such application is addressed may issue an interim order granting such a temporary variance, for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than 180 days.
- (4) Such a temporary variance may be granted only after notice to employees and interested parties and opportunity for hearing. The temporary variance may be for a period of no longer than required to achieve compliance or one year, whichever is shorter, and may be renewed only once. Application for renewal of a variance must be filed in accordance with provisions in the initial grant of the temporary variance.

(5) An order granting a temporary variance shall be issued only if the employer establishes

a.(i) That he is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology, (ii) that all available steps have been taken to safeguard his employees against the hazards covered by the standard, and (iii) that he has an effective program for coming into compliance with the standard as quickly as practicable, or

b.That he is engaged in an experimental program as described in subsection (c) of this section as hereinafter stated.

§ 95-132(b)

Permanent Variances. -

(1) Any affected employer may apply to the Commissioner for a rule or order for a permanent variance from a standard promulgated under this section. Affected employees shall be given notice of each such application and an opportunity to participate in a hearing. The Commissioner shall issue such rule or order if he determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard.

(2) The rule or order so issued shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question.

(3) Such a rule or order may be modified or revoked upon application by an employer, employees, or by the Commissioner on his own motion, in the manner prescribed for its issuance under this subsection at any time after six months from its issuance.

§ 95-132(c)

Experimental Variances. - The Commissioner is authorized to grant a variance from any standard or portion thereof whenever he determines that such variance is necessary to permit an employer to participate in an experiment approved by him

designed to demonstrate or validate new and improved techniques to safeguard the health or safety of workers.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
2 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.

1973		1985		1997
TICK HEIGHT = ACTS IN THAT YEAR		DASHED = RECODIFICATION, NOT AMENDMENT		
Nº	YEAR	ACT	CHARACTER	
01	1973	c. 295, s. 7	ENACTED	
02	1997	S.L. 1997-456, s. 27	AMENDED	

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 95-132 (1997).

PINPOINT

N.C. Gen. Stat. § 95-132(a) (1997).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

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HISTORY PARENTHETICAL, AS PRINTED BY THE STATE
(1973, c. 295, s. 7; 1997-456, s. 27.)

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NORTH CAROLINA LAW — STATUTE EXPORT, FORMAT V1

