



WORKING TO MAKE A DIFFERENCE

PREVENTION MANUAL

# PREVENTION MANUAL



## PREFACE

Section 82 of the *Workers Compensation Act* provides that the Board of Directors of the Workers' Compensation Board must set and revise as necessary the policies of the Board of Directors, including policies respecting compensation, assessment, rehabilitation and occupational safety and health (or prevention).

The policies of the Board of Directors consist of:

- (a) The statements contained under the heading "Policy" in the *Assessment Manual*,
- (b) The statements contained under the heading "Policy" in the *Prevention Manual*,
- (c) The *Rehabilitation Services & Claims Manual*, Volume I and Volume II, except statements under the headings "Background" and "Practice" and explanatory material at the end of each Item appearing in the new manual format,
- (d) The *Classification and Rate List*, as approved annually by the Board of Directors,
- (e) *Workers' Compensation Reporter* Decision No. 231 of Volumes 1 – 6;<sup>1</sup> and
- (f) Policy decisions of the former Governors and the former Panel of Administrators still in effect immediately before February 11, 2003,

as well as amendments to policy in the four policy manuals, any new or replacement manuals issued by the Board of Directors, any documents published by the Workers' Compensation Board that are adopted by the Board of Directors as policies of the Board of Directors, and all decisions of the Board of Directors declared to be policy decisions.

The *Manual* in which this preface appears contains current Board policy with respect to prevention matters. It is used by Board staff in carrying out their responsibilities under the *Workers Compensation Act*. As new policy is developed and approved in this area, the *Manual* will be updated by issuing replacement pages.

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<sup>1</sup> As of January 1, 2010 only one Decision from Volumes 1 – 6 remains to be retired: No. 231. This decision will be addressed in the near future. An explanation of "retirement" is found in APPENDIX 1 to this *Manual*.



## **ORGANIZATION OF THIS MANUAL**

This *Manual* sets out the policies and practices that relate to the Board's Prevention mandate.

The *Manual* is divided into two parts:

Policies and Practices applying to the occupational health and safety provisions of the *Workers Compensation Act*

Policies and Practices applying to provisions of the occupational health and safety regulations

The *Manual* consists of a number of "Items" that relate to particular provisions. An explanation of how the Items are organized is found on the following page.

The Background section for various Items reproduces relevant excerpts from the *Workers Compensation Act* or the Board's occupational health and safety regulations.

The Province of British Columbia holds copyright in the *Workers Compensation Act*. Complete copies are available from Crown Publications in Victoria.

Additional practice information regarding sections of the *Act* or OHS Regulation may be contained in the OHS Guidelines available on the WorkSafeBC website.

**RE:** \_\_\_\_\_ **ITEM:** \_\_\_\_\_

**BACKGROUND**

This section reproduces the relevant provision(s) of the Act or the regulations, preceded by a brief explanatory note.

**POLICY**

This section sets out the Board's Policy statement. The Policy is approved or amended only by the Board of Directors after appropriate consultation.

**PRACTICE**

This section sets out the Board's Practice to implement the Policy.

This information relates to the POLICY section of each item only, unless otherwise indicated.

**EFFECTIVE DATE:**

**AUTHORITY:**

**CROSS REFERENCES:**

**HISTORY:**

**APPLICATION:**

This identifies the subject matter.

This number cross-references the Division and the section of Part 3 of the Act (using the prefix "D") or the section of the applicable regulations (using the prefix "R"). Items relating to Part 1 of the Act have been assigned the prefix D24.

This is the effective date of the Policy.

This is the statutory or regulatory authority for the Policy.

This documents the changes in each Item of this Manual since the Item was first approved.

This clarifies, where necessary, the categories of cases to which a changed Policy applies as of the effective date. (There is no APPLICATION DATE for many of the Items relating to the Act. The Policies for those Items reflect the changes to the Workers Compensation Act that came into force on October 1, 1999, which is also the effective date of the Policies.)

This identifies other relevant Items in the Manual, or other provisions of the Act or the regulations. This information is only inserted for the assistance of the reader. It should not be considered exhaustive.

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WORKING TO MAKE A DIFFERENCE

## PREVENTION MANUAL

**POLICIES AND PRACTICES  
APPLYING TO  
THE OCCUPATIONAL HEALTH AND SAFETY PROVISIONS  
OF THE *WORKERS COMPENSATION ACT***



**DIVISION 1****INTERPRETATION AND PURPOSES**

Division 1 of Part 3 of the *Workers Compensation Act* sets out the definitions applying to Part 3, the purposes and application of the Part and how the Part relates to Part 1 of the *Act*. Division 1 also authorizes the Minister to appoint committees to review Part 3 and the regulations and report back its recommendations.



**RE: Application of the Act and Policies****ITEM: D1-107-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Decision-making at the Workers' Compensation Board is governed by the *Workers Compensation Act*.

Section 82(1)(a) of the *Act* authorizes the Board of Directors to set and revise the Board's policies. These policies are of broad general application and provide further direction to Board officers in dealing with individual matters.

Section 99(2) of the *Act* requires the Board to make decisions based upon the merits and justice of the case, but in so doing to apply a policy of the Board of Directors that is applicable in the case.

The purpose of the POLICY in this Item is to provide direction regarding the interaction between the application of the *Act* and the policies made under the *Act* and the consideration of the individual circumstances of the case.

The POLICY does not comment on documents issued under the authority of the President/Chief Executive Officer of the Board. That is a matter for the President/CEO to address.

### **2. The Act**

Section 82(1)(a):

The board of directors must ... set and revise as necessary the policies of the board of directors, including policies respecting compensation, assessment, rehabilitation and occupational health and safety ....

Section 99(2):

The Board must make its decision based upon the merits and justice of the case, but in so doing the Board must apply a policy of the board of directors that is applicable in the case.

## **POLICY**

In making decisions, Board officers must take into consideration:

1. the relevant provision or provisions of the *Act*;
2. the relevant policy or policies in this *Manual*; and
3. all facts and circumstances relevant to the case.

By applying the relevant provisions of the *Act* and the relevant policies, Board officers ensure that:

1. similar cases are adjudicated in a similar manner;
2. each participant in the system is treated fairly; and
3. the decision-making process is consistent and reliable.

Section 99(2) of the *Act* provides that:

The Board must make its decision based upon the merits and justice of the case, but in so doing the Board must apply a policy of the board of directors that is applicable in the case.

In making decisions, Board officers must take into account all relevant facts and circumstances relating to the case before them. This is required, among other reasons, in order to comply with section 99(2) of the *Act*. In doing so, Board officers must consider the relevant provisions of the *Act*. If there are specific directions in the *Act* that are relevant to those facts and circumstances, Board officers are legally bound to follow them.

Board officers also must apply a policy of the Board of Directors that is applicable to the case before them. Each policy creates a framework that assists and directs Board officers in their decision-making role when certain facts and circumstances come before them. If such facts and circumstances arise and there is an applicable policy, the policy must be followed.

All substantive and associated practice components in the policies in this *Manual* are applicable under section 99(2) of the *Act* and must be followed in decision-making. The term “associated practice components” for this purpose refers to the steps outlined in the policies that must be taken to determine the substance of decisions. Without these steps being taken, the substantive decision required by the *Act* and policies could not be made.

References to business processes that appear in policies are only applicable under section 99(2) of the *Act* in decision-making to the extent that they are necessary to comply with the rules of natural justice and procedural fairness. The term “business processes” for this purpose refers to the manner in which the Board conducts its

operations. These business processes are not intrinsic to the substantive decisions required by the *Act* and the policies.

If a policy requires the Board to notify an employer, worker, or other workplace party before making a decision or taking an action, the Board is required to notify the party if practicable. "If practicable" for this purpose means that the Board will take all reasonable steps to notify, or communicate with, the party.

This policy is not intended to comment on the application of practice directives, guidelines and other documents issued under the authority of the President/Chief Executive Officer of the Board. The application of those documents is a matter for the President/CEO to address.

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|                          |   |
|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | March 3, 2003   |
| <b>AUTHORITY:</b>        | ss. 82(1)(a) and 99(2), <i>Workers Compensation Act</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes. |
| <b>APPLICATION:</b>      | This policy applies to decisions on or after March 3, 2003.   |



**RE: Application of Part 3 –  
Where Jurisdictional Limits Exist**

**ITEM: D1-108-1**

## **BACKGROUND**

### **1. Explanatory Notes**

The Canadian Constitution, the *Workers Compensation Act* and other federal and provincial legislation place certain limits on the Board's authority to take measures to prevent workplace injuries and illnesses.

In some cases, the Board may be totally excluded from inspecting certain types of operations. These include operations covered by Part II of the federal *Canada Labour Code*, mines covered by the provincial *Mines Act*, and railways covered by the provincial *Railways Act*.

In other cases, the Board may not be excluded from a particular type of operations, but certain equipment or activities may be covered by a statute or regulation administered by another agency.

These limits are largely matters of general law over which the Board has no control. They are also too complex to state in this Item.

The purpose of this Item is to provide general guidance on how Board officers will exercise their powers in situations where it has been established that there are jurisdictional limits on those powers.

### **2. The Act**

Section 108:

- (1) Subject to subsection (2), this Part applies to
  - (a) the Provincial government and every agency of the Provincial government,
  - (b) every employer and worker whose occupational health and safety are ordinarily within the jurisdiction of the Provincial government,  
and

- (c) the federal government, every agency of the federal government and every other person whose occupational health and safety are ordinarily within the jurisdiction of the Parliament of Canada, to the extent that the federal government submits to the application of this Part.
- (2) This Part and the regulations do not apply in respect of
- (a) mines to which the *Mines Act* applies,
  - (b) railways to which the *Railway Act* applies, or
  - (c) subject to subsection (3), the operation of industrial camps to the extent their operation is subject to regulations under the *Health Act*.
- (3) The Lieutenant Governor in Council may, by regulation, provide that all aspects of this Part and the regulations apply to camps referred to in subsection (2)(c), in which case this Part and the regulations prevail over the regulations under the *Health Act* to the extent of any conflict.

[Note - As of the date of this policy, the federal government had not submitted to the application of Part 3 of the *Act* under section 108(1)(c). Nor had the Lieutenant Governor in Council made regulations relating to camps under section 108(3).]

Section 114:

- (1) Without limiting section 8.1, the board may enter into agreements or make arrangements respecting cooperation, coordination and assistance related to occupational health and safety and occupational environment matters with the Provincial government, the government of Canada or the government of another province or territory, or an agency of any of those governments, or with another appropriate authority.
- (2) In relation to an agreement or arrangement under subsection (1), the board may
  - (a) authorize board officers to act on behalf of the other party to the agreement or arrangement, and
  - (b) authorize persons appointed by the other party to the agreement or arrangement to act as an officer under this Act, subject to any conditions or restrictions established by the board.

**POLICY****(a) Where, for jurisdictional reasons, the Board is totally excluded from inspecting an operation**

Board officers will not knowingly issue an order or exercise another Board power under Part 3 with respect to an operation in this situation.

If Board officers observe what they believe to be a violation of a statute or a regulation administered by another agency, they will:

- notify the other agency of the observation; and
- cooperate with that agency in dealing with the situation to the extent this is consistent with the Board's mandate and the officers' duties under the *Workers Compensation Act*.

**(b) Where the Board is not totally excluded from inspecting an operation, but certain equipment or activities included in the operation are covered by a statute or regulation administered by another agency**

Board officers will not issue an order or exercise another power to directly enforce a statute or regulation of another agency in this situation.

Board officers may issue an order or exercise another power under the *Workers Compensation Act* where:

- the situation violates the *Workers Compensation Act* or a regulation under that Act; and
- the order or exercise of another power is not in conflict with an applicable statute or regulation administered by the other agency.

If the order or exercise of another power appears to be in conflict with an applicable statute or regulation administered by the other agency, Board officers will seek direction from their managers before proceeding.

If Board officers observe what they believe to be a violation of a statute or a regulation administered by another agency, they will:

- notify the other agency of the observation; and
- cooperate with that agency in dealing with the situation to the extent this is consistent with the Board's mandate and the officers' duties under the *Workers Compensation Act*.

**(c) Authority under another statute or regulation or an agreement under Section 114**

In some situations, the specific terms of another statute or regulation or an agreement with another agency under section 114 of the *Workers Compensation Act* may authorize Board officers to exercise authority under other statutes or regulations that would not generally be permitted.

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|                          |   |
|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | October 1, 2001   |
| <b>AUTHORITY:</b>        | s.108, <i>Workers Compensation Act</i>  |
| <b>CROSS REFERENCES:</b> | See also s.114, <i>Workers Compensation Act</i>   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to remove outdated background information, delete practice reference and make formatting changes.<br>A housekeeping change was made on December 14, 2001. |
| <b>APPLICATION:</b>      | This Item applies to situations arising on and after October 1, 2001.   |

**DIVISION 2**  
**BOARD MANDATE**

Division 2 of Part 3 of the *Workers Compensation Act* sets out the mandate and jurisdiction of the Board under Part 3.



**RE: Assignment of Board Authority****ITEM: D2-111-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 111 sets out the Board's functions, duties and powers in matters relating to occupational health and safety. The "Board" for this purpose is the corporation known as the Workers' Compensation Board.

The Board of Directors determines what persons should exercise the Board's authority in various areas or the mechanism for making that determination through policy under section 82 of the *Act*.

### **2. The Act**

Section 82(1):

The board of directors must

- (a) set and revise as necessary the policies of the board of directors, including policies respecting compensation, assessment, rehabilitation and occupational health and safety, and
- (b) set and supervise the direction of the Board.

Section 111(1):

In accordance with the purposes of this Part, the Board has the mandate to be concerned with occupational health and safety generally, and with the maintenance of reasonable standards for the protection of the health and safety of workers in British Columbia and the occupational environment in which they work.

Section 111(2):

In carrying out its mandate, the Board has the following functions, duties and powers:

- (a) to exercise its authority to make regulations to establish standards and requirements for the protection of the health and safety of workers and the occupational environment in which they work;

- (b) to undertake inspections, investigations and inquiries on matters of occupational health and safety and occupational environment;
- (c) to provide services to assist joint committees, worker health and safety representatives, employers and workers in maintaining reasonable standards for occupational health and safety and occupational environment;
- (d) to ensure that persons concerned with the purposes of this Part are provided with information and advice relating to its administration and to occupational health and safety and occupational environment generally;
- (e) to encourage, develop and conduct or participate in conducting programs for promoting occupational health and safety and for improving the qualifications of persons concerned with occupational health and safety and occupational environment;
- (f) to promote public awareness of matters related to occupational health and safety and occupational environment;
- (g) to prepare and maintain statistics relating to occupational health and safety and occupational environment, either by itself or in conjunction with any other agency;
- (h) to undertake or support research and the publication of research on matters relating to its responsibilities under this Act;
- (i) to establish programs of grants and awards in relation to its responsibilities under this Act;
- (j) to provide assistance to persons concerned with occupational health and safety and occupational environment;
- (k) to cooperate and enter into arrangements and agreements with governments and other agencies and persons on matters relating to its responsibilities under this Part;
- (l) to make recommendations to the minister respecting amendments to this Act, the regulations under this Part or Part 1 of this Act, or other legislation that affects occupational health and safety or occupational environment;
- (m) to inquire into and report to the minister on any matter referred to it by the minister, within the time specified by the minister;
- (n) to fulfill its mandate under this Part in a financially responsible manner;

- (o) to do other things in relation to occupational health and safety or occupational environment that the minister or Lieutenant Governor in Council may direct.

Section 113(1):

Subject to sections 239 and 240, the Board has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact and law arising or required to be determined under this Part, and the action or decision of the Board is final and conclusive and is not open to question or review in any court.

## **POLICY**

The Board of Directors will exercise the following powers and responsibilities as set out in Part 3:

- make recommendations to the minister under section 111(2)(l);
- make inquiries into matters referred by the minister under section 111(2)(m);
- comply with directions of the Lieutenant Governor in Council under section 111(2)(o);
- enter into formal agreements and arrangements with other agencies and governments covered by section 114(2);
- make and amend Board regulations;
- grant exemptions from the application of Part 3 under section 106; and
- approve policies under Part 3 (section 82).

The President/Chief Executive Officer (CEO) has the authority to exercise the remaining powers and responsibilities described in Part 3 and authority over claims cost levies (section 73(1)). The President/CEO also has the authority to assign these powers and responsibilities to divisions, departments, categories of officers or individual officers of the Workers' Compensation Board.

President/CEO assignments will state whether the assignee has the authority to further assign the power or responsibility or whether it must be exercised personally.

The powers and responsibilities described in Part 3 and section 73(1) must be exercised in accordance with the policies of the Board of Directors.

The authority to approve prosecutions under section 214(2) is assigned by the Board of Directors directly to the President/CEO and may not be delegated by the President/CEO without approval of the Board of Directors.

## **PRACTICE**

The assignments of the President/CEO will be in writing and publicly available.

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| <b>EFFECTIVE DATE:</b>   | March 24, 2010   |
| <b>AUTHORITY:</b>        | ss. 82, 111, and 113(1), <i>Workers Compensation Act</i>   |
| <b>CROSS REFERENCES:</b> |  |
| <b>HISTORY:</b>          | Item developed to implement the <i>Workers Compensation (Occupational Health and Safety) Amendment Act, 1998</i> , effective October 1, 1999. References to Panel of Administrators replaced by references to Board of Directors, on February 11, 2003, to reflect the <i>Workers Compensation Amendment Act, 2002</i> . Consequential changes subsequently made to restatement of section 113(1) to implement the <i>Workers Compensation Amendment Act (No. 2), 2002</i> , on March 3, 2003. |
|                          | Amended March 24, 2010 to address authority over claims cost levies and make other minor wording changes.  |

**APPLICATION:**

**RE: Board Approval****ITEM: D2-111-3**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 111 sets out the Board's mandate under Part 3.

### **2. The Act**

Section 111(1):

In accordance with the purposes of this Part, the board has the mandate to be concerned with occupational health and safety generally, and with the maintenance of reasonable standards for the protection of the health and safety of workers in British Columbia and the occupational environment in which they work.

Section 111(2), in part:

In carrying out its mandate, the board has the following functions, duties and powers:

...

- (c) to provide services to assist ... employers and workers in maintaining reasonable standards for occupational health and safety and occupational environment;
- (d) to ensure that persons concerned with the purposes of this Part are provided with information and advice relating to its administration and to occupational health and safety and occupational environment generally ....

## **POLICY**

A submission may be made to have a program, product, machine, equipment or work process evaluated by the Board to determine if it is in compliance with current provisions of Part 3 and the regulations.

The Board will review submissions from an employer, worker, union, or from industry in general and will indicate acceptability or unacceptability under the current provisions of Part 3 and the regulations. The review of submissions to the Board will be limited to an

assessment of those factors covered by the provisions of Part 3 and the regulations that affect the health and safety of workers.

An acceptance will be conditional upon the use of the product, machinery or equipment for its designed purpose, subject to such conditions as may be specified by the Board. Any indication of compliance with the current provisions of Part 3 and the regulations will not be an assurance of continued acceptability.

An acceptance, as described above, is not a general endorsement or certification by the Board of that program, product, machinery, equipment, or work process.

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| <b>EFFECTIVE DATE:</b>   | December 15, 2011   |
| <b>AUTHORITY:</b>        | s.111(1) and (2) (c) and (d), <i>Workers Compensation Act</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Policy amended December 15, 2011 to remove the introductory sentence and amend the concluding paragraph.<br><br>Housekeeping changes effective September 15, 2010 to remove reference to the Prevention Division, delete practice reference and make formatting changes.<br><br>Replaces Policy No. 1.2.1 of the Prevention Division <i>Policy and Procedure Manual</i>                 |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001/2002 "editorial" consolidation of all Prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item continues the substantive requirements of Policy No. 1.2.1, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 1.2.1 was issued. |

**RE: Varying or Cancelling Previous  
Decisions or Orders****ITEM: D2-113-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 113(2) sets out the Board's authority to make a new decision or order to vary or cancel a previous decision or order made under Part 3. It is necessary to set out the grounds on which the Board will exercise that authority.

A subsidiary issue relates to the requirements for providing notice and posting that must be observed when the Board makes a new decision or order under section 113(2) to vary or cancel an order. In these cases, it must give notice to the employer or other person in relation to whom the order was made. If the person given notice was required by or under Part 3 to post a copy of the original order or to provide copies of it to a joint committee, worker representative or union, the person must post and provide copies of the notice in accordance with the same requirements under section 189. The general posting requirements in section 154 will apply where posting of the varying or cancelling of an order is required.

### **2. The Act**

Section 113(2) to (2.3):

113(2) Despite subsection (1), but subject to subsection (2.1) and sections 189(1) and 190(4), the Board may at any time, on its own initiative, make a new decision or order varying or cancelling a previous decision or order of the Board or of any officer or employee of the Board respecting any matter that is within the jurisdiction of the Board under this Part.

113(2.1) The Board may not make a decision or an order under subsection (2) if

- (a) a review has been requested under section 96.2 in respect of the previous decision or order, or
- (b) an appeal has been filed under section 240 in respect of the previous decision or order.

113(2.2) Despite subsection (1), the Board may review a decision or order made by the Board or by an officer or employee of the Board under this Part but only as specifically provided in sections 96.2 to 96.5.

113(2.3) Despite subsection (1), the Board may at any time set aside any decision or order made by it or by an officer or employee of the Board under this

Part if that decision or order resulted from fraud or misrepresentation of the facts or circumstances upon which the decision or order was based.

Section 189:

- (1) If the Board varies or cancels an order, it must give notice to the employer or other person in relation to whom the order was made.
- (2) If the person given notice under subsection (1) was required by or under this Part to post a copy of the original order or to provide copies of it to a joint committee, worker representative or union, the person must post and provide copies of the notice in accordance with the same requirements.

## **POLICY**

This policy addresses the Board's authority, on its own initiative, to make new decisions or orders varying or cancelling previous decisions or orders under section 113(2) of the *Act*.

### **(a) "On Its Own Initiative"**

It is significant that section 113(2) only authorizes the Board to make a new decision or order varying or cancelling a previous decision or order under Part 3 "on its own initiative". This is to be contrasted with the Board's authority to reopen a matter under Part 1 "on its own initiative, or on application" under section 96(2) of the *Act*. It is also to be contrasted with section 96.5 and section 256, which authorize a review officer and the Appeal Tribunal, respectively, to reconsider decisions on application in certain circumstances.

The use of the words "on its own initiative" in section 113(2), with no mention of "on application", and the availability of a review mechanism under sections 96.2 to 96.5, indicate that the Board is not intended to set up a formal application process under section 113(2) to resolve disputes that parties may have with decisions or orders.

Rather, the Board's authority to vary or cancel is intended to provide a quality assurance mechanism for the Board. The Board is given an opportunity to correct, on its own initiative, any errors it may have made.

This does not, of course, preclude the Board from making a new decision or order varying or cancelling a previous decision or order on the basis of information that may be brought forward by an employer or other party to a decision or order.

**(b) Grounds**

The Board may make a new decision or order varying or cancelling a previous decision or order if there are grounds showing either an error of law or policy, or significant new evidence, and the Board determines that either of these grounds require that the previous decision or order be varied or cancelled.

**(c) General Exercise of Authority**

In considering whether to make a new decision that varies or cancels a previous decision or order, the Board will take into account the length of time that has elapsed since the decision or order was made. A delay since the previous decision or order was made, in the absence of a reasonable explanation for the delay, is a ground for the Board not to exercise its power to vary or cancel the previous decision or order without considering the merits of the previous decision or order.

Before varying or cancelling a decision or order, the Board will advise any person that may be affected by a new decision and provide an opportunity for these individuals to make comments.

**(d) Authority to Vary or Cancel Reviews and Appeals**

The *Act* gives the Board the authority to make final decisions on the matter before it. It also provides rights of review and appeal, but these are subject to time limits. The *Act* shows a general intention as to how disputes concerning decisions or orders should be resolved, and that there be finality in decision-making. This intention must be considered when deciding whether to exercise the discretion provided by section 113(2) to make a new decision varying or cancelling previous decisions or orders.

Subject to grounds being established as set out in (b) above, the Board may make a new decision varying or cancelling a decision or order under section 113(2) on which an available review or appeal was not commenced within the time allowed.

The Board will not, however, make a new decision or order under section 113(2) where the merits of the previous decision have been the subject of a decision on a review by the Review Division or an appeal by the Appeal Tribunal except in accordance with the decision by the Review Division or Appeal Tribunal.

Nor will the Board normally make a new decision or order under section 113(2) where:

- there is a right to a review of the previous decision or order or a right of appeal to the Appeal Tribunal; or
- the previous decision or order is being considered, or will be considered, for the purpose of considering an administrative penalty or similar levy.

**EFFECTIVE DATE:** March 3, 2003  
**AUTHORITY:** s.113, *Workers Compensation Act*  
**CROSS REFERENCES:**  
**HISTORY:** Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.  
Item developed to implement the *Workers Compensation Amendment Act (No. 2), 2002*, effective March 3, 2003.  
**APPLICATION:**

**DIVISION 3****GENERAL DUTIES OF EMPLOYERS, WORKERS AND OTHERS**

Division 3 of Part 3 of the *Workers Compensation Act* sets out general duties for employers, workers, supervisors, owners, suppliers, and directors and officers. It describes how persons may be subject to obligations in relation to more than one role and allocates responsibilities when the same obligations apply to more than one person. It also provides for coordination among the owner, prime contractor and employers at multiple-employer workplaces.



**RE: General Duties –  
Supervisors****ITEM: D3-117-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 117 sets out the general duties of supervisors under Part 3.

### **2. The Act**

Section 117(1):

Every supervisor must

- (a) ensure the health and safety of all workers under the direct supervision of the supervisor,
- (b) be knowledgeable about this Part and those regulations applicable to the work being supervised, and
- (c) comply with this Part, the regulations and any applicable orders.

Section 117(2):

Without limiting subsection (1), a supervisor must

- (a) ensure that the workers under his or her direct supervision
  - (i) are made aware of all known or reasonably foreseeable health or safety hazards in the area where they work, and
  - (ii) comply with this Part, the regulations and any applicable orders,
- (b) consult and cooperate with the joint committee or worker health and safety representative for the workplace, and
- (c) cooperate with the board, officers of the board and any other person carrying out a duty under this Part or the regulations.

**POLICY**

In determining whether Section 117 applies, the following guidelines will be considered:

- A supervisor is a person who instructs, directs and controls workers in the performance of their duties.
- A supervisor need not have the title “supervisor”. He or she may have some other title or have no title at all.
- The supervisor will normally be appointed by an employer as such, but a person may be a supervisor without being specifically appointed by an employer if, as a matter of fact, he or she instructs, directs and controls workers in the performance of their duties. The employer himself or herself may be a supervisor.
- “Direct supervision” may take place even though a worker may be located in a different place than the supervisor or may travel to different places as part of his or her work. Directions may be given by any communications medium.

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| <b>EFFECTIVE DATE:</b>   | October 1, 1999   |
| <b>AUTHORITY:</b>        | s.117, <i>Workers Compensation Act</i>  |
| <b>CROSS REFERENCES:</b> | See also Multiple-Employer Workplaces (Item D3-118-1), Owners (Item D3-119-1), Directors and Officers (Item D3-121-1), Overlapping Obligations (D3-123/124-1) |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.   |
| <b>APPLICATION:</b>      |   |

**RE: General Duties –  
Multiple-Employer Workplaces**

**ITEM: D3-118-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 118 sets out responsibilities at a “multiple employer workplace”. It provides that the “prime contractor” is responsible for the coordination of activities at these workplaces and defines “prime contractor” for this purpose.

### **2. The Act**

Section 118(1):

In this section:

**"multiple-employer workplace"** means a workplace where workers of 2 or more employers are working at the same time;

**"prime contractor"** means, in relation to a multiple-employer workplace,

- (a) the directing contractor, employer or other person who enters into a written agreement with the owner of that workplace to be the prime contractor for the purposes of this Part, or
- (b) if there is no agreement referred to in paragraph (a), the owner of the workplace.

Section 118(2):

The prime contractor of a multiple-employer workplace must

- (a) ensure that the activities of employers, workers and other persons at the workplace relating to occupational health and safety are coordinated, and
- (b) do everything that is reasonably practicable to establish and maintain a system or process that will ensure compliance with this Part and the regulations in respect of the workplace.

## Section 118(3):

Each employer of workers at a multiple-employer workplace must give to the prime contractor the name of the person the employer has designated to supervise the employer's workers at that workplace.

**POLICY**

For sake of clarity, the following apply in determining whether there is a “multiple-employer workplace” under section 118:

- Two or more adjacent workplaces do not constitute a "multiple-employer workplace", even though the activities at one workplace might affect the health and safety of workers at an adjacent workplace.
- It does not matter whether:
  - workers of different employers are present at the same time working on different projects; or
  - workers of different employers are present at the same time working on the same project.

In both cases, the workplace will generally be a “multiple-employer workplace”.

- In determining whether “workers of 2 or more employers are working at the same time”, the phrase “at the same time” will be given such fair, large and liberal construction as may best attain the objectives of section 118. “At the same time” does not mean that, at any precise point in time, there are workers of 2 or more employers present in the workplace. Rather, it means that, over an appropriate interval, there are workers of 2 or more employers present in the workplace, whether or not the 2 or more groups of workers are actually present together in the workplace at any precise point in time at all. The duration of the interval of time to be considered will depend upon the circumstances of the individual workplace.
- Whether the workers of the one employer come into actual contact with the workers of the other employer does not generally affect the determination of whether the workplace is a “multiple-employer workplace”. An employer, the employer’s workers and their activities could well affect the health and safety of another employer’s workers who come into the workplace later in the day or on another day, even though there may be no actual contact between the two groups of workers.

However, the degree to which the activities of the first employer and its workers affect the health and safety of the second employer's workers will generally affect the determination of the responsibilities of the prime contractor and of the two employers under Part 3 and the regulations.

- Virtually all workplaces will be visited by workers of other employers. For example, workers may deliver or pick up mail, goods or materials or enter to inspect the premises. Short term visits of this type, even if regular, do not make the workplace a "multiple-employer workplace" for purposes of section 118(1).

The written agreement referred to in section 118(1) must be made available within a reasonable time if requested by a Board officer.

There can be only one "prime contractor" at a workplace at any point in time. If an owner enters into more than one agreement purporting to create a "prime contractor" for the same period of time, the owner is considered to be the prime contractor.

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| <b>EFFECTIVE DATE:</b>   | October 1, 1999  |
| <b>AUTHORITY:</b>        | s.118, <i>Workers Compensation Act</i>   |
| <b>CROSS REFERENCES:</b> | See also Supervisors (Item D3-117-1), Owners (Item D3-119-1), Directors and Officers (Item D3-121-1), Overlapping Obligations (D3-123/124-1) |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.                                  |
| <b>APPLICATION:</b>      |  |



**RE: General Duties – Owners****ITEM: D3-119-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 119 of the *Act* sets out the general duties of owners under Part 3 of the *Act*. This policy clarifies when these duties apply, and which owner(s) will be responsible for compliance, in multiple owner situations.

### **2. The Act**

Section 106:

“owner” includes

- (a) a trustee, receiver, mortgagee in possession, tenant, lessee, licensee or occupier of any lands or premises used or to be used as a workplace, and
- (b) a person who acts for or on behalf of an owner as an agent or delegate.

Section 119:

Every owner of a workplace must

- (a) provide and maintain the owner's land and premises that are being used as a workplace in a manner that ensures the health and safety of persons at or near the workplace,
- (b) give to the employer or prime contractor at the workplace the information known to the owner that is necessary to identify and eliminate or control hazards to the health or safety of persons at the workplace, and
- (c) comply with this Part, the regulations and any applicable orders.

## **POLICY**

The purpose of this policy is to ensure that owners understand and fulfill their responsibilities under section 119 of the *Act*, especially in multiple owner situations. The term “owner” is defined broadly under the *Act* to include several parties such as the person who holds the legal title to land or premises, a mortgagee in possession, a

tenant, a lessee, a licensee, a trustee, and any other occupier of lands or premises used or to be used as a workplace.

Accordingly, more than one person may simultaneously meet the definition of the term “owner” in respect of a particular workplace. For example, both the entity that holds legal title to land and the entity that leases it for business purposes would qualify as owners under the *Act*. In such circumstances, referred to as multiple owner situations, all the owners of a particular workplace are responsible for fulfilling the duties set out in section 119 of the *Act*, the regulations, and any applicable orders, subject to the Limited Exemption under section 124 of the *Act*.

When the duties set out in section 119 of the *Act* have not been met by a party or parties, and the Limited Exemption does not apply, Board officers will determine which owner(s) should be held responsible for the violation. In making this determination, Board officers will consider who had or should have had knowledge of, and control over, the particular workplace. To assist in this consideration, a non-exhaustive list of factors is set out below. When these factors are present, an owner will likely be held responsible for or have to address an issue.

### **Category 1: Knowledge**

1. The owner knew or should have known that:
  - (a) persons would be at or near the land and premises that were being used as a workplace, and
  - (b) the health and safety of such persons might be harmed by the condition or use of the workplace, and
  - (c) the extent of the harm, if it occurred, would be more than minor or trivial.

### **Category 2: Control**

2. The owner had some control or influence over the safety of the workplace in that the owner:
  - (a) could practicably have taken measures necessary to eliminate or reduce either:
    - (i) the risk of the potential harm, or
    - (ii) the extent of the potential harm,

to persons at or near the workplace; or

- (b) possessed material information and either:
  - (i) failed to communicate all this information to the persons at or near the workplace and thus, prevented them from taking measures to protect themselves, or
  - (ii) communicated all this information to the persons at or near the workplace, but then unreasonably expected those persons to take the required precautions against a particular hazard.

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| <b>EFFECTIVE DATE:</b>   | December 1, 2004   |
| <b>AUTHORITY:</b>        | s.119, <i>Workers Compensation Act</i>   |
| <b>CROSS REFERENCES:</b> | See also sections 73(1) (Claims Cost Levy) and 111 (Board's mandate under this Part) of the <i>Act</i> , Part 3, Divisions 3 (General Duties of Employers, Workers and Others), 12 (Enforcement), and 15 (Offences) of the <i>Act</i> , Policies in the <i>Prevention Manual</i> in Divisions 3 (General Duties of Employers, Workers and Others), 12 (Enforcement).                   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>On December 1, 2004, provisions of the <i>Act</i> with respect to multiple owner situations were clarified, and the list of factors which Board officers consider before holding an owner responsible for a compliance issue were rewritten in a more directive manner. |
| <b>APPLICATION:</b>      | To all situations in which an owner has responsibilities under section 119 of the <i>Act</i> on or after December 1, 2004.   |



**RE: General Duties –  
Directors and Officers of a Corporation**

**ITEM: D3-121-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 121 sets out the duties of directors and officers of a corporation. The provision should be read in conjunction with Section 213(2).

### **2. The Act**

Section 121:

Every director and every officer of a corporation must ensure that the corporation complies with this Part, the regulations and any applicable orders.

Section 213:

- (1) A person who contravenes a provision of this Part, the regulations or an order commits an offence.
- (2) If a corporation commits an offence referred to in subsection (1), an officer, director or agent of the corporation who authorizes, permits or acquiesces in the commission of the offence also commits an offence.
- (3) Subsection (2) applies whether or not the corporation is prosecuted for the offence.

## **POLICY**

The Board will not automatically issue an order to officers, directors or agents of a corporation each time an order is written to the corporation.

The Board will, however, issue orders to officers, directors or agents where there is evidence that they were responsible for the failure by the corporation. Being “responsible” includes authorizing, permitting or acquiescing in the failure.

**EFFECTIVE DATE:** October 1, 1999  
**AUTHORITY:** ss.121 and 213, *Workers Compensation Act*  
**CROSS REFERENCES:** See also Supervisors (Item D3-117-1), Multiple-Employer Workplaces (Item D3-118-1), Owners (Item D3-119-1), Overlapping Obligations (D3-123/124-1)  
**HISTORY:** Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.  
**APPLICATION:**

**RE: General Duties –  
Overlapping Obligations****ITEM: D3-123/124-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 123 of the *Act* describes how persons may be subject to obligations in relation to more than one role. Section 124 of the *Act* explains what can happen when more than one person is responsible for fulfilling the same obligations. This policy provides guidance on when a party with obligations under the *Act* will be held responsible for a violation of these responsibilities despite the fact that one or more other parties share the same obligations.

### **2. The Act**

Section 123:

- (1) In this section, "function" means the function of employer, supplier, supervisor, owner, prime contractor or worker.
- (2) If a person has 2 or more functions under this Part in respect of one workplace, the person must meet the obligations of each function.

Section 124:

If

- (a) one or more provisions of this Part or the regulations impose the same obligation on more than one person, and
- (b) one of the persons subject to the obligation complies with the applicable provision,

the other persons subject to the obligation are relieved of that obligation only during the time when

- (c) simultaneous compliance by more than one person would result in unnecessary duplication of effort and expense, and

- (d) the health and safety of persons at the workplace is not put at risk by compliance by only one person.

## **POLICY**

The purpose of this policy is to ensure that all of the duties under the *Act* are effectively fulfilled despite the fact that multiple parties may share the same responsibilities.

All parties with duties under the *Act* may be able to affect the health and safety of persons at or near a workplace. Any and all of these parties may be cited for violations of their statutory duties regardless of whether or not another person has fulfilled his or her statutory responsibilities.

Under section 124 of the *Act*, one person may be relieved of his or her obligations under Part 3 of the *Act* or the regulations if:

- another person who is subject to the same obligations complies with those obligations, and
- simultaneous compliance by more than one person would result in unnecessary duplication of effort and expense, and
- the health and safety of persons at the workplace would not be put at risk by the compliance of only one person.

The first requirement of this Limited Exemption means that persons who have the same duty under the *Act* or regulations may agree amongst themselves as to who should perform it. The Board is neither bound by any agreements of this nature, nor by whether the terms of the agreement are complied with. The Board's primary concern is that the duty in question is fulfilled.

Further, even if the first requirement is satisfied, the Limited Exemption will only apply if the Board determines that the second and third requirements set out in section 124 are also satisfied. The third requirement of the Limited Exemption will not be met if performance of the occupational health and safety duty by one person leaves health and safety risks that would be eliminated by others performing their duty.

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| <b>EFFECTIVE DATE:</b>   | December 1, 2004   |
| <b>AUTHORITY:</b>        | ss.123 and 124, <i>Workers Compensation Act</i>  |
| <b>CROSS REFERENCES:</b> | See also sections 73(1) (Claims Cost Levy) and 111 (Board's mandate under this Part) of the <i>Act</i> , Part 3, Divisions 3 (General Duties of Employers, Workers and Others), 12 (Enforcement), and 15 (Offences) of the <i>Act</i> , Policies in the <i>Prevention Manual</i> in Divisions 3 (General Duties of Employers, Workers and Others), 12 (Enforcement). |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>On December 1, 2004, provisions of the <i>Act</i> with respect to overlapping obligations were clarified.   |
| <b>APPLICATION:</b>      | To all situations in which more than one party shares the same obligations under Part 3 of the <i>Act</i> or the regulations on or after December 1, 2004.   |



**DIVISION 4****JOINT COMMITTEES AND WORKER REPRESENTATIVES**

Division 4 of Part 3 of the *Workers Compensation Act* provides for the establishment and maintenance of joint health and safety committees in certain circumstances. It sets out committee membership requirements and selection criteria, duties and functions, procedures, members' entitlement to time off work and educational leave, and various employer obligations.

Division 4 also provides for the selection of a worker health and safety representative in certain other circumstances, the representative's duties and functions, the representative's entitlements and the employer's obligations to the representative.



**RE: Joint Committees –  
When a Committee is Required**

**ITEM: D4-125-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 125 sets out the requirement for a joint committee in certain circumstances.

Section 127 sets out membership requirements.

### **2. The Act**

Section 125:

An employer must establish and maintain a joint health and safety committee

- (a) in each workplace where 20 or more workers of the employer are regularly employed, and
- (b) in any other workplace for which a joint committee is required by order.

Section 127:

A joint committee for a workplace must be established in accordance with the following:

- (a) it must have at least 4 members or, if a greater number of members is required by regulation, that greater number;
- (b) it must consist of worker representatives and employer representatives;
- (c) at least half the members must be worker representatives;
- (d) it must have 2 co-chairs, one selected by the worker representatives and the other selected by the employer representatives.

## **POLICY**

A joint health and safety committee is an important prevention tool. People who work at a particular workplace and who are knowledgeable or trained in the operations of that workplace can make a positive contribution to preventing workplace injuries and illnesses.

Section 125 expands the requirement for joint committees significantly beyond what was required prior to the implementation of the *Workers Compensation (Occupational Health and Safety) Amendment Act, 1998*. In administering section 125, the Board will be mindful of the intent evidenced by this expansion.

### **(a) Section 125(a)**

Section 125(a) requires a joint health and safety committee “in each workplace where 20 or more workers of the employer are regularly employed”. A workplace will fall within the terms of this provision if the employer has 20 or more workers who have been employed at the workplace for a period of not less than one month.

All workers are considered for this purpose regardless of how the employer or workers may define their status.

The 20 or more workers must be at one workplace before a committee is required under section 125(a). The fact that the employer may have 20 or more workers spread over several workplaces is not sufficient. However, the Board may order that a committee be established in such a case if warranted under the criteria set out below.

### **(b) Section 125(b)**

Before the Board may order the establishment of a committee under section 125(b), the Board must be satisfied that a committee is required to deal with common health and safety issues arising at the workplace. The Board must consider:

- the nature of the hazards at the workplace;
- the extent and effectiveness of the employer’s occupational health and safety program;
- the availability of alternative ways of dealing with the health and safety issues arising at the workplace;

- whether a worker health and safety representative has been appointed;
- the number of workers at the workplace; and
- any other relevant circumstances.

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| <b>EFFECTIVE DATE:</b>   | October 1, 1999   |
| <b>AUTHORITY:</b>        | <i>s.125, Workers Compensation Act</i>  |
| <b>CROSS REFERENCES:</b> | See also Joint Committees - Worker Health and Safety Representatives (Item D4-139-1)                        |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes. |
| <b>APPLICATION:</b>      |   |



**RE: Joint Committees –  
Procedures and Resolving Disagreements**

**ITEM: D4-132/133-1**

## **BACKGROUND**

### **1. Explanatory Notes**

A number of provisions in Division 4 provide for a referral to the Board for resolution of various disagreements. These provisions include:

- a dispute over the process for selecting worker representatives for the committee (s. 128);
- a dispute over joint committee rules of procedure, including rules respecting how it is to perform its duties and functions (ss.132 and 133);
- if a joint committee is unable to reach agreement on a matter relating to the health or safety of workers at the workplace (s.132);
- if the employer does not accept the joint committee's recommendations with respect to a particular matter (s.133(3)); and
- if the joint committee is not satisfied that the employer's explanation for a delay in responding to the committee's recommendations is reasonable in the circumstances (s.133(5)).

Policy is required as to when the Board will investigate a matter under these provisions.

### **2. The Act**

Section 128:

- (1) The worker representatives on a joint committee must be selected from workers at the workplace who do not exercise managerial functions at that workplace, as follows:
  - (a) if the workers are represented by one or more unions, the worker representatives are to be selected according to the procedures established or agreed on by the union or unions;
  - (b) if none of the workers are represented by a union, the worker representatives are to be elected by secret ballot;

- (c) if some of the workers are represented by one or more unions and some are not represented by a union, the worker representatives are to be selected in accordance with paragraphs (a) and (b) in equitable proportion to their relative numbers and relative risks to health and safety;
  - (d) if the workers do not make their own selection after being given the opportunity under paragraphs (a) to (c), the employer must seek out and assign persons to act as worker representatives.
- (2) The employer or a worker may request the board to provide direction as to how an election under subsection (1) (b) is to be conducted.
  - (3) The employer, or a union or a worker at a workplace referred to in subsection (1) (c), may request the board to provide direction as to how the requirements of that provision are to be applied in the workplace.

**Section 131:**

- (1) Subject to this Part and the regulations, a joint committee must establish its own rules of procedure, including rules respecting how it is to perform its duties and functions.
- (2) A joint committee must meet regularly at least once each month, unless another schedule is permitted or required by regulation or order.

**Section 132:**

If a joint committee is unable to reach agreement on a matter relating to the health or safety of workers at the workplace, a co-chair of the committee may report this to the board, which may investigate the matter and attempt to resolve the matter.

**Section 133:**

- (1) This section applies if a joint committee sends a written recommendation to an employer with a written request for a response from the employer.
- (2) Subject to subsections (4) and (5), the employer must respond in writing to the committee within 21 days of receiving the request, either
  - (a) indicating acceptance of the recommendation, or

- (b) giving the employer's reasons for not accepting the recommendation.
- (3) If the employer does not accept the committee's recommendations, a co-chair of the committee may report the matter to the board, which may investigate and attempt to resolve the matter.
- (4) If it is not reasonably possible to provide a response before the end of the 21 day period, the employer must provide within that time a written explanation for the delay, together with an indication of when the response will be provided.
- (5) If the joint committee is not satisfied that the explanation provided under subsection (4) is reasonable in the circumstances, a co-chair of the committee may report this to the board, which may investigate the matter and may, by order, establish a deadline by which the employer must respond.
- (6) Nothing in this section relieves an employer of the obligation to comply with this Part and the regulations.

## **POLICY**

In determining whether to investigate matters in order to resolve disagreements under Division 4, the Board will consider:

- the Board's statutory authority to investigate in the particular situation;
- whether there is an immediate hazard that needs to be resolved;
- whether the issue is significant in terms of preventing injuries and illnesses;
- whether there is an alternative method for resolving the issue; and
- whether the Board is likely to be able to resolve the issue.

Where the Board does investigate, the extent and nature of investigations will depend on the circumstances. Not all investigations will involve a visit to the workplace.

With regard to sections 132 and 133(3), the investigating officer will, where applicable, make relevant determinations as to whether the *Act* and regulations are being complied with or whether an unsafe situation exists. If the disagreement involves matters going beyond what is specifically required to comply with the regulations, the officer may

discuss the issue with the parties and suggest options but will not decide the disagreement.

If the employer fails to make any response at all or to meet a deadline set by the Board under section 133(5), the Board may order that a response be made under section 187 and/or take whatever other enforcement action may be appropriate.

Joint committees themselves have the authority to determine the constitution of the committee, to the extent that this is not covered by Part 3 or the regulations.

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| <b>EFFECTIVE DATE:</b>   | October 1, 1999   |
| <b>AUTHORITY:</b>        | ss.128, 131, 132 and 133; <i>Workers Compensation Act</i>   |
| <b>CROSS REFERENCES:</b> | See also Joint Committees – Time off Work (Item D4-134-1), Educational Leave (Item D4-135-1), Employer Must Post Committee Information (Item D4-138-1), Worker Health and Safety Representative (Item D4-139-1) |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.   |
| <b>APPLICATION:</b>      |   |

**RE: Joint Committees –  
Time Off Work****ITEM: D4-134-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 134 sets out the right of joint committee members to take time off from work for certain purposes and to be paid for that time.

### **2. The Act**

Section 134:

- (1) A member of a joint committee is entitled to time off from work for
  - (a) the time required to attend meetings of the committee, and
  - (b) other time that is reasonably necessary to prepare for meetings of the committee and to fulfill the other functions and duties of the committee.
- (2) Time off under subsection (1) is deemed to be time worked for the employer, and the employer must pay the member for that time.

## **POLICY**

Members of joint health and safety committees are entitled to take time off from work for the purposes set out in section 134. What constitutes “reasonably necessary” time in section 134(1)(b) will depend on the circumstances including:

- the role of the member on the committee; and
- the health and safety conditions at the workplace.

If the employer is concerned about the amount of time spent on committee activities, the employer should raise this issue with the committee through its representatives.

If a member of the committee considers that the employer is not allowing the member the time to which he or she is entitled under section 134, the member may, after raising the matter with the committee and the employer, complain to the Board. The Board will investigate the matter. Depending upon its findings, the Board may:

- decide that no further action is appropriate;
- attempt to resolve the dispute; or
- make an order under section 187 requiring the employer to comply with section 134.

If the employer does not pay the worker's wages for time properly taken under section 134, a complaint can be made to the Board under section 152.

The employer has the right to manage the workplace and determine how much time workers spend on different activities. However, the employer's right is subject to the *Act* and the regulations. In dealing with matters covered by section 134, the employer must exercise the right in a manner consistent with the purpose and intent of section 134.

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| <b>EFFECTIVE DATE:</b>   | October 1, 1999  |
| <b>AUTHORITY:</b>        | s.134, <i>Workers Compensation Act</i>   |
| <b>CROSS REFERENCES:</b> | See also s. 154, <i>Workers Compensation Act</i> ; Joint Committees – Procedures and Resolving Disagreements (Item D4-132/133-1) and Discriminatory Actions/Failure to Pay Wages – Scope (Item D6-150/151/152-1) |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.  |
| <b>APPLICATION:</b>      |  |

**RE: Joint Committees –  
Educational Leave****ITEM: D4-135-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 135 provides for educational leave for members of joint committees. Section 135(3) requires the employer to provide the leave without loss of pay or other benefits.

### **2. The Act**

Section 135:

- (1) Each member of a joint committee is entitled to an annual educational leave totalling 8 hours, or a longer period if prescribed by regulation, for the purposes of attending occupational health and safety training courses conducted by or with the approval of the Board.
- (2) A member of the joint committee may designate another member as being entitled to take all or part of the member's educational leave.
- (3) The employer must provide the educational leave under this section without loss of pay or other benefits and must pay for, or reimburse the worker for, the costs of the training course and the reasonable costs of attending the course.

## **POLICY**

Members of joint health and safety committees are entitled to take time off from work to attend occupational health and safety training courses conducted by or with the approval of the Board.

Decisions as to when members will attend courses, what courses they will attend and at what time and place will normally be made as follows:

- An individual member will bring his or her request to the committee.
- If the committee agrees, the committee will forward the request to the employer.

- If the committee does not agree, or is unable to come to a decision within a reasonable time, the individual member may forward the request to the employer.
- Upon receiving a request from either the committee or the individual member, the employer will make its decision within a reasonable time. The employer will give reasons in writing where required by section 133. In making its decision, the employer must act in a manner consistent with the purpose and intent of section 135. Permission must not be unreasonably denied.

If a member of the committee considers that the employer is not allowing the member the leave to which he or she is entitled under section 135, the member may, after following the above process, complain to the Board. The Board will investigate the matter. Depending upon its findings, the Board may:

- decide that no further action is appropriate;
- attempt to resolve the dispute; or
- make an order under section 187 requiring the employer to comply with section 135.

If the employer does not pay a worker's wages for leave taken under section 135, a complaint can be made to the Board under section 152.

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| <b>EFFECTIVE DATE:</b>   | July 1, 2003  |
| <b>AUTHORITY:</b>        | s.135, <i>Workers Compensation Act</i>  |
| <b>CROSS REFERENCES:</b> | See also s. 152, <i>Workers Compensation Act</i> ; Joint Committees – Procedures and Resolving Disagreements (Item D4-132/133-1), Discriminatory Actions/Failure to Pay Wages – Investigation of Complaint (Item D6-153-1) and Orders – General Authority (Item D12-187-1)  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Item developed to implement the <i>Workers Compensation (Occupational Health and Safety) Act, 1998</i> , effective October 1, 1999. Effective July 1, 2003 subsequent minor change made to correct an error in statutory citation; section 133(3) was removed and replaced with section 133. |
| <b>APPLICATION:</b>      |   |

**RE: Joint Committees –  
Worker Health and Safety Representative**

**ITEM: D4-139-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 139 sets out the requirement for a worker health and safety representative in certain workplaces. With respect to section 139(4), the matters covered by sections 133 to 136 include:

- time off work under section 134 that is “reasonably necessary” to fulfill the representative’s duties and functions;
- eight hours annual educational leave under section 135;
- the obligation of the employer to respond to recommendations under section 133, and for the representative to apply to the Board if the employer delays the response or rejects the recommendation; and
- the obligation of the employer to provide other administrative support, and information, under section 136.

### **2. The Act**

Section 139:

- (1) A worker health and safety representative is required
  - (a) in each workplace where there are more than 9 but fewer than 20 workers of the employer regularly employed, and
  - (b) in any other workplace for which a worker health and safety representative is required by order of the board.
- (2) The worker health and safety representative must be selected in accordance with section 128 from among the workers at the workplace who do not exercise managerial functions at that workplace.
- (3) To the extent practicable, a worker health and safety representative has the same duties and functions as a joint committee.

- (4) Sections 133 to 136 apply in relation to a worker health and safety representative as if the representative were a joint committee or member of a joint committee.

## **POLICY**

A worker health and safety representative is required in each workplace where “there are more than 9 but fewer than 20 workers of the employer regularly employed”. A workplace will fall within the terms of this provision if it normally has more than 9 but fewer than 20 workers who have been employed at the workplace for a period of not less than one month.

In deciding whether to order a worker health and safety representative under section 139(1)(b), the Board will follow the same criteria as when deciding whether to order a joint committee under section 125(b). Where the Board orders a joint committee under section 125(b), a worker health and safety representative under section 139(1)(a) is not required.

In interpreting section 139(4), the right to take time off work to attend and prepare for joint committee meetings under section 134 does not apply to a sole worker health and safety representative.

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| <b>EFFECTIVE DATE:</b>   | October 1, 1999   |
| <b>AUTHORITY:</b>        | s.139, <i>Workers Compensation Act</i>  |
| <b>CROSS REFERENCES:</b> | See also s. 125(b), <i>Workers Compensation Act</i> ; Joint Committees – When a Committee is Required (Item D4-125-1) |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.           |
| <b>APPLICATION:</b>      |   |

**RE: Joint Committees –  
Participation of Worker Representative in Inspections**

**ITEM: D4-140-1**

## **BACKGROUND**

### **1. Explanatory Notes**

These sections provide for the participation of a worker member from the joint committee, the worker health and safety representative or another worker representative on inspections.

### **2. The Act**

Section 140:

If

- (a) this Part or the regulations give a worker representative the right to be present for an inspection, investigation or inquiry at a workplace, and
- (b) no worker representative is reasonably available,

the right may be exercised by another worker who has previously been designated as an alternate by the worker representative.

Section 182(1)(b):

- (1) Subject to this section, if an officer makes a physical inspection of a workplace under section 179,
  - (a) the employer or a representative of the employer, and
  - (b) a worker representative or, if there is no worker representative or the worker representative is not reasonably available, a reasonably available worker selected by the officer as a representative,

are entitled to accompany the officer on the inspection.

Section 106:

**“worker representative”** means

- (a) in relation to a workplace for which there is a joint committee, a worker representative on the committee, and
- (b) in relation to a workplace for which there is a worker health and safety representative, that representative

## **POLICY**

There is no POLICY for this Item.

## **PRACTICE**

The Board will only exercise the authority under section 182 to select a worker representative if the actual worker representative fails to designate an alternate under section 140 or if the designated alternative is not available.

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| <b>EFFECTIVE DATE:</b>   | October 1, 1999   |
| <b>AUTHORITY:</b>        | s.140, 182, <i>Workers Compensation Act</i>                                   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to make formatting changes. |
| <b>APPLICATION:</b>      |   |

**DIVISION 6****PROHIBITION AGAINST DISCRIMINATORY ACTION**

Division 6 of Part 3 of the *Workers Compensation Act* prohibits employers and unions from taking or threatening discriminatory action against workers. It defines “discriminatory action”, outlines processes for workers to make complaints and the Board to investigate a complaint and provides for various remedies which the Board may award to the worker if the Board determines that discriminatory action has occurred.

Division 6 also allows workers to make complaints when employers fail to pay wages required by Part 3 or the regulations and authorizes the Board to investigate and award remedies where appropriate.



**RE: Discriminatory Actions/  
Failure to Pay Wages –  
Scope**

**ITEM: D6-150/151/152-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Workers have a right to complain to the Board regarding:

- “discriminatory action” by their employer or union; or
- the failure by their employer to pay wages required by Part 3 or the regulations.

“Discriminatory action” includes any act or omission by an employer or union, or a person acting on behalf of an employer or union, that adversely affects a worker with respect to any term or condition of employment, or of membership in a union.

The *Act* defines “discriminatory action” by including within it certain matters. The phrase could also include other matters that normally fall within the meaning of “discrimination”. However, the *Act* only provides rights for a worker when the “discriminatory action” relates to the matters outlined in section 151.

Section 152 describes how a worker, who considers that the worker’s employer or union has taken, or threatened to take, discriminatory action against the worker or has failed to pay the wages required by Part 3 or the regulations, may make a complaint to the Board. It includes the time limits within which the complaint must be made.

### **2. The Act**

Section 150:

- (1) For the purposes of this Division, "**discriminatory action**" includes any act or omission by an employer or union, or a person acting on behalf of an employer or union, that adversely affects a worker with respect to any term or condition of employment, or of membership in a union.
- (2) Without restricting subsection (1), discriminatory action includes
  - (a) suspension, lay-off or dismissal,

- (b) demotion or loss of opportunity for promotion,
- (c) transfer of duties, change of location of workplace, reduction in wages or change in working hours,
- (d) coercion or intimidation,
- (e) imposition of any discipline, reprimand or other penalty, and
- (f) the discontinuation or elimination of the job of the worker.

**Section 151:**

An employer or union, or a person acting on behalf of an employer or union, must not take or threaten discriminatory action against a worker

- (a) for exercising any right or carrying out any duty in accordance with this Part, the regulations or an applicable order,
- (b) for the reason that the worker has testified or is about to testify in any matter, inquiry or proceeding under this Act or the *Coroners Act* on an issue related to occupational health and safety or occupational environment, or
- (c) for the reason that the worker has given any information regarding conditions affecting the occupational health or safety or occupational environment of that worker or any other worker to
  - (i) an employer or person acting on behalf of an employer,
  - (ii) another worker or a union representing a worker, or
  - (iii) an officer or any other person concerned with the administration of this Part.

**Section 152:**

- (1) A worker who considers that
  - (a) an employer or union, or a person acting on behalf of an employer or union, has taken, or threatened to take, discriminatory action against the worker contrary to section 151, or

- (b) an employer has failed to pay wages to the worker as required by this Part or the regulations

may have the matter dealt with through the grievance procedure under a collective agreement, if any, or by complaint in accordance with this Division.

- (2) A complaint under subsection (1) must be made in writing to the Board,
- (a) in the case of a complaint referred to in subsection (1) (a), within 1 year of the action considered to be discriminatory, and
- (b) in the case of a complaint referred to in subsection (1) (b), within 60 days after the wages became payable.
- (3) In dealing with a matter referred to in subsection (1), whether under a collective agreement or by complaint to the Board, the burden of proving that there has been no such contravention is on the employer or the union, as applicable.

## **POLICY**

Section 152 applies to a failure of the employer to pay wages to the worker as required by the Part.

Some sections do not use the term "wages", but require the worker to be paid for lost time, notably:

- 134(2) (time off work by members of joint committees);
- 135(3) (educational leave for committee members - section 152 only applies to the payment of wages, not other costs such as travel expenses );
- 182(4) (worker accompanying inspection); and
- 192(1) (lay off resulting from stop work order).

As the payments under these sections are in substances "wages", a failure to pay them may be remedied by a complaint under section 152.

**EFFECTIVE DATE:** July 1, 2003  
**AUTHORITY:** ss. 150, 151, and 152 *Workers Compensation Act*  
**CROSS REFERENCES:**  
**HISTORY:** Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.  
Item developed to implement the *Workers Compensation (Occupational Health and Safety) Act, 1998, effective October 1, 1999*. Effective July 1, 2003 minor change made to strike out references to sections 147 and 148, as these sections were never proclaimed into effect.

**APPLICATION:**

**RE: Discriminatory Actions/  
Failure to Pay Wages –  
Investigation of Complaint**

**ITEM: D6-153-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Upon receipt of a complaint, the Board must immediately inquire into the matter.

In dealing with a matter regarding discriminatory action, the burden of proving there has been no such contravention is on the employer or the union, as applicable.

### **2. The Act**

Section 153(1):

If the board receives a complaint under section 152 (2), it must immediately inquire into the matter and, if the complaint is not settled or withdrawn, must

- (a) determine whether the alleged contravention occurred, and
- (b) deliver a written statement of the board's determination to the worker and to the employer or union, as applicable.

## **POLICY**

When the Board receives a complaint from a worker within the time frame allowed by section 152(2), the Board will, where further information is needed, carry out an initial inquiry to establish the basic facts alleged by the worker and to determine whether, if accurate, they fall within the terms of section 152. Inquiry will also be made as to what remedy the worker is seeking.

Copies of documents supplied by the worker, as well as the results of any Board inquiry, will be provided to the employer or union against whom the complaint is made. The employer or union will then be given time to meet its onus under section 152(3) of proving that no contravention of the *Act* or regulations took place and to comment on the remedy proposed by the worker. The worker will be provided with a copy of the Board's investigation as well as any response to the complaint by the employer or union, and given an opportunity to respond.

Further inquiries by the Board may then be made, as well as exchanges of submissions and information that may be required by the rules of natural justice. An oral hearing is not required, but may be held if the Board considers it necessary to properly decide a complaint.

The worker may withdraw a complaint at any time, settle the dispute privately with the employer or union, or pursue alternative remedies under a collective agreement.

The worker cannot pursue both a grievance under a collective agreement and a complaint to the Board regarding the same alleged discriminatory action or failure to pay wages. The worker is required to elect between the two processes.

If the worker elects to pursue a grievance under a collective agreement, but the union decides not to pursue the grievance, the worker may revoke his or her election within 30 days of the union's decision and pursue a complaint to the Board. The complaint must, however, still be made within one year of the action considered to be discriminatory or within 60 days after the wages became payable.

## **PRACTICE**

The Board will consider granting an oral hearing when:

- there is a significant issue of credibility;
- there is evidence that must be presented orally;
- the decision to be reviewed raises an issue of general significance; or
- there are other grounds for having an oral hearing.

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| <b>EFFECTIVE DATE:</b>   | October 1, 1999   |
| <b>AUTHORITY:</b>        | s.153(1), <i>Workers Compensation Act</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to replace a reference to reviewing officer with the Board and make formatting changes. |

**APPLICATION:**

**RE: Discriminatory Actions/  
Failure to Pay Wages –  
Remedies**

**ITEM: D6-153-2**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 153(2) sets out the remedies that the Board may order if the Board, after investigation, determines that there has been discriminatory action or a failure to pay wages.

### **2. The Act**

Section 153(2):

If the board determines that the contravention occurred, the board may make an order requiring one or more of the following:

- (a) that the employer or union cease the discriminatory action;
- (b) that the employer reinstate the worker to his or her former employment under the same terms and conditions under which the worker was formerly employed;
- (c) that the employer pay, by a specified date, the wages required to be paid by this Part or the regulations;
- (d) that the union reinstate the membership of the worker in the union;
- (e) employer's or union's records on the worker be removed;
- (f) that the employer or the union pay the reasonable out of pocket expenses incurred by the worker by reason of the discriminatory action;
- (g) that the employer or the union do any other thing that the board considers necessary to secure compliance with this Part and the regulations.

## **POLICY**

### **(a) Object of awarding remedies**

The Board's object in exercising these powers is, as far as is practicable, to put the worker in the same position as the worker would have been if the discriminatory action or the failure to pay wages had not occurred. This may involve measuring not only the worker's actual loss, but determining whether there were any measures the worker could have reasonably taken to reduce or eliminate that loss.

### **(b) Factors considered in awarding remedies**

The factors considered in determining the worker's loss include:

- whether the worker has tried to eliminate or reduce the loss and, if the worker has not done so, whether it would have been reasonable for the worker to have tried;
- any collateral benefits the worker has received from the employer (collateral benefits from a source other than the employer, such as employment insurance and private insurance benefits, are not to be considered); and
- other circumstances affecting the worker's loss that arise independently of the worker's conduct after the discriminatory action or failure to pay wages has occurred, for example, the closure of the place of employment.

### **(c) Explanation of Specific Remedies**

#### **Reinstatement to employment**

The Board may order reinstatement to employment retroactive to when the discriminatory action occurred.

#### **Payment of wages**

The Board may make orders with respect to payment of wages in a variety of circumstances. These include:

- an order for reinstatement that requires the employer to pay back wages, reinstate benefits retroactively and perform other incidental acts. The authority to do this is found in section 153(2)(b);

- an order that requires the employer to pay, by a specified date, the wages required to be paid under Part 3 or the regulations. The authority to do this is found in section 153(2)(c); and
- an order that requires an employer to reimburse the loss of pay where the discriminatory action involved the employer reducing the worker's pay. The authority to do this is found in section 153(2)(g).

The wages, salaries and other employment benefits covered by these provisions are those falling within the definition of "wages" in the *Employment Standards Act*. This definition does not include every payment or benefit that workers receive as a result of their employment.

### **Expenses**

The Board has discretion to order the employer or union to pay reasonable out-of-pocket expenses incurred by the worker by reason of the discriminatory action.

Since the Board carries out the initial inquiry that is necessary to establish the basic facts of the worker's complaint, the worker does not need to incur costs in making a complaint. If the worker feels that a particular inquiry is needed, he or she can request the Board to do this.

The employer or union will meet their own costs of proving that no contravention of the *Act* took place and responding to any material supplied by the Board or arising out of the Board's inquiry.

Where a complaint is upheld, the Board will not normally make orders that the employer or union pay legal or other costs incurred by the worker in order to pursue the complaint. Similarly, where the complaint is not upheld, the Board will not normally order the worker to pay the legal and other costs of the employer or union. Such orders may be made under section 100 of the *Act* in exceptional situations. These include where there has been flagrant abuse by the employer, worker or union of their rights and responsibilities under the *Act* and regulations.

#### **(d) Other action by the employer or union**

The Board's authority to award remedies under section 153(2) extends only to discriminatory action or failure to pay wages as defined by Division 6. It does not apply to other actions that may be taken by an employer or union.

**(e) Other action by the Board**

These remedies only apply when there has been a formal written complaint by the worker.

However, the Board may use its other enforcement powers, including an administrative penalty under section 196, to address discriminatory actions or failures to pay wages, whether there has been a formal written complaint or not.

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| <b>EFFECTIVE DATE:</b>   | October 1, 1999   |
| <b>AUTHORITY:</b>        | s. 153(2), <i>Workers Compensation Act</i>  |
| <b>CROSS REFERENCES:</b> | See also ss. 100, 106 (Definition of “wages”), <i>Workers Compensation Act</i>                              |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes. |
| <b>APPLICATION:</b>      |   |

**DIVISION 8****MISCELLANEOUS AUTHORITY**

Division 8 of Part 3 of the *Workers Compensation Act* provides miscellaneous authority for the Board in a number of areas, including the certification and training of first aid attendants and instructors, the installation and maintenance of required first aid equipment, and the certification and training of blasters.



**RE: First Aid Equipment –  
Imposition of Special Rate of Assessment**

**ITEM: D8-160-1**

## **BACKGROUND**

### **1. Explanatory Notes**

The Board may impose a special rate of assessment under Part 1 of the *Act* where an employer fails, neglects or refuses to install or maintain first aid equipment required by regulation or order.

### **2. The Act**

Section 160:

If an employer fails, neglects or refuses to install or maintain first aid equipment or service required by regulation or order, the board may do one or more of the following:

- (a) have the first aid equipment and service installed, in which case the cost of this is a debt owed by the employer to the board;
- (b) impose a special rate of assessment under Part 1 of this Act;
- (c) order the employer to immediately close down all or part of the workplace or work being done there until the employer complies with the applicable regulation or order.

## **POLICY**

Where appropriate, the Board will apply the policies and practices set out in the following Items to the imposition of special rates of assessment for first aid equipment and service under section 160:

- D12-196-1, -2, -3, -4, -6;
- D12-196-8; and
- D12-196-10, -11.

**EFFECTIVE DATE:** October 1, 1999  
**AUTHORITY:** s. 160(b), *Workers Compensation Act*  
**CROSS REFERENCES:**  
**HISTORY:** Housekeeping changes effective September 15, 2010 to delete reference to Policy D16-223.1, practice reference and make formatting changes.  
Effective December 31, 2003, references to two prior policies (Items D12-196-4 and D12-196-5) which no longer exist were deleted and a consequential housekeeping reference to a new Item D12-196-4 was added.

**APPLICATION:**

**DIVISION 9****VARIANCE ORDERS**

Division 9 of Part 3 of the *Workers Compensation Act* authorizes the Board to grant variances from provisions of the regulations. It establishes the criteria to be used by the Board in considering whether to grant a variance and the effective period for a variance order. The provisions set out the processes to be used by an applicant for a variance and by the Board in making a decision on the application. The legal effect of a variance is identified.



**RE: Variance Orders –  
Information Required****ITEM: D9-166-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 166 sets out the information to be provided by an applicant for a variance. Section 166(3) requires the applicant to provide the technical and other information required by the Board.

### **2. The Act**

Section 166:

- (1) Subject to the regulations and subsection (2), an application for a variance must be made in writing to the board and must include
  - (a) a description of the requested variance,
  - (b) a statement of why the variance is requested, and
  - (c) information with respect to the benefits and drawbacks in relation to the matters addressed by the regulation that might reasonably be anticipated if the variance is allowed.
- (2) In the case of an application by a single worker for a variance order that would apply only to that worker, an application may be made as permitted by the board.
- (3) The applicant must also provide the board with the technical and any other information required by the board to deal with the application.

## **POLICY**

In the case of an application under section 166(1), the “other information” required by the Board from an employer under section 166(3) will generally include:

- the location of the workplace;
- the type and nature of the work process;
- the regulation(s) proposed for modification;

- a description of the proposed procedure or practice that would provide an equivalent level of health and safety to that provided for by the regulation(s);
- how workers will be trained and supervised; and
- confirmation that:
  - the variance application has been posted at the workplace, and a copy has been provided to the joint health and safety committee or the worker health and safety representative and to the union, if the workers at the workplace are represented by the union, or
  - if the workplace is not yet in existence, notice has been published where it would reasonably be expected to come to the attention of persons who may be affected.

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| <b>EFFECTIVE DATE:</b>   | April 1, 2002  |
| <b>AUTHORITY:</b>        | s.166, <i>Workers Compensation Act</i>   |
| <b>CROSS REFERENCES:</b> |  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces part of Policy No. 1.2.5 of the Prevention Division <i>Policy and Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001/2002 “editorial” consolidation of all Prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 1.2.5, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 1.2.5 was issued. |

**RE: Variance Orders –  
Consultation on Application**

**ITEM: D9-168-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 168 requires the Board to give notice of an application for a variance and conduct the consultations on the application that the Board considers advisable.

### **2. The Act**

Section 168:

- (1) After receiving an application for variance, the board may give notice of the application and conduct consultations respecting that application as the board considers advisable.
- (2) Before making a decision on an application, the board must provide an opportunity for persons who may be affected by the requested variance to submit to the board information respecting their position on the requested variance.
- (3) A union representing workers who may be affected by the requested variance is considered a person who may be affected for the purposes of subsection (2).

## **POLICY**

The persons whom the Board will notify and consult respecting the application for a variance include:

- the chairs of the joint health and safety committee or worker health and safety representative;
- the union, if workers in the workplace are represented by the union; and
- if there is no committee, worker health and safety representative or union at the workplace, a worker representative, if practicable.

The persons notified will be asked for comments, invited to participate in any hearing or other proceedings that may be held on the application, and advised of the decision.

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| <b>EFFECTIVE DATE:</b>   | April 1, 2002  |
| <b>AUTHORITY:</b>        | s.168, <i>Workers Compensation Act</i>   |
| <b>CROSS REFERENCES:</b> |  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces part of Policy No. 1.2.5 of the Prevention Division <i>Policy and Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001/2002 “editorial” consolidation of all Prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 1.2.5, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 1.2.5 was issued. |

**DIVISION 10****ACCIDENT REPORTING AND INVESTIGATION**

Division 10 of Part 3 of the *Workers Compensation Act* requires employers to immediately notify the Board of certain accidents and conduct investigations of those accidents and other situations. It also prohibits an employer or supervisor from attempting to prevent a worker reporting an injury, illness, death or hazardous condition.



**RE: Accident Reporting and Investigation –  
Immediate Notice of Certain Accidents  
(Major Release of Hazardous Substance)**

**ITEM: D10-172-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 172(1) sets out the situations where the employer must immediately notify the Board of the occurrence of any accident.

### **2. The Act**

Section 172(1):

An employer must immediately notify the board of the occurrence of any accident that

- (a) resulted in serious injury to or the death of a worker,
- (b) involved a major structural failure or collapse of a building, bridge, tower, crane, hoist, temporary construction support system or excavation,
- (c) involved the major release of a hazardous substance, or
- (d) was an incident required by regulation to be reported.

## **POLICY**

Section 172(1)(c) requires the employer to notify the Board of any accident that involved the major release of a hazardous substance.

A major release does not only mean a considerable quantity, or the peculiar nature of the release, such as a gas or volatile liquid, but, more importantly, the seriousness of the risk to the health of workers. Factors that determine the seriousness of the risk include the degree of preparedness of the employer to respond to the release, the necessity of working in close proximity to the release, the atmospheric conditions at the time of the release and the nature of the substance.

As a general guideline, a report would be expected when:

- The incident resulted in an injury that required immediate medical attention beyond the level of service provided by a first aid attendant, or injuries to several workers that require first aid.

- The incident resulted in a situation of continuing danger to workers, such as when the release of a chemical cannot be readily or quickly cleaned up.

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| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | s.172(1), <i>Workers Compensation Act</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 6.02(c) of the Prevention Division <i>Policy and Procedure Manual</i>  |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 6.02(c), as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 6.02(c) was issued. |

## **DIVISION 12**

### **ENFORCEMENT**

Division 12 of Part 3 of the *Workers Compensation Act* deals with orders, administrative penalties and court injunctions.

Division 12 sets out the Board's authority for making orders for the carrying out of any matter or thing regulated, controlled or required by Part 3 or the regulations, including orders to stop using or supplying unsafe equipment, orders to stop work and orders suspending or canceling certificates. It sets out processes for issuing and canceling orders, and authorizes the Board to require employers or other persons to prepare compliance reports in response to orders.

The Division creates an administrative penalty system. The Board may impose an administrative penalty on an employer in certain situations, to a maximum of \$500,000. The employer may also raise "due diligence" as a defence to the imposition of the penalty.

The Division provides that, on application of the Board, the Supreme Court may grant an injunction restraining a person from continuing or committing a contravention against Part 3 or the regulations or requiring the person to comply with Part 3 or the regulations.



**RE: Orders –  
General Authority****ITEM: D12-187-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 187(1) provides a broad general authority for the Board to make orders for carrying out matters and things regulated, controlled or required by Part 3 or the regulations. This includes authority to make orders in a variety of specific situations set out in section 187(2).

Powers to make orders are also found in other sections of the *Act*.

### **2. The Act**

Section 187:

- (1) The Board may make orders for the carrying out of any matter or thing regulated, controlled or required by this Part or the regulations, and may require that the order be carried out immediately or within the time specified in the order.
- (2) Without limiting subsection (1), the authority under that subsection includes authority to make orders as follows:
  - (a) establishing standards that must be met and means and requirements that must be adopted in any work or workplace for the prevention of work related accidents, injuries and illnesses;
  - (b) requiring a person to take measures to ensure compliance with this Act and the regulations or specifying measures that a person must take in order to ensure compliance with this Act and the regulations;
  - (c) requiring an employer to provide in accordance with the order a medical monitoring program as referred to in section 161;
  - (d) requiring an employer, at the employer's expense, to obtain test or assessment results respecting any thing or procedure in or about a workplace, in accordance with any requirements specified by the Board, and to provide that information to the Board;

- (e) requiring an employer to install and maintain first aid equipment and service in accordance with the order;
  - (f) requiring a person to post or attach a copy of the order, or other information, as directed by the order or by an officer;
  - (g) establishing requirements respecting the form and use of reports, certificates, declarations and other records that may be authorized or required under this Part;
  - (h) doing anything that is contemplated by this Part to be done by order;
  - (i) doing any other thing that the Board considers necessary for the prevention of work related accidents, injuries and illnesses.
- (3) The authority to make orders under this section does not limit and is not limited by the authority to make orders under another provision of this Part.

## **POLICY**

Employers and other persons covered by the *Act* have an obligation to comply with the *Act* and regulations. It is not sufficient simply to obey orders of the Board after a violation, injury or disease has occurred.

Where violations of the *Act* or regulations are found, orders will be issued to the persons responsible for the failure to comply.

In operations where cooperation and compliance are generally present, and minor, low hazard violations are noted, Board officers may issue oral orders at their discretion, but shall check back to ensure compliance before leaving the site. In such cases, a brief explanatory note shall be included in the office memo portion of the Inspection Report. Where compliance has not been achieved by the end of the inspection, the Board officer shall issue a written order.

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| <b>EFFECTIVE DATE:</b>   | October 1, 1999  |
| <b>AUTHORITY:</b>        | s.187, <i>Workers Compensation Act</i>   |
| <b>CROSS REFERENCES:</b> |  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Item developed to implement the <i>Workers Compensation (Occupational Health and Safety) Amendment Act, 1998</i> , effective October 1, 1999. |

Consequential changes subsequently made to the restatement of section 187 to reflect the *Workers Compensation Amendment Act, 2002* and to the Explanatory Notes and the cross-references to reflect the *Workers Compensation Amendment Act (No. 2), 2002*, on March 3, 2003. Effective December 31, 2003, this policy incorporates portions of Procedure No. 1.3.3-1 "*Issuing Inspection Reports*" of the former Prevention Division *Policy and Procedure Manual*.

**APPLICATION:**



**RE: Orders –  
Contents and Process****ITEM: D12-188-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 188 sets out the contents and process requirements in relation to orders. Subject to the terms of the relevant sections, these requirements apply to all the powers to issue orders under Part 3. They are not limited to orders issued under the Board's general authority in section 187.

### **2. The Act**

Section 188:

- (1) An order may be made orally or in writing but, if it is made orally, must be confirmed in writing as soon as is reasonably practicable.
- (2) An order may be made applicable to any person or category of persons and may include terms and conditions the board considers appropriate.
- (3) If an order relates to a complaint made by a person to the board or an officer, a copy of the order must be given to that person.
- (4) An officer of the board may exercise the authority of the board to make orders under this Part, subject to any restrictions or conditions established by the board.

## **POLICY**

After an inspection, the Board officer must complete a report, but its completion may be deferred until any required investigation is completed. This report may contain one or more orders, or no orders, depending on whether violations of the regulations were observed and the number and type of any observed violations. If an officer has observed no violations, this will be stated in the report.

Where possible, the officer will hold a post-inspection conference with management having responsibility and authority to comply with the orders.

The worker representative who accompanied the inspection will be invited to the conference. If the worker representative normally designated for this purpose has been unable to attend the inspection, the designated worker representative will be invited as well, if now available. Other parties involved may also be invited at the discretion of the officer. The purpose of the conference is to ensure that the parties understand the orders.

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| <b>EFFECTIVE DATE:</b>   | October 1, 1999   |
| <b>AUTHORITY:</b>        | s.188, <i>Workers Compensation Act</i>  |
| <b>CROSS REFERENCES:</b> | s.187, <i>Workers Compensation Act</i>  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes. |
| <b>APPLICATION:</b>      |   |

**RE: Orders –  
To Stop Work****ITEM: D12-191-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 191(1) sets out circumstances in which the Board may issue an order to stop work at a workplace.

### **2. The Act**

Section 191:

- (1) If the board has reasonable grounds for believing that an immediate danger exists that would likely result in serious injury, serious illness or death to a worker, the board may order
  - (a) that work at the workplace or any part of the workplace stop until the order to stop work is cancelled by the board, and
  - (b) if the board considers this is necessary, that the workplace or any part of the workplace be cleared of persons and isolated by barricades, fencing or any other means suitable to prevent access to the area until the danger is removed.
- (2) If an order is made under subsection (1) (b), an employer, supervisor or other person must not require or permit a worker to enter the workplace or part of the workplace that is the subject of the order, except for the purpose of doing work that is necessary or required to remove the danger or the hazard and only if the worker
  - (a) is protected from the danger or the hazard, or
  - (b) is qualified and properly instructed in how to remedy the unsafe condition with minimum risk to the worker's own health or safety.
- (3) Despite section 188 (1), an order under this section
  - (a) may only be made in writing, and

- (b) must be served on the employer, supervisor or other person having apparent supervision of the work or the workplace.
- (4) An order under this section expires 72 hours after it is made, unless the order has been confirmed in writing by the board.

## **POLICY**

Whether there are reasonable grounds for making an order under section 191(1) is a matter of fact in each case.

In considering whether there are reasonable grounds for an initial order, the officer will consider his or her own knowledge and experience regarding the situation along with any advice and assistance that may be immediately available. To avoid a potential for immediate danger, an officer might need to make a decision on the spot without doing the full inquiries that might be otherwise desirable.

If the Board wishes to confirm the order under section 191(4) beyond the initial 72-hour period, it may make additional inquiries. New information might be received that affects the decision as to whether there are reasonable grounds.

An order may be rescinded before the expiry of the initial 72-hour period if the employer's actions support it.

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| <b>EFFECTIVE DATE:</b>   | October 1, 1999   |
| <b>AUTHORITY:</b>        | s.191, <i>Workers Compensation Act</i>  |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes. |
| <b>APPLICATION:</b>      |   |

**RE: Orders –  
Cancellation and Suspension  
of Certificates**

**ITEM: D12-195-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 195(1) sets out circumstances in which the Board may cancel or suspend a certificate, or place conditions upon the use of a certificate issued under Part 3 or the regulations.

### **2. The Act**

Section 195:

- (1) If the Board has reasonable grounds for believing that a person who holds a certificate issued under this Part or the regulations has breached a term or condition of the certificate or has otherwise contravened a provision of this Part or the regulations, the Board may, by order,
  - (a) cancel or suspend the certificate, or
  - (b) place a condition on the use of that certificate that the Board considers is necessary in the circumstances.
- (2) An order under this section suspending a certificate must specify the length of time that the suspension is in effect or the condition that must be met before the suspension is no longer in effect.

## **POLICY**

Section 195 applies to certificates issued by the Board to qualify persons to do a particular job, including:

- certificates issued to first aid attendants and instructors under section 159;
- certificates issued to blasters and instructors under section 163; and
- any similar certificate issued by the Board under Part 3 or the regulations.

The section also applies to such certificates issued on behalf of the Board by another person, such as a training agency, under an arrangement with the Board.

**(a) First Aid Certificates**

A first aid certificate issued to a first aid attendant may be suspended, cancelled or have conditions placed upon its use where the first aid attendant engages in inappropriate conduct, including:

- smoking while assessing or treating an injured worker and/or while handling oxygen therapy equipment, or permitting others to do so;
- failure to use the assessment and injury treatment techniques outlined in first aid training courses unless conditions precluded them;
- conduct that poses an unreasonable threat to the safety and well-being of other workers or the public;
- removing themselves from being able to see or hear any summons for first aid at a workplace;
- abandonment of an injured worker after beginning assessment or treatment;
- refusal to treat an injured worker when acting as a designated first aid attendant; or
- treating or transporting an injured worker while impaired or under the influence of drugs or alcohol.

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| <b>EFFECTIVE DATE:</b>   | March 30, 2004   |
| <b>AUTHORITY:</b>        | s.195, <i>Workers Compensation Act</i>   |
| <b>CROSS REFERENCES:</b> | ss.159, 163, <i>Workers Compensation Act</i>   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Item developed to implement the <i>Workers Compensation (Occupational Health and Safety) Amendment Act</i> , 1998, effective October 1, 1999.<br>Policy revised to incorporate the parts of Policy No. 80.27 of the former Prevention Division <i>Policy and Procedure Manual</i> relating to circumstances when the WCB may suspend, cancel or place conditions on the certificate of a first aid attendant, effective March 30, 2004. |
| <b>APPLICATION:</b>      | This policy applies to events occurring on or after March 30, 2004 that leads to the consideration of a suspension, cancellation or placement of a condition on certificates issued under Part 3 of the <i>Act</i> , or the regulations.   |

**RE: Administrative Penalties –  
Criteria for Imposing****ITEM: D12-196-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 196(1) sets out the criteria for imposing an administrative penalty.

An administrative penalty must not be imposed if the employer exercised “due diligence” to prevent the failure, non-compliance or conditions to which the penalty relates. Item D12-196-10 sets out more information with respect to “due diligence”.

### **2. The Act**

Section 196(1):

The Board may, by order, impose an administrative penalty on an employer under this section if it considers that

- (a) the employer has failed to take sufficient precautions for the prevention of work related injuries or illnesses,
- (b) the employer has not complied with this Part, the regulations or an applicable order, or
- (c) the employer’s workplace or working conditions are not safe.

## **POLICY**

The main purpose of administrative penalties and similar levies is to motivate the employer receiving the penalty and other employers to comply with the *Act* and regulations.

The Board will consider imposing an administrative penalty when:

- an employer is found to have committed a violation resulting in high risk of serious injury, serious illness or death;

- an employer is found in violation of the same section of Part 3 or the regulations on more than one occasion. This includes where, though a different section is cited, the violation is essentially the same;
- an employer is found in violation of different sections of Part 3 or the regulations on more than one occasion, where the number of violations indicates a general lack of commitment to compliance;
- an employer has failed to comply with a previous order within a reasonable time;
- an employer knowingly or with reckless disregard violates one or more sections of Part 3 or the regulations. Reckless disregard includes where a violation results from ignorance of the *Act* or regulations due to a refusal to read them or take other steps to find out an employer's obligations; or
- the Board considers that the circumstances may warrant an administrative penalty.

If violations or other circumstances requiring consideration of a penalty have occurred, the following additional factors will also be considered in deciding whether to propose or to levy the penalty:

- whether the employer has an effective, overall program for complying with the *Act* and the regulations;
- whether the employer has otherwise exercised due diligence to prevent the failure, non-compliance or conditions to which the penalty relates;
- whether the violations or other circumstances have resulted from the independent action of workers who have been properly instructed, trained and supervised;
- the potential seriousness of the injury or illness that might have occurred, the number of people who might have been at risk and the likelihood of the injury or illness occurring;
- the past compliance history of the employer, including the nature, number and frequency of violations, and the occurrence of repeat violations;
- the extent to which the employer was aware or should have been aware of the hazard or that the *Act* or regulations were being violated;

- the need to provide an incentive for the employer to comply;
- whether an alternative means of enforcing the regulations would be more effective; and
- other relevant circumstances.

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| <b>EFFECTIVE DATE:</b>   | October 29, 2003  |
| <b>AUTHORITY:</b>        | s.196(1), <i>Workers Compensation Act</i>   |
| <b>CROSS REFERENCES:</b> | See also Administrative Penalties – High Risk Violations (Item D12-196-2), Prior Violations and Orders (Item D12-196-3), Authority to Impose Administrative Penalties (Item D12-196-4), and Due Diligence (Item D12-196-10 and s. 196(6) of the <i>Workers Compensation Act</i> )   |
| <b>HISTORY:</b>          | <p>Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.</p> <p>This Item was originally developed to implement the <i>Workers Compensation (Occupational Health and Safety) Amendment Act, 1998</i>, effective October 1, 1999. Consequential changes were subsequently made to the restatement of section 196 to reflect the <i>Workers Compensation Amendment Act, 2002</i> and to the Explanatory Notes, the restatement of section 196 and the cross-references to reflect the <i>Workers Compensation Amendment Act (No. 2), 2002</i>, on March 3, 2003. Effective July 1, 2003, a minor change was made to the second bullet of the policy, for congruency with Items D12-196-3 and D12-196-6. Effective October 29, 2003, an example in the policy that referenced section 20.11 of the <i>Occupational Health and Safety Regulation</i> was deleted to reflect the repeal of that section.</p> |
| <b>APPLICATION:</b>      | This policy applies to all decisions to impose administrative penalties on and after October 29, 2003.  |



**RE: Administrative Penalties –  
High Risk Violations****ITEM: D12-196-2**

## **BACKGROUND**

### **1. Explanatory Notes**

The criteria set out in Item D12-196-1 require consideration of whether a violation involves high risk of serious injury, serious illness or death.

### **2. The Act**

See D12-196-1.

## **POLICY**

Whether a violation involves high risk of serious injury, serious illness, or death will be determined in each case on the basis of the available evidence concerning:

- the likelihood of an injury, illness or death occurring;
- the number of workers affected; and
- the likely seriousness of any injury or illness.

Violations on the list set out below are assumed to be high risk in the absence of evidence showing the contrary:

1. Working in an excavation over four feet deep without adequately supporting or sloping the sides of the excavation or adopting other safeguards allowed by the regulations.
2. Working within the specified minimum distances from unguarded overhead energized high voltage electrical conductors without complying with the requirements of the regulations.
3. Working on equipment that is not locked-out when required.
4. Permitting workers to be exposed to situations or conditions that are immediately dangerous to life or health.

5. Permitting inadequately protected workers to be exposed to conditions that are likely to cause a chronic health effect.
6. When operating mobile equipment:
  - (a) failing to have rollover protective structures (ROPS) on equipment where required by the regulations,
  - (b) failing to install or use seat belts where required by regulation.
7. Failing to fell all dangerous trees as required by the regulations.
8. Using domino falling procedures.
9. Leaving cut-up trees.
10. Failing to take appropriate measures to control the fall of trees, for example, not leaving sufficient holding wood, carelessly cutting off corners of holding wood, not placing the backcut higher than the undercut, failing to use wedges or failing to have wedging equipment immediately available.
11. Permitting workers, other than the faller and other persons permitted by the regulations, to be within the minimum distance of two tree lengths of the tree being felled.

Even though a violation is not on the list, an administrative penalty may be considered on the basis that the evidence in that case shows the violation posed a high risk to workers.

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| <b>EFFECTIVE DATE:</b>   | July 1, 2003   |
| <b>AUTHORITY:</b>        | s. 196(1), <i>Workers Compensation Act</i>   |
| <b>CROSS REFERENCES:</b> | See also Administrative Penalties – Criteria for Imposing (Item D12-196-1).  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Item developed to implement the <i>Workers Compensation (Occupational Health and Safety) Act</i> , effective October 1, 1999. Effective July 1, 2003, at number 7 of the policy, the term “snags” was removed, and replaced with “dangerous trees”. |
| <b>APPLICATION:</b>      | Policy change effective July 1, 2003 applies to all orders, including orders imposing administrative penalties under section 196, issued on or after July 1, 2003.   |

**RE: Administrative Penalties –  
Prior Violations and Orders****ITEM: D12-196-3**

## **BACKGROUND**

### **1. Explanatory Notes**

The criteria set out in Item D12-196-1 require consideration of whether a prior violation or order should be considered in deciding to impose an administrative penalty on an employer following a later violation or order.

### **2. The Act**

See D12-196-1.

## **POLICY**

The Board will consider imposing an administrative penalty when an employer is found in violation of the same section on more than one occasion. This includes where, though a different section is cited, the violation is essentially the same.

Violations at one of several locations of a firm will normally be considered as though that location were the firm's only location. Violations at more than one location may be considered together if they result from a failure of the firm's overall program of compliance with the *Act* and regulations. This would include failure to:

- effectively communicate with all locations regarding health and safety concerns;
- provide adequate training to managers and others who implement site health and safety programs;
- make local management accountable for health and safety performance; and
- provide local management with sufficient resources for health and safety issues.

A business may be sold or reorganized between two occurrences of violations. Item AP1-42-3 of the *Assessment Manual* sets out guidelines for the Board's decision on whether a new experience rating position will be assigned to the reorganized business.

For the purpose of an administrative penalty, the prior violations are treated as part of the firm's history, where the same experience rating position is assigned to the new firm.

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|                          |   |
|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | October 29, 2003  |
| <b>AUTHORITY:</b>        | s. 196(1), <i>Workers Compensation Act</i>  |
| <b>CROSS REFERENCES:</b> | See also Administrative Penalties – Criteria for Imposing (Item D12-196-1).   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Effective March 18, 2003, references to policy items in the former <i>Assessment Policy Manual</i> were replaced with references to policy items in the <i>Assessment Manual</i> . Effective October 29, 2003, an example referencing section 20.11 of the <i>Occupational Health and Safety Regulation</i> in the policy was deleted to reflect the repeal of that section. |
| <b>APPLICATION:</b>      | This policy applies to all decisions to impose administrative penalties on and after October 29, 2003.  |

**RE: Administrative Penalties –  
Authority to Impose****ITEM: D12-196-4**

## **BACKGROUND**

### **1. Explanatory Notes**

This policy sets out the non-exclusive ways in which the Board may impose financial penalties if an employer does not comply with the occupational health and safety requirements in the *Act* and regulations.

### **2. The Act**

Section 73(1):

73 (1) If

- (a) an injury, death or disablement from occupational disease in respect of which compensation is payable occurs to a worker, and
- (b) the Board considers that this was due substantially to
  - (i) the gross negligence of an employer,
  - (ii) the failure of an employer to adopt reasonable means for the prevention of injuries, deaths or occupational diseases, or
  - (iii) the failure of an employer to comply with the orders or directions of the Board, or with the regulations made under Part 3 of this Act,

the Board may levy and collect from that employer as a contribution to the accident fund all or part of the amount of the compensation payable in respect of the injury, death or occupational disease, to a maximum of \$44,468.66.

Section 160(b):

If an employer fails, neglects or refuses to install or maintain first aid equipment or service required by regulation or order, the Board may do one or more of the following:

- (b) impose a special rate of assessment under Part 1 of this Act.

## Section 196(1):

The Board may, by order, impose an administrative penalty on an employer under this section if it considers that

- (a) the employer has failed to take sufficient precautions for the prevention of work related injuries or illnesses,
- (b) the employer has not complied with this Part, the regulations or an applicable order, or
- (c) the employer's workplace or working conditions are not safe.

**POLICY**

The Board has authority under the *Act* to:

1. impose an administrative penalty under section 196(1),
2. levy and collect a contribution from an employer under section 73(1), and
3. impose a special rate of assessment under section 160(b).

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|                          |  |
|--------------------------|--|
| <b>EFFECTIVE DATE:</b>   | March 24, 2010   |
| <b>AUTHORITY:</b>        |  |
| <b>CROSS REFERENCES:</b> | See also Assignment of Authority (Item D2-111-1), Administrative Penalties – Criteria for Imposing (Item D12-196-1), Imposing of Levies – Charging of Claims Costs (Item D24-73-1), and First Aid Equipment – Imposing of Special Rate of Assessment (Item D8-160-1).  |
| <b>HISTORY:</b>          | This policy incorporates portions of, and replaces, Policy No. 1.4.2 " <i>Penalty Assessments and Levies</i> " of the former Prevention Division <i>Policy and Procedure Manual</i> .<br><br>Amended March 24, 2010 to delete the reference to the Vice-President, Prevention Division, make minor wording changes and add a cross-reference to Policy D2-111-1 which has been amended to address authority over claims cost levies. |
| <b>APPLICATION:</b>      |  |

**RE: Administrative Penalties –  
Amount of Penalty****ITEM: D12-196-6**

## **BACKGROUND**

### **1. Explanatory Notes**

The Board is authorized to impose administrative penalties on employers for failure to comply with Part 3 of the *Act* and the regulations, and under certain other conditions. Section 196(3) provides that the Board must not impose an administrative penalty where the employer exercised due diligence. Section 196(2) provides that the Board must not impose an administrative penalty greater than \$596,435.35. Commencing January 1, 2004, this maximum is subject to adjustment under section 25.2 of the *Act* on January 1 of each year.

The *Act* does not specify the amount of an administrative penalty that may be imposed in particular situations.

### **2. The Act**

Section 196(2):

An administrative penalty which is greater than \$596,435.35 must not be imposed under this section.

## **POLICY**

Amounts of administrative penalties will be determined under this POLICY. No administrative penalty will be imposed where the employer exercised due diligence to prevent the failure, non-compliance or conditions to which the penalty relates.

### **1. “Basic amount” of the penalty**

#### **(a) Tables for determining “basic amounts”**

The following tables contain the guidelines used by the Board in determining the “basic amount” of an administrative penalty.

**Category A Penalties**

This table applies where there is:

- (i) A serious injury or illness or death; or
- (ii) High risk of serious injury or illness or death; or
- (iii) Non-compliance was wilful or with reckless disregard.

| <b>Assessable Payroll Range (\$)</b> | <b>Penalty Amount (\$)</b>   |
|--------------------------------------|--|
| up to 500,000                        | 2.5% of payroll, or 2,500, whichever is greater                        |
| 500,001 – 1,000,000                  | 12,500 + 2.25% of payroll over 500,000                                 |
| 1,000,001 – 1,500,000                | 23,750 + 2.0% of payroll over 1,000,000                                |
| 1,500,001 – 2,000,000                | 33,750 + 1.75% of payroll over 1,500,000                               |
| 2,000,001 – 2,500,000                | 42,500 + 1.5% of payroll over 2,000,000                                |
| 2,500,001 – 3,000,000                | 50,000 + 1.25% of payroll over 2,500,000                               |
| 3,000,001 – 3,500,000                | 56,250 + 1.0% of payroll over 3,000,000                                |
| 3,500,001 – 4,000,000                | 61,250 + .75% of payroll over 3,500,000                                |
| 4,000,001 – 4,500,000                | 65,000 + .5% of payroll over 4,000,000                                 |
| 4,500,001 – 5,000,000                | 67,500 + .25% of payroll over 4,500,000                                |
| over 5,000,000                       | 68,750 + .125% of payroll over 5,000,000, or 75,000, whichever is less |

**Category B Penalties**

This table applies for any other violations.

| <b>Assessable Payroll Range (\$)</b> | <b>Penalty Amount (\$)</b>   |
|--------------------------------------|--|
| up to 500,000                        | 1.0% of payroll, or 1,000, whichever is greater                      |
| 500,001 – 1,000,000                  | 5,000 + .36% of payroll over 500,000                                 |
| 1,000,001 – 1,500,000                | 6,800 + .32% of payroll over 1,000,000                               |
| 1,500,001 – 2,000,000                | 8,400 + .28% of payroll over 1,500,000                               |
| 2,000,001 – 2,500,000                | 9,800 + .24% of payroll over 2,000,000                               |
| 2,500,001 – 3,000,000                | 11,000 +.2% of payroll over 2,500,000                                |
| 3,000,001 – 3,500,001                | 12,000 +.16% of payroll over 3,000,000                               |
| 3,500,001 – 4,000,000                | 12,800 +.12% of payroll over 3,500,000                               |
| 4,000,001 – 4,500,000                | 13,400 +.08% of payroll over 4,000,000                               |
| 4,500,001 – 5,000,000                | 13,800 +.04% of payroll over 4,500,000                               |
| over 5,000,000                       | 14,000 +.02% of payroll over 5,000,000, or 15,000, whichever is less |

The “basic amount” of the administrative penalty will be determined on the basis of the employer’s assessable payroll for the full calendar year immediately preceding the year in which the incident giving rise to the penalty occurred. If the employer had no payroll in the preceding year, or if the preceding year’s assessable payroll is unknown, or based on less than a full calendar year or a Board estimate of payroll, the Board may, for the purpose of calculating the penalty, estimate a value for the employer’s assessable payroll for a full calendar year based on the best information available at the time the penalty is imposed. The estimate will not be less than any estimate made previously by the Board of the employer’s assessable payroll for the calendar year. An estimate will not result in no penalty or a penalty below the minimum amount set out in the tables. The “payroll” for independent operators with Personal Optional Protection is the amount for which they have purchased coverage.

**(b) Multi-site employers**

Where a firm has more than one location, the Board may, in determining the “basic amount” of the penalty, use the assessable payroll at the location where the violation occurred, provided that:

- the violation has resulted from an occupational health and safety failure at that location rather than a general “program failure” on the part of the employer, and
- the employer provides the necessary payroll information for that location to the Board and cooperates in any audit that the Board considers necessary.

A “program failure” includes failure to:

- effectively communicate with all locations regarding health and safety concerns;
- provide adequate training to managers and others who implement site health and safety programs;
- make local management accountable for health and safety performance; and
- provide local management with sufficient resources for health and safety issues.

**(c) Variation factors**

In each individual case, the “basic amount” of the penalty may be varied by up to 30%, having regard to the circumstances, including the following factors:

- (a) nature of the violation;
- (b) nature of the hazard created by the violation;
- (c) degree of actual risk created by the violation;
- (d) whether the employer knew about the situation giving rise to the violation;
- (e) the extent of the measures undertaken by the employer to comply;
- (f) the extent to which the behaviour of other workplace parties has contributed to the violation;
- (g) employer history;
- (h) whether the financial impact of the penalty would be unduly harsh in view of the employer’s size; and
- (i) any other factors relevant to the particular workplace.

**2. Penalties up to \$250,000**

With the approval of the President or delegate, the Board may impose an administrative penalty of up to \$250,000 where:

- (a) the employer has committed a high risk violation wilfully or with reckless disregard; and
- (b) a worker has died or suffered serious permanent impairment as a result.

**3. Penalties up to the Statutory Maximum**

With the approval of the President or delegate, the Board may impose an administrative penalty up to the statutory maximum where:

- (a) the employer has committed a high risk violation wilfully or with reckless disregard;
- (b) multiple fatalities have occurred or a number of workers have suffered serious permanent impairment as a result of the violation; and

- (c) there is evidence of a systemic disregard by the employer for worker safety, such as a history of serious repeated non-compliance.

#### **4. Repeat penalties**

- (1) An administrative penalty will be imposed as a “repeat penalty” where:
  - (a) it is for a violation that is the same as, or substantially similar to, a prior violation for which a penalty has been imposed;
  - (b) the violations occurred within 3 years of one another; and
  - (c) at least 14 days prior to the date of the violation giving rise to the repeat penalty, the Board
    - (i) had imposed a penalty for the prior violation, or
    - (ii) provided notice of a potential penalty for the prior violation.
- (2) For paragraph (1), the date of a violation is the date of the incident.
- (3) The Board may provide notice under paragraph (1)(c) verbally or in writing, in person, by telephone, by mail, fax, email or other method.
- (4) A “repeat penalty” will be calculated as follows:
  - (a) Calculate the “basic amount” of the penalty, including any variation, using Item 1 of this Policy (D12-196-6).
  - (b) Increase the “basic amount” of the penalty for each “prior penalty” as follows (up to the statutory maximum):

| <b>Prior penalty</b> | <b>Multiply basic amount by</b> |
|----------------------|---------------------------------|
| one                  | 2                               |
| two                  | 3                               |
| three                | 6                               |
| four                 | 12                              |
| five or more         | 24                              |

For paragraph (4)(b), “prior penalty” means any prior penalty where the requirements of paragraph (1) above are satisfied.

## **5. Recovery of costs saved through non-compliance**

The amount of any costs saved or profit made by the employer through committing the violation shall, as far as is known, be added to the penalty amount determined under 1, 2, 3, or 4 above and forms part of the administrative penalty.

## **6. Statutory maximum**

In no case will the Board impose an administrative penalty greater than the statutory maximum then in effect.

## **PRACTICE**

### Examples of Application of the Repeat Penalty Provisions

*Example 1: You are calculating the penalty to be imposed for a violation that occurred less than 14 days after another similar violation that also resulted in a penalty. The employer has no other prior penalties for the same violation.*

Calculate the penalty in accordance with Item 1 of this policy by determining the applicable table amount and applying any variation factors. After applying Item 4 of this policy, you determine that the current penalty is not a “repeat penalty”. The penalty will therefore be imposed based on the table amount with variation plus any amounts added under Item 5 of this policy.

*Example 2: You are calculating the penalty to be imposed for a violation that occurred less than 14 days after another similar violation that also resulted in a penalty. The employer has one other prior penalty for the same violation for which more than 14 days notice was given before the current violation.*

Calculate the penalty in accordance with Item 1 of this policy by determining the applicable table amount and applying any variation factors. After applying Item 4 of this policy, you determine that the current penalty is a “repeat penalty”. There are two prior similar penalties, however only one meets the requirements to be considered as a “prior penalty”. Using the table under Item 4, you determine that one prior similar penalty will result in the amount that you calculated for the penalty being multiplied by two.

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|                          |   |
|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | January 2, 2010   |
| <b>AUTHORITY:</b>        | s. 196(2), <i>Workers Compensation Act</i>  |
| <b>CROSS REFERENCES:</b> | See also Administrative Penalties – Criteria for Imposing (Item D12-196-1), Administrative Penalties – Prior Violations and Orders (D12-196-3), Administrative Penalties – Due Diligence (Item D12-196-10).   |
| <b>HISTORY:</b>          | <p>This Item was originally developed to implement the <i>Workers Compensation (Occupational Health and Safety) Amendment Act, 1998</i>, effective September 15, 2000.</p> <p>Consequential changes were subsequently made throughout the Item to implement the <i>Workers Compensation Amendment Act (No. 2), 2002</i>, on March 3, 2003.</p> <p>Effective July 1, 2003 a minor change was made at number four of the policy, to correct the reference of section 20.22 to section 20.11 of the <i>Occupational Health and Safety Regulation</i>.</p> <p>Effective October 29, 2003, an example referencing section 20.11 of the <i>Occupational Health and Safety Regulation</i> in the policy was deleted to reflect the repeal of that section.</p> <p>Effective March 25, 2009 a change was made to base the penalty calculation on the employer’s assessable payroll for the full calendar year immediately preceding the year in which the incident that gave rise to the penalty occurred. Effective March 25, 2009 a change was made to allow the Board to estimate payroll in certain situations.</p> <p>Effective January 2, 2010 a change was made to</p> <ul style="list-style-type: none"><li>(a) Item 1 to correct a typographical error in the Category A penalty table, and</li><li>(b) Item 4 so that an administrative penalty will be imposed as a “repeat penalty” where:<ul style="list-style-type: none"><li>(i) it is for a violation that is the same as, or substantially similar to, a prior violation for which a penalty has been imposed;</li><li>(ii) the violations occurred within 3 years of one another; and</li><li>(iii) at least 14 days prior to the date of the violation giving rise to the repeat penalty, the Board<ul style="list-style-type: none"><li>(1) had imposed a penalty for the prior violation, or</li><li>(2) provided notice of a potential penalty for the prior violation.</li></ul></li></ul></li></ul> <p>Housekeeping changes effective September 15, 2010 to correct paragraph reference in item 4(4) and make formatting changes.</p> |

**APPLICATION:**

This policy applies to all decisions to impose administrative penalties on and after October 29, 2003. The amendments made effective March 25, 2009 apply to all decisions, including appellate decisions, made on or after the effective date of the changes.

The amendments made effective January 2, 2010 apply to all penalties where a penalty is imposed on or after the effective date of the changes. Transitional provisions apply to penalties within the appeal period, before Review Division or before WCAT on the effective date.

**Transitional Provision for Repeat Penalty Calculation:**

Penalties within the appeal period or under review or appeal on the effective date of the policy change will be subject to the policy in effect when originally imposed, with the additional requirement that a prior penalty will only be used to increase the amount of a repeat penalty, if at least 14 days prior to the date of the violation giving rise to the repeat penalty, the Board

- (a) had imposed a penalty for the prior violation, or
- (b) provided notice of a potential penalty for the prior violation.

**RE: Administrative Penalties –  
Payment of Penalty****ITEM: D12-196-7**

## **BACKGROUND**

### **1. Explanatory Notes**

The administrative penalty is to be paid into the accident fund.

### **2. The Act**

Section 196(5):

An employer who has been ordered to pay an administrative penalty under this section must pay the amount of the penalty to the Board for deposit into the accident fund.

## **POLICY**

If an employer has applied to the Chief Review Officer for a stay under section 96.2(5), collection of the administrative penalty by assessment or court proceedings under section 223 will be deferred until the Chief Review Officer has decided the application.

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|--------------------------|--|
| <b>EFFECTIVE DATE:</b>   | March 3, 2003  |
| <b>AUTHORITY:</b>        | s. 196(5), <i>Workers Compensation Act</i>   |
| <b>CROSS REFERENCES:</b> | ss. 96.2(5), 223(1), <i>Workers Compensation Act</i>   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Item developed to implement the <i>Workers Compensation (Occupational Health and Safety) Amendment Act, 1998</i> , effective October 1, 1999.<br>Consequential changes subsequently made to the statement of the Act and to the POLICY statement to reflect the <i>Workers Compensation Amendment Act (No. 2) 2002</i> , effective March 3, 2003. |

**APPLICATION:**



**RE: Administrative Penalties –  
Payment of Interest on Successful Appeal**

**ITEM: D12-196-8**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 196(6) requires the payment of interest where an administrative penalty is reduced or cancelled on appeal.

### **2. The Act**

Section 196(6):

If an administrative penalty under this section is reduced or cancelled by a Board decision, on a review under section 96.2 or on an appeal to the appeal tribunal under Part 4, the Board must

- (a) refund the required amount to the employer out of the accident fund, and
- (b) pay interest on that amount calculated in accordance with the policies of the board of directors.

## **POLICY**

The policies governing the payment of interest are set out in policy in Item AP1-39-2 of the *Assessment Manual*.

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|                          |  |
|--------------------------|--|
| <b>EFFECTIVE DATE:</b>   | March 3, 2003  |
| <b>AUTHORITY:</b>        | s.196(6), <i>Workers Compensation Act</i>  |
| <b>CROSS REFERENCES:</b> |  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.  |
| <b>APPLICATION:</b>      | Item developed to implement the <i>Workers Compensation (Occupational Health and Safety) Amendment Act, 1998</i> , effective October 1, 1999. Consequential changes subsequently made to the Explanatory Notes and to the restatement of section 196(6) to reflect the <i>Workers Compensation Amendment Act (No. 2), 2002</i> , on March 3, 2003. |



**RE: Administrative penalties –  
Prosecution Following Penalty****ITEM: D12-196-9**

## **BACKGROUND**

### **1. Explanatory Notes**

An employer may either be required to pay an administrative penalty in respect of a violation or prosecuted under the *Act* for the violation, but not both.

### **2. The Act**

Section 196(7):

If an administrative penalty is imposed on an employer under this section, the employer must not be prosecuted under this Act in respect of the same facts and circumstances upon which the Board based the administrative penalty.

## **POLICY**

Once a prosecution under the *Act* has been commenced against an employer in respect of a violation, the Board will not impose an administrative penalty. A prosecution is “commenced” for this purpose, when an information is laid pursuant to the *Offence Act*.

An administrative penalty will not be imposed even if the prosecution does not proceed or is unsuccessful.

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|--------------------------|--|
| <b>EFFECTIVE DATE:</b>   | March 3, 2003  |
| <b>AUTHORITY:</b>        | s.196(7), <i>Workers Compensation Act</i>  |
| <b>CROSS REFERENCES:</b> |  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Item developed to implement the <i>Workers Compensation (Occupational Health and Safety) Amendment Act, 1998</i> effective October 1, 1999.<br>Consequential changes subsequently made throughout the Item to reflect the <i>Workers Compensation Amendment Act (No. 2), 2002</i> , on March 3, 2003. |
| <b>APPLICATION:</b>      |  |



**RE: Administrative Penalties –  
Due Diligence****ITEM: D12-196-10**

## **BACKGROUND**

### **1. Explanatory Notes**

The Board is authorized to impose administrative penalties on employers for failure to comply with Part 3 of the *Act* and the regulations, and under certain other conditions. Section 196(3) provides that an administrative penalty must not be imposed under this section if the employer exercised due diligence to prevent the failure, non-compliance or conditions to which the penalty relates.

### **2. The Act**

Section 196(3):

An administrative penalty must not be imposed under this section if an employer exercised due diligence to prevent the circumstances described in subsection (1).

## **POLICY**

The Board will consider that the employer exercised due diligence if the evidence shows on a balance of probabilities that the employer took all reasonable care. This involves consideration of what a reasonable person would have done in the circumstances. Due diligence will be found if the employer reasonably believed in a mistaken set of facts which, if true, would render the act or omission innocent, or if the employer took all reasonable steps to avoid the particular event.

In determining whether the employer has exercised due diligence under section 196(3), all the circumstances of the case must be considered.

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|                          |  |
|--------------------------|--|
| <b>EFFECTIVE DATE:</b>   | March 3, 2003  |
| <b>AUTHORITY:</b>        | s. 196(3), <i>Workers Compensation Act</i> . “Due diligence” is defined at common law by the courts. The standard set out in the POLICY section reflects the leading Supreme Court of Canada case - R. v. Sault Ste. Marie [1978] 85 DLR (3 <sup>rd</sup> ) 161. The requirements of the “due diligence” defence are open to re-interpretation by the courts. They may, therefore, be changed in future. Were this to happen, changes would be required to the Board’s POLICY as well. |
| <b>CROSS REFERENCES:</b> | See also Supervisors (Item D3-117-1), Multiple-Employer Workplaces (Item D3-118-1), Owners (Item D3-119-1), Directors and Officers of a Corporation (Item D3-121-1), Overlapping Obligations (D3-123/124-1); Administrative Penalties - Criteria for Imposing (Item D12-196-1)   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Item developed to implement the <i>Workers Compensation (Occupational Health and Safety) Amendment Act, 1998</i> , effective October 1, 1999. Consequential changes subsequently made to various parts of the Item to reflect the <i>Workers Compensation Amendment Act (No. 2), 2002</i> , on March 3, 2003.   |
| <b>APPLICATION:</b>      | This policy applies to all decisions to impose administrative penalties on and after March 3, 2003.  |

**RE: Administrative Penalties –  
Warning Letters****ITEM: D12-196-11**

## **BACKGROUND**

### **1. Explanatory Notes**

As an alternative to proceeding with an administrative penalty, the Board may decide to send the employer a letter warning that an administrative penalty will be considered if further violations of the *Act* or regulations occur.

There is no specific reference to “warning letters” in the *Act*. However, section 196(1) does not require the Board to impose an administrative penalty in every case where the criteria have been met. The Board may choose not to impose a penalty. Implicit in the authority to make that decision is the authority to warn the employer that, under certain conditions, an administrative penalty may be levied in the future. As well, the Board has the mandate under section 111 to be concerned with the maintenance of reasonable health and safety standards and to ensure that information in this respect is provided to persons concerned with the administration of Part 3.

### **2. The Act**

Section 196(1):

The Board may, by order, impose an administrative penalty on an employer under this section if it considers that

- (a) the employer has failed to take sufficient precautions for the prevention of work related injuries or illnesses,
- (b) the employer has not complied with this Part, the regulations or an applicable order, or
- (c) the employer’s workplace or working conditions are not safe.

Section 111(1):

In accordance with the purposes of this Part, the Board has the mandate to be concerned with occupational health and safety generally, and with the maintenance of reasonable standards for the protection of the health and safety

of workers in British Columbia and the occupational environment in which they work.

Section 111(2)(d):

In carrying out its mandate, the Board has the following functions, duties and powers:

- ....
- (d) to ensure that persons concerned with the purposes of this Part are provided with information and advice relating to its administration and to occupational health and safety and occupational environment generally ....

## **POLICY**

Where violations have occurred that provide grounds for proposing an administrative penalty, it may be concluded that a penalty is not warranted at that time to motivate the employer to comply. The Board may then send a warning letter to the senior management of the employer, advising that a penalty will be considered if the violations are repeated.

The Board will, where practicable, send a copy of the letter to the joint committee or worker health and safety representative at the workplace, as applicable, and the union if the workers at the workplace are represented by the union.

When a follow-up inspection reveals continued or repeat violations after there has been a reasonable time to comply with the warning letter, the Board will normally issue repeat orders and consider an administrative penalty or prosecution.

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|                          |   |
|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | March 3, 2003   |
| <b>AUTHORITY:</b>        | ss.196(1), 111(1) and 111(2)(d), <i>Workers Compensation Act</i>  |
| <b>CROSS REFERENCES:</b> | See also Administrative Penalties – Criteria for Imposing (Item D12-196-1)  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Item developed to implement the <i>Workers Compensation (Occupational Health and Safety) Amendment Act, 1998</i> , effective October 1, 1999.<br>Consequential changes subsequently made to various parts of the Item to reflect the <i>Workers Compensation Amendment Act (No. 2), 2002</i> , on March 3, 2003. |
| <b>APPLICATION:</b>      |   |

**RE: Occupational Health and Safety Injunctions****ITEM: D12-198-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 198 of the Act provides that the Board (operating as WorkSafeBC) can apply to the Supreme Court of British Columbia (the “Court”) for an injunction restraining a person, including a corporation, from committing a violation or requiring a person to comply with the *Workers Compensation Act* (“Act”), Occupational Health and Safety Regulation (“Regulation”) or an order.

When WorkSafeBC applies to the Court for an injunction, a judge will decide whether or not to grant it.

If a person fails to comply with an injunction and is found to be in contempt of court, they may face a fine, jail sentence or other terms imposed by the Court.

### **2. The Act**

Section 198:

- (1) On application of the Board and on being satisfied that there are reasonable grounds to believe that a person
  - (a) has contravened or is likely to contravene this Part [Part 3 of the Act], the regulations or an order, or
  - (b) has not complied or is likely not to comply with this Part, the regulations or an order,the Supreme Court may grant an injunction restraining the person from continuing or committing the contravention or requiring the person to comply, as applicable.
- (2) An injunction under subsection (1) may be granted without notice to others if it is necessary to do so in order to protect the health or safety of workers.
- (3) A contravention of this Part, the regulations or an order may be restrained under subsection (1) whether or not a penalty or other remedy has been provided by this Part.

## POLICY

An injunction is a tool to achieve compliance with an order or an obligation under the *Act* or Regulation.

WorkSafeBC may use an injunction at the same time as other tools such as an administrative penalty or prosecution.

The following are some of the circumstances in which WorkSafeBC may consider an injunction:

- (a) failure to comply with a stop work order issued under section 191 of the *Act*,

*\*Explanatory Note: A stop work order, shutting down all or part of a workplace is issued in circumstances where an immediate danger exists that would likely result in serious injury, serious illness, or death to a worker. Failure to comply with a stop work order is particularly serious since WorkSafeBC has issued it after determining that an immediate danger exists.*

- (b) failure to comply with an order to stop using or stop supplying unsafe equipment under section 190 of the *Act*,

*\*Explanatory Note: A stop use order provides that an item not be used or supplied if WorkSafeBC has reasonable grounds to believe that it is not in safe operating condition or is non-compliant.*

- (c) failure to comply with an order other than one in (a) or (b) above, and

- (d) repeated violation of the same, or similar, section of the *Act* or Regulation.

This does not limit WorkSafeBC's ability to pursue an injunction in other circumstances.

An injunction is an exceptional remedy to seek. WorkSafeBC may consider the following factors in determining the necessity and appropriateness of pursuing an injunction:

- (a) the level of risk that might result from further non-compliance,

*\*Explanatory Note: If non-compliance is exposing workers to a significant risk, this supports the use of an injunction. If the risk is very low, an injunction might not be appropriate, subject to consideration of items (b) and (c) below.*

- (b) the impact of the non-compliance on WorkSafeBC's ability to carry out its health and safety mandate, and

*\*Explanatory Note: In some cases, the risk may be low or unknown but non-compliance may make it difficult or impossible for WorkSafeBC to carry out its mandate. For example, if WorkSafeBC is repeatedly refused entry to a workplace, an injunction may be necessary to ensure that WorkSafeBC can inspect that workplace.*

- (c) the effectiveness of other tools to obtain compliance in the circumstances.

*\*Explanatory Note: This involves considering what tools, such as orders and penalties, would be effective to achieve compliance as well as looking at the effectiveness of the tools already used.*

*In some cases, follow up by WorkSafeBC may be sufficient to obtain compliance. An administrative penalty or prosecution, or the prospect of either may also be sufficient to do so. In most cases of non-compliance with an order, WorkSafeBC will likely use tools other than an OHS Injunction to obtain compliance.*

*Enforcement tools have their limitations, however. Administrative penalties can be imposed very quickly in urgent circumstances but apply only to employers. This may provide little deterrence to the principal of a corporation with minimal assets. Prosecutions can be used for both employers and workers but are slower due to the inherent time requirements of the process.*

*Injunctions have the advantage of timeliness and broad application. If necessary, an injunction can be obtained quickly and can apply both to individuals and to corporations. The injunction itself and the need to appear before the court may result in a higher level of compliance than from a Board order alone. A further advantage is that non-compliance with an injunction (contempt of court) can be dealt with fairly quickly and can result in significant consequences, including fines or jail.*

\* The explanatory notes are to provide additional explanation of the factors but are not themselves policy.

## **PRACTICE**

The President's Assignment of Authority states that injunction applications must be approved by WorkSafeBC's President/Chief Executive Officer. WorkSafeBC lawyers apply to the Court for the injunction. The Court then decides whether to grant an injunction.

### **Applications Without Notice**

WorkSafeBC's normal practice is to provide notice whenever possible before the application is made.

Although the *Workers Compensation Act* states that injunction applications may be made without notice, this will be done rarely and generally only in circumstances of extraordinary urgency. Court decisions state that there must be a very significant reason to proceed without notice to the other party.

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|--------------------------|--|
| <b>EFFECTIVE DATE:</b>   | December 1, 2011   |
| <b>AUTHORITY:</b>        | s. 198, <i>Workers Compensation Act</i>  |
| <b>CROSS REFERENCES:</b> | ss. 115(1)(b), 190, 191 <i>Workers Compensation Act</i><br>s. 2.4, Occupational Health and Safety Regulation |
| <b>HISTORY:</b>          |  |
| <b>APPLICATION:</b>      | This policy is applicable to all decisions to pursue an injunction made after the effective date.            |

## **MISCELLANEOUS PROVISIONS RELATING TO PART 1**

Certain provisions from Part 1 of the *Workers Compensation Act* have occupational health and safety implications.

The Items for these provisions have been grouped here using the prefix D24.



**RE: Imposition of Levies –  
Independent Operators****ITEM: D24-2-1**

## **BACKGROUND**

### **1. Explanatory Notes**

In directing that Part 1 applies to independent operators, the Board may specify the applicable health and safety obligations.

### **2. The Act**

Section 2(2):

The Board may direct that this Part [i.e., Part 1] applies on the terms specified in the Board's direction

- (a) to an independent operator who is neither an employer nor a worker as though the independent operator was a worker ....

## **POLICY**

If an independent operator to whom Part 1 applies under section 2(2) violates the occupational health and safety obligations set out in the Board's direction, the Board may levy an administrative penalty against the independent operator.

Where appropriate, the Board will apply the policies and practices set out in the following Items to an administrative penalty levied against an independent operator to whom Part 1 applies under Section 2(2):

- D12-196-1, -2, -3, -6;
- D12-196-8; and
- D12-196-10, -11.

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|--------------------------|--|
| <b>EFFECTIVE DATE:</b>   | March 3, 2003  |
| <b>AUTHORITY:</b>        | s. 2(2), <i>Workers Compensation Act</i>   |
| <b>CROSS REFERENCES:</b> |  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to remove reference to D16-223-1, delete practice reference and make formatting changes.<br>Item developed to implement the <i>Workers Compensation (Occupational Health and Safety) Amendment Act, 1998</i> , effective October 1, 1999. Consequential changes subsequently made to the policy statement to reflect the <i>Workers Compensation Amendment Act (No. 2), 2002</i> , on March 3, 2003. |
| <b>APPLICATION:</b>      |  |

**RE: Imposition of Levies –  
Charging of Claim Costs**

**ITEM: D24-73-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 73 authorizes the Board to charge claims costs to the employer in certain circumstances. The maximum amount the Board may levy is adjusted annually in accordance with the Consumer Price Index under section 25 of the *Act*. Starting January 1, 2012, the maximum amount is \$52,221.94.

### **2. The Act**

Section 73:

- (1) If
  - (a) an injury, death or disablement from occupational disease in respect of which compensation is payable occurs to a worker, and
  - (b) the Board considers that this was due substantially to
    - (i) the gross negligence of an employer,
    - (ii) the failure of an employer to adopt reasonable means for the prevention of injuries, deaths or occupational diseases, or
    - (iii) the failure of an employer to comply with the orders or directions of the Board, or with the regulations made under Part 3 of this Act,

the Board may levy and collect from that employer as a contribution to the accident fund all or part of the amount of the compensation payable in respect of the injury, death or occupational disease, to a maximum of \$52,221.94.

- (2) The payment of an amount levied under subsection (1) may be enforced in the same manner as the payment of an assessment may be enforced.

## **POLICY**

This section may be applied if:

- the grounds for an administrative penalty under Item D12-196-1 are met; and
- a serious injury or disablement from occupational disease, or a death, results from a violation of the regulations.

The Board has a discretion as to the amount charged under section 73(1) up to the maximum amount. A decision to charge claim costs may include the cost of future amounts of compensation that may be incurred after the decision if those future costs result from matters currently under consideration by the Board, the Review Division or the Workers' Compensation Appeal Tribunal.

Where appropriate, the Board will apply the policies and practices set out in the following Items to the charging of claim costs under section 73(1):

- D12-196-1, -2, -3, -4;
- D12-196-8; and
- D12-196-10, -11.

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|--------------------------|--|
| <b>EFFECTIVE DATE:</b>   | July 1, 2008   |
| <b>AUTHORITY:</b>        | s. 73(1), <i>Workers Compensation Act</i>  |
| <b>CROSS REFERENCES:</b> | See also Accident Reporting and Investigation – Types of Incidents Covered (Item D10-172); Administrative Penalties – Criteria for Imposing (Item D12-196-1);  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to remove reference to D16-223-1, update maximum claims cost levy amount, replace Worker and Employer Services Division with the Board, delete practice reference and make formatting changes.<br>Item developed to align prevention policy with section 73(1) of the <i>Workers Compensation Act</i> so that the Board's discretion as to the amount of the claim cost levy is not fettered, effective July 1, 2008.<br>Item developed to implement the <i>Workers Compensation (Occupational Health and Safety) Amendment Act, 1998</i> , effective October 1, 1999. Consequential changes subsequently made to the policy statement to reflect the <i>Workers Compensation Amendment Act (No. 2), 2002</i> , on March 3, 2003. Effective December 31, 2003 a consequential change was made to include a reference to new Item D12-196-4 and the maximum amount referenced in section 73(1) was updated. |
| <b>APPLICATION:</b>      | This policy applies to all decisions, including appellate decisions, to charge claim costs on and after July 1, 2008.  |



WORKING TO MAKE A DIFFERENCE

## PREVENTION MANUAL

# POLICIES AND PRACTICES APPLYING TO THE OCCUPATIONAL HEALTH AND SAFETY REGULATIONS



**PART 2**

**APPLICATION**

Part 2 of the *Occupational Health and Safety Regulation* sets out various matters relating to the application of the *Regulation*.



**RE: Application –  
General Duty (“Undue Risk”)**

**ITEM: R2.2-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 2.2 provides a general duty to carry out all work without undue risk.

### **2. The Regulation**

Section 2.2:

Despite the absence of a specific requirement, all work must be carried out without undue risk of injury or occupational disease to any person.

## **POLICY**

Section 2.2 allows an order to be issued requiring the elimination of undue risk to any worker from a hazardous work activity not covered by a specific section of the *Regulation*. Undue risk means a greater than normal probability continued exposure to the work, or working conditions, will result in injury or adverse health effect.

An order issued using section 2.2 must identify in the body of the order the condition causing undue risk.

If the requirements of a specific section of the *Regulation* applicable to another industry or the requirements of another regulatory agency could provide guidance for elimination of the undue risk, the order may quote and/or refer to the specific section or regulatory requirement.

Officers must promptly inform their manager when an order is issued using section 2.2.

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|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | s. 2.2, <i>Occupational Health and Safety Regulation</i>  |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 2.04 of the Prevention Division <i>Policy and Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 2.04, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 2.04 was issued. |

**PART 4****GENERAL CONDITIONS**

Part 4 of the *Occupational Health and Safety Regulation* sets out requirements relating to:

- buildings, structures and equipment;
- emergency preparedness and response;
- impairment;
- working alone or in isolation;
- workplace conduct;
- violence in the workplace;
- work area requirements;
- storing and handling materials;
- ergonomics (MSI) requirements;
- work area guards and handrails;
- illumination;
- indoor air quality;
- environmental tobacco smoke; and
- occupational environment.



**RE: General Conditions –  
Workplace Conduct -  
Prohibition of Improper Activity  
or Behaviour**

**ITEM: R4.25-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 4.25 prohibits “improper activity or behaviour” in the workplace that may create an occupational health and safety hazard. Section 4.24 defines “improper activity or behaviour” for this purpose.

### **2. The Regulation**

Section 4.25:

A person must not engage in any improper activity or behaviour at a workplace that might create or constitute a hazard to themselves or to any other person.

Section 4.24:

*“improper activity or behaviour”* includes

- (a) the attempted or actual exercise by a worker towards another worker of any physical force so as to cause injury, and includes any threatening statement or behaviour which gives the worker reasonable cause to believe he or she is at risk of injury, and
- (b) horseplay, practical jokes, unnecessary running or jumping or similar conduct.

## **POLICY**

Section 4.25 may be violated in any situation where an act of violence is committed by one worker on another, whether or not the violence is covered by section 4.27.

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|--------------------------|--|
| <b>EFFECTIVE DATE:</b>   | December 1, 2000   |
| <b>AUTHORITY:</b>        | s. 4.25, <i>Occupational Health and Safety Regulation</i>  |
| <b>CROSS REFERENCES:</b> | See also ss. 4.24 and 4.27, <i>Occupational Health and Safety Regulation</i> ,<br>General Conditions – Violence in the Workplace – Definition<br>(Item R4.27-1)  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice<br>reference and make formatting changes.<br>Replaces part of Policy No. 8.88 of the Prevention Division <i>Policy and<br/>Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all<br>prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item<br>merely continues the substantive requirements of Policy No. 8.88, as<br>they existed prior to the Effective Date, with any wording changes<br>necessary to reflect legislative and regulatory changes since Policy No.<br>8.88 was issued. |

**RE: General Conditions –  
Violence in the Workplace – Definition**

**ITEM: R4.27-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 4.27 defines “violence” for purpose of the violence in the workplace provisions.

### **2. The Regulation**

Section 4.27:

In sections 4.28 to 4.31

*“violence”* means the attempted or actual exercise by a person, other than a worker, of any physical force so as to cause injury to a worker, and includes any threatening statement or behaviour which gives a worker reasonable cause to believe that he or she is at risk of injury.

## **POLICY**

Section 4.27 applies to all persons committing violence except where a worker of the same employer is the victim. Workers of the same employer are covered by section 4.25.

Verbal abuse or harassing behaviour is not included in the definition of violence for the purpose of section 4.27 unless it includes threats or behaviour which give the worker reasonable cause to believe that the worker is at risk of injury.

All workers working at a “multiple-employer” workplace within the meaning of section 118 of Part 3 of the *Act* are treated as fellow workers for the purpose of section 4.27. Violence or threats between these workers are not covered by the provision.

The definition of “violence” in section 4.27 covers the situation where a worker affected by a threat has reasonable cause to believe that the worker is at risk of injury. It does not apply where a person other than the worker has such a belief. If there is a dispute over whether the worker has reasonable cause, the worker may invoke the procedure under section 3.12.

All threats against a worker or the worker's family must be treated as serious matters. When the employer is made aware of the threat, the employer is required to notify the worker, if the worker is not already aware of the threat, and to notify the police or similar authority responsible for the protection of public safety. If the employer is unable to contact the worker, the employer should advise a family member so that appropriate precautions can be taken. The employer and any other persons involved are also required to cooperate in any investigations necessary to protect the worker or worker's family. The means of fulfilling these responsibilities should be included in the written Workplace Violence Protection Program.

A threat against a worker's family that is a result of the worker's employment is considered a threat against the worker for the purpose of section 4.27.

Where a threat is made against a worker's family, any person who becomes aware of the threat must report it to the person's supervisor or the employer.

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|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | December 1, 2000  |
| <b>AUTHORITY:</b>        | s. 4.27, <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> | See also ss. 3.12 and 4.25, <i>Occupational Health and Safety Regulation</i> ; General Conditions – Workplace Conduct – Prohibition of Improper Activity or Behaviour (Item R4.25-1); General Conditions – Violence in the Workplace – Workplace Violence Prevention Program (Item R4.29-2)   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces part of Policy No. 8.88 of the Prevention Division <i>Policy and Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 "editorial" consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 8.88, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 8.88 was issued. |

**RE: General Conditions –  
Violence in the Workplace –  
Risk Assessment**

**ITEM: R4.28-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 4.28 requires a risk assessment to be performed where the risk of violence arising out of the employment may be present. It lists certain matters that must be included in any such assessment.

### **2. The Regulation**

Section 4.28:

- (1) A risk assessment must be performed in any workplace in which a risk of injury to workers from violence arising out of their employment may be present.
- (2) The risk assessment must include the consideration of
  - (a) previous experience in that workplace,
  - (b) occupational experience in similar workplaces, and
  - (c) the location and circumstances in which work will take place.

## **POLICY**

Section 4.28(2) does not state the period in the past which must be considered in performing the risk assessment. This will depend on the location, nature and circumstances of the business and the industry in which the employer is engaged. However, the assessment should include consideration of the number and nature of incidents of violence over a sufficient period to obtain a good representation of past experience. The period should be at least one year.

The object of the risk assessment is to determine the nature and type of occurrences of violence anticipated in the place of employment and the likelihood of their occurring. The factors considered will be dictated by the circumstances of the workplace. The items listed in section 4.28(2) may involve consideration of the following but are not limited to these.

- number, location, nature, severity, timing and frequency of violent incidents;
- layout and condition of the place of work, including the decor, furniture placement, the existence of barriers and fences between workers and the public, internal and external lighting, methods of access and egress and the degree to which the premises would allow a potential assailant to hide;
- type of equipment, tools, utensils, etc. that are used or available for use;
- extent and nature of contact with persons other than fellow workers and their type and gender, including the use of alcohol and drugs by them;
- age, gender, experience, skills and training of the workers concerned;
- existing work procedures, for example, when interacting with the public or in having to enforce the employer's rules or policies with regard to the public;
- existing violence prevention initiatives or programs;
- communication methods by which, for example, information about risks, incidents or threats of violence or requests for assistance may be sent;
- existence of clearly marked exit signs and emergency procedures; and
- staff deployment and scheduling, including the extent to which persons work at night, work alone, are checked when working alone and the availability of backup assistance.

The risk assessment should involve the joint health and safety committee or worker health and safety representative, where one exists, and workers and management personnel in each area affected. Sources of information are first aid records, past injury reports, checklists and questionnaires completed by workers, reports of Board officers, expert advice or relevant publications. A visual inspection of the place of employment and the work being done should be carried out.

Employers required to carry out a risk assessment must do this at the start of operations and whenever there is a significant change in the nature of the business or the location of the workplace.

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|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | December 1, 2000  |
| <b>AUTHORITY:</b>        | s. 4.28, <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 8.90 of the Prevention Division <i>Policy and Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 8.90, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 8.90 was issued. |



**RE: General Conditions –  
Violence in the Workplace –  
Procedures and Policies**

**ITEM: R4.29-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 4.29 requires that an employer establish procedures, policies and work environment arrangements where a risk of injury to workers from violence is identified by the risk assessment performed under section 4.28.

### **2. The Regulation**

Section 4.29:

If a risk of injury to workers from violence is identified by an assessment performed under section 4.28 the employer must

- (a) establish procedures, policies and work environment arrangements to eliminate the risk to workers from violence, and
- (b) if elimination of the risk to workers is not possible, establish procedures, policies and work environment arrangements to minimize the risk to workers.

## **POLICY**

In determining whether elimination of the risk is possible or what the employer should do to minimize the risk, primary regard will be had to the degree of risk in question. Other factors are:

- the state of knowledge of ways of eliminating the risk, and
- the availability and possibility of ways of eliminating the risk.

The policies, procedures and arrangements which an employer may have to implement will vary depending upon the nature of the work being carried out and the circumstances of the work. The factors which create a potential for violence in the place of employment should be shown by the results of the risk assessment.

The assessment will guide the employer as to areas where action may be necessary.

As with the risk assessment, the employer should consult with the joint health and safety committee or worker health and safety representative, where one exists, and workers and management personnel in each area affected, in considering what action is necessary to eliminate or minimize any risk of violence. Where the employer has undergone a proper process of consultation of this nature and has taken reasonable measures to eliminate or minimize any risk shown by the assessment, the Board will generally assume that the regulation has been complied with. However, the Board always reserves the right to determine whether the measures taken by an employer are in fact sufficient to meet the obligation under section 4.29.

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| <b>EFFECTIVE DATE:</b>   | December 1, 2000  |
| <b>AUTHORITY:</b>        | s. 4.29, <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> | See also General Conditions – Violence in the Workplace – Workplace Violence Program (Item R4.29-2)   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Housekeeping changes were made on March 1, 2005 to reflect the October 29, 2003 changes to the <i>Occupational Health and Safety Regulation</i> (“OHSR”). This Item originally replaced Policy No. 8.92 of the former Prevention Division <i>Policy and Procedure Manual</i> .<br>Effective October 29, 2003, the reproduction of section 4.29(c) of the OHSR in this Item was deleted to reflect its repeal.<br>This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 8.92, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 8.92 was issued. |
| <b>APPLICATION:</b>      | This policy applies to procedures, policies and work environment arrangements aimed at eliminating or minimizing the risk of workplace violence on and after December 1, 2000.  |

**RE: General Conditions –  
Violence in the Workplace –  
Workplace Violence Prevention Program**

**ITEM: R4.29-2**

## **BACKGROUND**

### **1. Explanatory Notes**

Employers affected by sections 4.27 to 4.31 should have a Workplace Violence Prevention Program as part of their general Occupational Health and Safety Program. This Item sets out guidelines summarizing what should be included in a Violence Prevention Program.

### **2. The Act and the Regulation**

See Items R4.27-1 to R4.31-1.

Section 173 of the *Act*:

- (1) An employer must immediately undertake an investigation into the cause of any accident or other incident that
  - (a) is required to be reported by section 172,
  - (b) resulted in injury to a worker requiring medical treatment,
  - (c) did not involve injury to a worker, or involved only minor injury not requiring medical treatment, but had a potential for causing serious injury to a worker,  
or
  - (d) was an incident required by regulation to be investigated.
- (2) Subsection (1) does not apply in the case of a vehicle accident occurring on a public street or highway.

Section 175 of the *Act*:

- (1) As part of an investigation required by this Division, an employer must ensure that an incident investigation report is prepared in accordance with the regulations.
- (2) The employer must provide a copy of the incident investigation report to
  - (a) the joint committee or worker representative, as applicable, and
  - (b) the Board.

Section 176 of the *Act*:

- (1) Following an investigation under this Division, the employer must without undue delay undertake any corrective action required to prevent recurrence of similar incidents.
- (2) As soon as is reasonably practicable, the employer must prepare a report of the action taken under subsection (1) and
  - (a) provide the report to the joint committee or worker representative, as applicable, or
  - (b) if there is no joint committee or worker representative, post the report at the workplace.

## **POLICY**

The requirements in sections 4.27 to 4.31 for risk assessment, procedures and policies, the duty to advise to consult a physician and the duty to instruct workers are based on the recognition of violence in the workplace as an occupational hazard. This hazard is to be addressed by the Occupational Health and Safety Program following the same procedures required by Part 3 of the *Regulation* to address other workplace hazards.

Employers affected should have a Workplace Violence Prevention Program as part of their general Occupational Health and Safety Program. This program should be implemented in cooperation with the joint health and safety committee or worker health and safety representative, where one exists, and with persons knowledgeable of the type of work to be performed. Set out below are guidelines summarizing what should be included in the Workplace Violence Prevention Program:

### **(a) Policy**

The policy statement should acknowledge any risk of injury from violence to which workers are subject. The policy should provide direction from senior management to develop and implement a Workplace Violence Prevention Program. It should identify the responsibilities of managers, supervisors and workers.

### **(b) Risk Assessment**

This element should provide for periodic risk assessments to evaluate the nature and type of occurrences of violence in the workplace. Risk assessments shall be carried out in accordance with section 4.28 and associated policies. Provision should be made for documentation of the risk assessment.

**(c) Written Supplementary Instructions**

The employer must under sections 4.30(3) and 3.3(c) prepare supplementary instructions for workers who are at risk of injury from violence. These instructions must enable the worker to understand the work environment arrangements designed to minimize the risk of violence. The instructions must direct the worker and any violence response teams in safe response methods.

**(d) Worker and Supervisor Training**

This element should define the training to be provided to workers at risk and their supervisors in accordance with section 4.30 and associated policies. It should include the maintenance of training records.

**(e) Incident Reporting and Investigation**

This element of the program should include policies, procedures and documentation for:

- reporting to the employer incidents or threats of violence in the workplace;
- action by supervisors to address reported incidents as required by section 3.10;
- investigation of incidents of violence in accordance with section 173 of Part 3 of the *Act*;
- implementation of corrective action in response to incidents of violence under section 176 of Part 3 of the *Act*;
- advice to workers to see a physician for treatment; and
- advice to workers when to obtain critical incident/trauma counselling and where the counselling may be obtained.

**(f) Incident Follow-up**

Provision should be made for review of corrective action taken to address incidents or threats of violence to determine its effectiveness.

**(g) Program Review**

Provision should be made for an annual review to evaluate the program's performance in eliminating the risk of injury from violence in the workplace. The review should be documented and the program should be revised as necessary. This review should be carried out in consultation with the joint health and safety committee or worker health and safety representative, where one exists, and worker and management personnel where no committee or representative exists.

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|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | October 29, 2003  |
| <b>AUTHORITY:</b>        | ss. 4.27, 4.28, 4.29, 4.30 and 4.31, <i>Occupational Health and Safety Regulation</i> and ss. 173, 175 and 176, <i>Workers Compensation Act</i> .   |
| <b>CROSS REFERENCES:</b> | See also ss. 3.3 and 3.10, <i>Occupational Health and Safety Regulation</i> ; General Conditions - Violence in the Workplace – Definition (Item R4.27-1); General Conditions – Violence in the Workplace - Risk Assessment (Item R4.28-1); General Conditions – Violence in the Workplace – Procedures and Policies (Item R4.29-1); General Conditions – Violence in the Workplace – Instruction of Workers (Item R4.30-1); General Conditions – Violence in the Workplace – Response to Incidents (Item R4.31-1)                             |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Effective December 1, 2000, this Item replaced Policy No. 8.92-1 of the former Prevention Division <i>Policy and Procedure Manual</i> . Effective October 29, 2003, a reference to the duty to “respond to incidents” in the policy was replaced with a reference to the duty to “advise to consult a physician” to reflect the revision of section 4.31 of the <i>Occupational Health and Safety Regulation</i> on that date. |
| <b>APPLICATION:</b>      | This policy applies to all Workplace Violence Prevention Programs established on and after October 29, 2003.  |

**RE: General Conditions –  
Violence in the Workplace –  
Instruction of Workers**

**ITEM: R4.30-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 4.30 sets out the information that employers are required to provide workers who may be exposed to the risk of violence in the workplace.

### **2. The Regulation**

Section 4.30

- (1) An employer must inform workers who may be exposed to the risk of violence of the nature and extent of the risk.
- (2) The duty to inform workers in subsection (1) includes a duty to provide information related to the risk of violence from persons who have a history of violent behaviour and whom workers are likely to encounter in the course of their work.
- (3) The employer must instruct workers who may be exposed to the risk of violence in
  - (a) the means for recognition of the potential for violence,
  - (b) the procedures, policies and work environment arrangements which have been developed to minimize or effectively control the risk to workers from violence,
  - (c) the appropriate response to incidents of violence, including how to obtain assistance, and
  - (d) procedures for reporting, investigating and documenting incidents of violence.

## **POLICY**

Section 4.30 includes a requirement for employers to advise workers of the results of the risk assessment under section 4.28 and to instruct workers in the measures they have taken under section 4.29 to eliminate or minimize any risk of violence. The training should be sufficient so that workers are aware of any risk of violence and the

appropriate measures to be taken if violence occurs or is threatened. It should cover all the circumstances of the place of employment found to be material to the risk assessment.

Information provided to workers with respect to the nature and extent of the risk of violence in their place of employment must, where practicable, be conveyed to workers prior to their exposure to the risk. This requirement includes information such as:

- procedures providing for information obtained by workers ending a shift to be communicated to workers starting a following shift; and
- procedures for communicating the results of overall past experience such as the flagging on computer systems of individuals with past records of violence.

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|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | December 1, 2000  |
| <b>AUTHORITY:</b>        | s. 4.30, <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> | See also General Conditions – Violence in the Workplace – Risk Assessment (Item R4.28-1)  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy 8.94 of the Prevention Division <i>Policy and Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 8.94, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 8.94 was issued. |

**RE: General Conditions –  
Violence in the Workplace –  
Advice to Consult Physician**

**ITEM: R4.31-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 4.31(3) requires that an employer ensure that a worker is advised to consult a physician when violence takes place in the workplace.

### **2. The Regulation**

Section 4.31(3):

The employer must ensure that a worker reporting an injury or adverse symptom as a result of an incident of violence is advised to consult a physician of the worker's choice for treatment or referral.

## **POLICY**

Critical incident/trauma counselling is desirable in some circumstances to prevent workers involved in incidents of violence from suffering ongoing adverse psychological effects for which disability compensation might have to be paid. Counselling may be obtained through the worker's physician. Alternatively, some employers may have ongoing programs which can provide appropriate counselling. The employer must advise the worker to consult with a physician where this is required by section 4.31(3) but should also advise the worker of the availability of other programs which can assist. The employer's Workplace Violence Prevention Program should contain policies and procedures on when advice to obtain counselling should be given and where appropriate counselling may be obtained, such as through a facility of the employer or another local health facility. The Board may pay the cost of counselling if a claim for a work injury is made.

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|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | October 29, 2003  |
| <b>AUTHORITY:</b>        | s. 4.31(3), <i>Occupational Health and Safety Regulation</i>  |
| <b>CROSS REFERENCES:</b> | See also ss. 3.4 and 3.10, <i>Occupational Health and Safety Regulation</i> ;<br>ss. 173, 175 and 176, <i>Workers Compensation Act</i> .  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Effective December 1, 2000, this Item replaced Policy No. 8.96 of the former Prevention Division <i>Policy and Procedure Manual</i> . Effective October 29, 2003, the reproduction of, and references to, the requirements under section 4.31(1) and (2) of the <i>Occupational Health and Safety Regulation</i> were deleted to reflect their repeal. |
| <b>APPLICATION:</b>      | This policy applies to all incidents of violence that occur in the workplace on and after October 29, 2003.   |

**PART 5****CHEMICAL AND BIOLOGICAL SUBSTANCES**

Part 5 of the *Occupational Health and Safety Regulation* sets out requirements relating to:

- workplace hazardous materials information system (WHMIS);
- containers and storage;
- flammable and combustible substances;
- substances under pressure;
- controlling exposure;
- ventilation;
- internal combustion engines;
- hazardous wastes and emissions;
- personal hygiene;
- emergency washing facilities; and
- emergency procedures.



RE: Chemical and Biological Substances -  
Exposure Limits and Designations

ITEM: R5.48-1

## **BACKGROUND**

### **1. Explanatory Notes**

Section 5.48 provides established limits for a worker's exposure to hazardous chemical substances. Generally, these exposure limits are established according to the Threshold Limit Values ("TLVs") adopted by the American Conference of Governmental Industrial Hygienists ("ACGIH"). However, the Board has authority to make exceptions and adopt occupational exposure limits for specific chemical substances that are not consistent with the TLVs established by the ACGIH. This policy sets out those exceptions.

### **2. The Regulation**

Section 5.48:

Except as otherwise determined by the Board, the employer must ensure that no worker is exposed to a substance that exceeds the ceiling limit, short-term exposure limit, or 8-hour TWA limit prescribed by ACGIH.

Section 5.57:

- (1) If a substance identified as any of the following is present in the workplace, the employer must replace it, if practicable, with a material which reduces the risk to workers:
  - (a) ACGIH A1 or A2, or IARC 1, 2A or 2B carcinogen;
  - (b) ACGIH reproductive toxin;
  - (c) ACGIH sensitizer;
  - (d) ACGIH L endnote.
- (2) If it is not practicable to substitute a material which reduces the risk to workers, in accordance with subsection (1), the employer must implement an exposure control plan to maintain workers' exposure as low as reasonably achievable below the exposure limit established under section 5.48.
- (3) The exposure control plan must meet the requirements of section 5.54.

### 3. Preamble to Policy

The following is a preamble to be applied to those exposure limits developed by the Board as an exception to the TLVs established by the ACGIH:

*An exposure limit is a maximum allowed airborne concentration and is not intended to represent a fine line between safe and harmful conditions. In determining an exposure limit, it is not possible to take into account all factors that could influence the effect that exposure to the substance may have on an individual worker. Therefore, for all hazardous substances, regardless of any assigned exposure limit, the guiding principle is elimination of exposure or reduction to the lowest level that is reasonably achievable below the exposure limit.*

*Due to a wide variation in individual susceptibility, some workers may experience discomfort from some substances at concentrations at or below the exposure limit. Others may be affected more seriously by aggravation of a pre-existing condition, or by development of an occupational disease. Furthermore, other workplace contaminants may affect an individual's response. The effects of combined chemical exposures are often unknown or poorly defined.*

## **POLICY**

### 1. Table of Occupational Exposure Limits for Excluded Substances

As presented in the table below, the Board has determined exposure limits for the following specific substances, notwithstanding the TLVs established by the ACGIH.

| Substance/Chemical Name        | CAS No.   | Unit              | 8-hour TWA Limit | Short-term exposure Limit, STEL | Ceiling Limit |
|--------------------------------|-----------|-------------------|------------------|---------------------------------|---------------|
| ABATE (TEMEPHOS) TOTAL DUST    | 3383-96-8 | mg/m <sup>3</sup> | 10               | 20                              |               |
| ACETONE                        | 67-64-1   | ppm               | 250              | 500                             |               |
| ACETONE CYANOHYDRIN            | 75-86-5   | ppm               |                  |                                 | 1             |
| ALLYL AMINE                    | 107-11-9  | ppm               | 2                |                                 |               |
| BENZYL CHLORIDE                | 100-44-7  | ppm               |                  |                                 | 1             |
| BERYLLIUM AND COMPOUNDS, AS Be | 7440-41-7 | mg/m <sup>3</sup> | 0.002            | 0.01                            |               |
| BROMOCHLOROMETHANE             | 74-97-5   | ppm               | 200              | 250                             |               |
| n-BUTANE                       | 106-97-8  | ppm               | 600              | 750                             |               |

| Substance/Chemical Name                                 | CAS No.   | Unit              | 8-hour TWA Limit  | Short-term exposure Limit, STEL | Ceiling Limit     |
|---|---|-------------------|-------------------|---------------------------------|-------------------|
| BUTENES, ALL ISOMERS, INCLUDING ISOBUTENE               | 106-98-9,<br>107-01-7,<br>590-18-1,<br>624-64-6,<br>25167-67-3,<br>115-11-7 | ppm               | No previous limit | No previous limit               | No previous limit |
| n-BUTYL ALCOHOL (n-BUTANOL)                             | 71-36-3   | ppm               | 15                |                                 | 30                |
| n-BUTYL ACETATE   | 123-86-4  | ppm               | 20                |                                 |                   |
| n-BUTYL METHACRYLATE                                    | 97-88-1   | ppm               | 50                |                                 |                   |
| CALCIUM CARBONATE (incl. LIMESTONE, MARBLE), TOTAL DUST | 1317-65-3   | mg/m <sup>3</sup> | 10                | 20                              |                   |
| CAPROLACTAM DUST  | 105-60-2  | mg/m <sup>3</sup> | 1                 | 3                               |                   |
| CARBARYL  | 63-25-2   | mg/m <sup>3</sup> | 5                 |                                 |                   |
| CARBON DIOXIDE  | 124-38-9  | ppm               | 5000              | 15,000                          |                   |
| CARBON DISULFIDE  | 75-15-0   | ppm               | 4                 | 12                              |                   |
| CARBON MONOXIDE   | 630-08-0  | ppm               | 25                | 100                             |                   |
| CARBON TETRACHLORIDE                                    | 56-23-5   | ppm               | 2                 |                                 |                   |
| CHLOROACETIC ACID                                       | 79-11-8   | ppm               | 0.3               |                                 |                   |
| CHLOROBROMOMETHANE (see BROMOCHLOROMETHANE)             |   |                   |                   |                                 |                   |
| 1-CHLORO-1,1-DIFLUOROETHANE                             | 75-68-3   | ppm               | 1000              |                                 |                   |
| CHLORODIFLUOROMETHANE                                   | 75-45-6   | ppm               | 500               | 1250                            |                   |
| CHLOROFORM  | 67-66-3   | ppm               | 2                 |                                 |                   |
| CHLOROTRIFLUOROMETHANE                                  | 75-72-9   | ppm               | 1000              |                                 |                   |
| CHROMIUM, WATER SOLUBLE, Cr VI COMPOUNDS                | 7440-47-3   | mg/m <sup>3</sup> | 0.025             |                                 | 0.1               |
| CITRAL, INHALABLE                                       | 5292-40-5   | ppm               | No Previous Limit | No Previous Limit               | No Previous Limit |
| CRESOL, ALL ISOMERS                                     | 1319-77-3,<br>95-48-7,<br>108-39-4,<br>106-44-5                             | mg/m <sup>3</sup> | 10                |                                 |                   |
| CUMENE  | 98-82-8   | ppm               | 25                | 75                              |                   |
| DIBUTYL PHOSPHATE                                       | 107-66-4  | ppm               | 1                 | 2                               |                   |
| DICHLOROMETHANE   | 75-09-2   | ppm               | 25                |                                 |                   |
| DICYCLOHEXYLMETHANE-4,4'-DIISOCYANATE                   | 5124-30-1   | ppm               | 0.005             |                                 | 0.01              |
| 2,4-DICHLOROPHOENOXYACETIC ACID AND ITS ESTERS          | 94-75-7   | mg/m <sup>3</sup> | 10                | 20                              |                   |
| DIELDRIN  | 60-57-1   | mg/m <sup>3</sup> | 0.25              |                                 |                   |
| DIETHANOLAMINE  | 111-42-2  | mg/m <sup>3</sup> | 2                 |                                 |                   |

| Substance/Chemical Name                  | CAS No.    | Unit              | 8-hour TWA Limit  | Short-term exposure Limit, STEL | Ceiling Limit     |
|--|------------|-------------------|-------------------|---------------------------------|-------------------|
| DIISOCYANATES, N.O.S.                    |            | ppm               | 0.005             |                                 | 0.01              |
| DIMETHOXYMETHANE                         | 109-87-5   | ppm               | 1000              | 1250                            |                   |
| DIMETHYL ETHER                           | 115-10-6   | ppm               | 1000              |                                 |                   |
| DIMETHYL SULFATE                         | 77-78-1    | ppm               |                   |                                 | 0.1               |
| n-DIOCTYL PHTHALATE                      | 117-84-0   | mg/m <sup>3</sup> | 5                 |                                 |                   |
| ENDOSULFAN                               | 115-29-7   | mg/m <sup>3</sup> | 0.1               |                                 |                   |
| ENFLURANE                                | 13838-16-9 | ppm               | 2                 |                                 |                   |
| EPICHLOROHYDRIN                          | 106-89-8   | ppm               | 0.1               |                                 |                   |
| ETHYL ACETATE                            | 141-78-6   | ppm               | 150               |                                 |                   |
| ETHYL METHACRYLATE                       | 97-63-2    | ppm               | 50                |                                 |                   |
| ETHYLENE DIBROMIDE                       | 106-93-4   | ppm               | 0.5               |                                 |                   |
| ETHYLENE DICHLORIDE (1,2-DICHLOROETHANE) | 107-06-2   | ppm               | 1                 | 2                               |                   |
| ETHYLENE GLYCOL, PARTICULATE             | 107-21-1   | mg/m <sup>3</sup> | 10                | 20                              |                   |
| ETHYLENE GLYCOL, VAPOUR                  | 107-21-1   | ppm               |                   |                                 | 50                |
| ETHYLENEIMINE                            | 151-56-4   | ppm               | 0.5               |                                 |                   |
| ETHYLENE OXIDE                           | 75-21-8    | ppm               | 0.1               | 1                               |                   |
| FLUORINE                                 | 7782-41-4  | ppm               | 0.1               |                                 |                   |
| FLUOROXENE                               | 406-90-6   | ppm               | 2                 |                                 |                   |
| FORMALDEHYDE                             | 50-00-0    | ppm               | 0.3               |                                 | 1                 |
| FURFURYL ALCOHOL                         | 98-00-0    | ppm               | 5                 | 10                              |                   |
| GLYCERIN MIST, RESPIRABLE                | 56-81-5    | mg/m <sup>3</sup> | 3                 |                                 |                   |
| GYPSUM, TOTAL DUST                       | 13397-24-5 | mg/m <sup>3</sup> | 10                | 20                              |                   |
| HALOTHANE                                | 151-67-7   | ppm               | 2                 |                                 |                   |
| HEXAMETHYLENE DIISOCYANATE               | 822-06-0   | ppm               | 0.005             |                                 | 0.01              |
| n-HEXANE                                 | 110-54-3   | ppm               | 20                |                                 |                   |
| HEXANE, ALL ISOMERS except n-HEXANE      |            | ppm               | 200               |                                 |                   |
| HYDROGEN FLUORIDE, as F                  | 7664-39-3  | ppm               |                   |                                 | 2                 |
| HYDROGEN SULFIDE                         | 7783-06-4  | ppm               |                   |                                 | 10                |
| INDENE                                   | 95-13-6    | ppm               | 10                |                                 |                   |
| IODIDES                                  |            | ppm               | No previous limit | No previous limit               | No previous limit |
| IODINE                                   | 7553-56-2  | ppm               |                   |                                 | 0.1               |
| IRON OXIDE, FUME                         | 1309-37-1  | mg/m <sup>3</sup> | 5                 | 10                              |                   |
| IRON PENTACARBONYL                       | 13463-40-6 | ppm               | 0.01              |                                 |                   |
| IRON SALTS, SOLUBLE, as Fe               |            | mg/m <sup>3</sup> | 1                 | 2                               |                   |

| Substance/Chemical Name                              | CAS No.    | Unit              | 8-hour TWA Limit | Short-term exposure Limit, STEL | Ceiling Limit |
|--|------------|-------------------|------------------|---------------------------------|---------------|
| ISOPHORONE DIISOCYANATE                              | 4098-71-9  | ppm               | 0.005            |                                 | 0.01          |
| ISOPROPYL GLYCIDYL ETHER (IGE)                       | 4016-14-2  | ppm               |                  |                                 | 50            |
| LIQUIFIED PETROLEUM GAS                              | 68476-85-7 | ppm               | 1000             | 1250                            |               |
| LITHIUM HYDROXIDE                                    | 1310-65-2  | mg/m <sup>3</sup> |                  |                                 | 1             |
| MAGNESIUM OXIDE, RESPIRABLE DUST AND FUME, as Mg     | 1309-48-4  | mg/m <sup>3</sup> | 3                | 10                              |               |
| MALEIC ANHYDRIDE                                     | 108-31-6   | ppm               | 0.1              |                                 |               |
| MERCURY, ARYL COMPOUNDS                              | 7439-97-6  | mg/m <sup>3</sup> | 0.05             |                                 | 0.1           |
| MESITYL OXIDE  | 141-79-7   | ppm               | 10               | 25                              |               |
| METHOXYFLURANE                                       | 76-38-0    | ppm               | 2                |                                 |               |
| 1-METHOXY-2-PROPANOL                                 | 107-98-2   | ppm               | 50               | 75                              |               |
| 2-METHOXY-1-PROPANOL                                 | 1589-47-5  | ppm               | 20               | 40                              |               |
| 1-METHOXYPROPYL-2-ACETATE                            | 108-65-6   | ppm               | 50               | 75                              |               |
| 2-METHOXYPROPYL-1-ACETATE                            | 70657-70-4 | ppm               | 20               | 40                              |               |
| METHYLENE BISPHENYL ISOCYANATE                       | 101-68-8   | ppm               | 0.005            |                                 | 0.01          |
| METHYLENE bis (4-CYCLOHEXYL-ISOCYANATE)              | 5124-30-1  | ppm               | 0.005            |                                 | 0.01          |
| 4,4'-METHYLENEDIANILINE                              | 101-77-9   | ppm               | 0.01             |                                 |               |
| METHYL ETHYL KETONE (MEK)                            | 78-93-3    | ppm               | 50               | 100                             |               |
| METHYL PARATHION                                     | 298-00-0   | mg/m <sup>3</sup> | 0.2              |                                 |               |
| METHYL PROPYL KETONE (2-PENTANONE)                   | 107-87-9   | ppm               | 150              | 250                             |               |
| alpha-METHYL STYRENE                                 | 98-83-9    | ppm               | 50               | 75                              | 100           |
| 1,5-NAPHTHYLENE DIISOCYANATE                         | 3173-72-6  | ppm               | 0.005            |                                 | 0.01          |
| NATURAL RUBBER LATEX, AS TOTAL PROTEINS, INHALABLE   | 9006-04-6  | mg/m <sup>3</sup> | 0.001            |                                 |               |
| NICKEL, ELEMENTAL, SOLUBLE INORGANIC COMPOUNDS (NOS) | 7440-02-0  | mg/m <sup>3</sup> | 0.05             |                                 |               |
| NICKEL, INSOLUBLE INORGANIC COMPOUNDS (NOS)          | 7440-02-0  | mg/m <sup>3</sup> | 0.05             |                                 |               |
| NICKEL CARBONYL                                      | 13463-39-3 | ppm               | 0.001            |                                 |               |
| NITROGEN DIOXIDE                                     | 10102-44-0 | ppm               |                  |                                 | 1             |
| 2-NITROPROPANE                                       | 79-46-9    | ppm               | 5                |                                 |               |
| NITROUS OXIDE  | 10024-97-2 | ppm               | 25               |                                 |               |
| OIL MIST, MINERAL, MILDLY REFINED                    |            | mg/m <sup>3</sup> | 0.2              |                                 |               |

| Substance/Chemical Name                             | CAS No.     | Unit              | 8-hour TWA Limit  | Short-term exposure Limit, STEL | Ceiling Limit     |
|---|-------------|-------------------|-------------------|---------------------------------|-------------------|
| OIL MIST, MINERAL, SEVERELY REFINED                 |             | mg/m <sup>3</sup> | 1                 |                                 |                   |
| 2,4-PENTANEDIONE                                    | 123-54-6    | ppm               | No previous limit | No previous limit               | No previous limit |
| PHENYL ISOCYANATE                                   | 103-71-9    | ppm               | 0.005             |                                 | 0.01              |
| PHENYL MERCAPTAN                                    | 108-98-5    | ppm               |                   |                                 | 0.1               |
| PIPERAZINE AND ITS SALTS, as PIPERAZINE             | 142-64-3    | mg/m <sup>3</sup> | 0.3               | 1                               |                   |
| PIPERIDINE  | 110-89-4    | ppm               | 1                 |                                 |                   |
| PLASTER OF PARIS, TOTAL DUST                        | 26499-65-0  | mg/m <sup>3</sup> | 10                | 20                              |                   |
| PORTLAND CEMENT                                     | 65997-15-1  | mg/m <sup>3</sup> | 10 (E,N)          |                                 |                   |
| PROPYLENEIMINE                                      | 75-55-8     | ppm               | 2                 |                                 |                   |
| RHODIUM, METAL AND INSOLUBLE COMPOUNDS, as Rh       | 7440-16-6   | mg/m <sup>3</sup> | 0.1               | 0.3                             |                   |
| RHODIUM, SOLUBLE COMPOUNDS, as Rh                   | 7440-16-6   | mg/m <sup>3</sup> | 0.001             | 0.003                           |                   |
| SELENIUM AND COMPOUNDS, as Se                       | 7782-49-2   | mg/m <sup>3</sup> | 0.1               |                                 |                   |
| SILICA, AMORPHOUS:                                  |             |                   |                   |                                 |                   |
| DIATOMACEOUS EARTH, UNCALCINED, TOTAL DUST          | 61790-53-2  | mg/m <sup>3</sup> | 4                 |                                 |                   |
| DIATOMACEOUS EARTH, UNCALCINED, RESPIRABLE DUST     | 61790-53-2  | mg/m <sup>3</sup> | 1.5               |                                 |                   |
| PRECIPITATED SILICA and SILICA GEL, TOTAL DUST      | 112926-00-8 | mg/m <sup>3</sup> | 4                 |                                 |                   |
| PRECIPITATED SILICA and SILICA GEL, RESPIRABLE DUST | 112926-00-8 | mg/m <sup>3</sup> | 1.5               |                                 |                   |
| SILICA FUME, TOTAL DUST                             | 69012-64-2  | mg/m <sup>3</sup> | 4                 |                                 |                   |
| SILICA FUME, RESPIRABLE DUST                        | 69012-64-2  | mg/m <sup>3</sup> | 1.5               |                                 |                   |
| SILICON TETRAHYDRIDE (SILANE)                       | 7803-62-5   | ppm               | 0.5               | 1                               |                   |
| SILVER AND COMPOUNDS, as Ag                         | 7440-22-4   | mg/m <sup>3</sup> | 0.01              | 0.03                            |                   |
| STODDARD SOLVENT (MINERAL SPIRITS)                  | 8052-41-3   | mg/m <sup>3</sup> | 290               | 580                             |                   |
| STYRENE   | 100-42-5    | ppm               | 50                | 75                              |                   |
| SULFUR DIOXIDE                                      | 7446-09-5   | ppm               | 2                 | 5                               |                   |
| SULPROFOS   | 35400-43-2  | mg/m <sup>3</sup> | 1                 |                                 |                   |
| TANTALUM and TANTALUM OXIDE dusts, as Ta            | 7440-25-7   | mg/m <sup>3</sup> | 5                 |                                 |                   |

| Substance/Chemical Name  | CAS No.    | Unit              | 8-hour TWA Limit | Short-term exposure Limit, STEL | Ceiling Limit |
|--|------------|-------------------|------------------|---------------------------------|---------------|
| 1,1,1,2-TETRACHLORO-2,2-DIFLUOROETHANE   | 76-11-9    | ppm               | 500              |                                 |               |
| 1,1,2,2-TETRACHLORO-1,2-DIFLUOROETHANE   | 76-12-0    | ppm               | 200              |                                 |               |
| TETRAETHYL LEAD, as Pb   | 78-00-2    | mg/m <sup>3</sup> | 0.075            |                                 |               |
| TETRAMETHYL LEAD, as Pb  | 75-74-1    | mg/m <sup>3</sup> | 0.075            |                                 |               |
| THIONYL CHLORIDE   | 7719-09-7  | ppm               |                  |                                 | 1             |
| THIRAM   | 137-26-8   | mg/m <sup>3</sup> | 1                |                                 |               |
| 2,4-TOLUENE DIISOCYANATE (TDI)   | 584-84-9   | ppm               | 0.005            |                                 | 0.01          |
| 2,6-TOLUENE DIISOCYANATE   | 91-08-7    | ppm               | 0.005            |                                 | 0.01          |
| 1,1,2-TRICHLORO-1,2,2-TRIFLUOROETHANE  | 76-13-1    | ppm               | 500              | 1250                            |               |
| TRIMELLITIC ANHYDRIDE  | 552-30-7   | mg/m <sup>3</sup> |                  |                                 | 0.04          |
| TRIMETHYL HEXAMETHYLENE DIISOCYANATE   | 28679-16-5 | ppm               | 0.005            |                                 | 0.01          |
| TRI-n-BUTYL TIN COMPOUNDS  | 688-73-3   | mg/m <sup>3</sup> | 0.05             |                                 |               |
| URANIUM COMPOUNDS, NATURAL, SOLUBLE, as U  | 7440-61-1  | mg/m <sup>3</sup> | 0.05             |                                 |               |
| VANADIUM PENTOXIDE, RESPIRABLE DUST and FUME, as V <sub>2</sub> O <sub>5</sub>                 | 1314-62-1  | mg/m <sup>3</sup> |                  |                                 | 0.05          |
| VANADIUM PENTOXIDE, TOTAL DUST, as V <sub>2</sub> O <sub>5</sub>                               | 1314-62-1  | mg/m <sup>3</sup> | 0.2              |                                 |               |
| VEGETABLE OIL MIST, RESPIRABLE FRACTION, EXCEPT CASTOR, CASHEW NUT, OR SIMILAR IRRITATING OILS | 8008-89-7  | mg/m <sup>3</sup> | 3                |                                 |               |
| VINYLDENE CHLORIDE   | 75-35-4    | ppm               | 1                |                                 |               |
| VINYL TOLUENE, ALL ISOMERS   | 25013-15-4 | ppm               | 25               | 75                              |               |
| WOOD DUST:   |            |                   |                  |                                 |               |
| ALLERGENIC   |            | mg/m <sup>3</sup> | 1                |                                 |               |
| NON-ALLERGENIC, HARDWOOD   |            | mg/m <sup>3</sup> | 1                |                                 |               |
| NON-ALLERGENIC, SOFTWOOD   |            | mg/m <sup>3</sup> | 2.5              |                                 |               |
| ZINC STEARATE, TOTAL DUST  | 557-05-1   | mg/m <sup>3</sup> | 10               | 20                              |               |

(E) = the value is for particulate matter containing no asbestos and less than 1% crystalline silica

(N) = the 8-hour TWA listed in the Table is for the total dust. The substance also has an 8-hour TWA of 3 mg/m<sup>3</sup> for the respirable fraction

(G) = as measured by the vertical elutriator, cotton-dust sampler, see TLV Documentation

## 2. Dusts

The Board categorizes particulates that are insoluble or poorly soluble in water and do not cause toxic effects other than by inflammation or the mechanism of "lung overload", as "nuisance dusts".

A "nuisance dust" will have an exposure limit or TLV of 10 mg/m<sup>3</sup> for total particulate. It is recognized that the respirable fraction of "nuisance dusts" may also be measured. The equivalent exposure limit for respirable particulate is 3 mg/m<sup>3</sup>. Respirable particulate refers to the fraction of inhaled dust that is capable of passing through the upper respiratory tract to the gas exchange region of the lung. Total particulate refers to a wide range of particle sizes capable of being deposited in the various regions of the respiratory tract.

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|                          |   |
|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | September 15, 2011  |
| <b>AUTHORITY:</b>        | s. 5.48, <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping change effective October 14, 2011 to correct the reference to section 5.57 of the regulation. This is not a substantive change.  |
|                          | Effective September 15, 2011, changes were made to remove seven substances from the Table of Occupational Exposure Limits for Excluded Substances:  |
|                          | ACETIC ANHYDRIDE<br>CARBON BLACK<br>ETHYL BENZENE<br>METHYL ISOPROPYL KETONE<br>SOAPSTONE<br>SOAPSTONE, RESPIRABLE<br>4,4' THIOBIS (6-tert-butyl-m-CRESOL)  |
|                          | Effective June 1, 2011, changes were made to remove three substances from the Table of Occupational Exposure Limits for Excluded Substances:  |
|                          | COTTON DUST, raw<br>METHYL ISOBUTYL KETONE<br>THALLIUM AND SOLUBLE COMPOUNDS  |
|                          | Housekeeping changes effective June 1, 2011, to replace "exposure level" with "exposure limit" in item 3 of the Background of this Policy. These changes also add 2,4-Pentanedione to the Table of Occupational Exposure Limits for Excluded Substances pursuant to the Occupational Exposure Limit review and adoption procedure approved by the Board of Directors at their March 2010 meeting. |

## PREVENTION MANUAL

Housekeeping changes effective April 19, 2011 in accordance with the new Occupational Exposure Limit review and adoption procedure approved by the Board of Directors at their March 2010 meeting. The changes add seven substances to the Table of Occupational Exposure Limits for Excluded Substances:

ACETIC ANHYDRIDE  
CARBON BLACK  
ETHYL BENZENE  
MALEIC ANHYDRIDE  
METHYL ISOPROPYL KETONE  
SOAPSTONE  
4,4' THIOBIS (6-tert-butyl-m-CRESOL)

Housekeeping changes effective September 15, 2010 to update regulation reference, delete practice reference, and make formatting changes.

The Table of Occupational Exposure Limits for Excluded Substances has been amended to include 18 substances for which the Board of Directors has made an exception to the adoption of these substances for which the American Conference of Governmental Industrial Hygienists changed the Threshold Limit Values in 2008 and 2009. The effect of this amendment is that the substances will be re-assigned the OELs that were in effect prior to the revision by ACGIH. The Table of Occupational Exposure Limits for Excluded Substances has been amended to delete two substances so the more protective American Conference of Governmental Industrial Hygienists Threshold Limit Values will now apply to these substances. The revisions were made to the Table effective September 1, 2010.

The Table of Occupational Exposure Limits for Excluded Substances has been amended to include new or revised substances for which the American Conference of Governmental Industrial Hygienists has changed the Threshold Limit Values in 2010. The effect of this amendment was that the existing occupational exposure limits for these substances continue to be in effect. These substances were added to the Table effective April 1, 2010.

This item was originally developed to implement the amendments made to the *Occupational Health and Safety Regulation*, effective October 29, 2003 pertaining to occupational exposure limits. A review of the policy was conducted to ensure that all substances for which an exception was warranted were listed, and there was no duplication with the information provided by the ACGIH.

**APPLICATION:**

Each amendment of this policy applies to incidents occurring on and after the effective date of the amendment. If a decision made before the amendment effective date is within the appeal period, at Review Division, or at WCAT, it remains subject to the policy in effect at the time of the incident.



**RE: Chemical and Biological Substances –  
Controlling Exposure –  
Exposure Control Plan**

**ITEM: R5.54-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 5.54 sets out the requirement for an exposure control plan in certain circumstances and the necessary elements if an exposure control plan is required. Among those elements is health monitoring under section 5.54(2)(f).

### **2. The Regulation**

Section 5.54:

- (1) An exposure control plan must be implemented when
  - (a) exposure monitoring under section 5.53(3) indicates that a worker is or may be exposed to an air contaminant in excess of 50% of its exposure limit,
  - (b) measurement is not possible at 50% of the applicable exposure limit, or
  - (c) otherwise required by this Regulation.
- (2) The exposure control plan must incorporate the following elements:
  - (a) a statement of purpose and responsibilities;
  - (b) risk identification, assessment and control;
  - (c) education and training;
  - (d) written work procedures, when required;
  - (e) hygiene facilities and decontamination procedures, when required;
  - (f) health monitoring, when required;
  - (g) documentation, when required.
- (3) The plan must be reviewed at least annually and updated as necessary by the employer, in consultation with the joint committee or the worker health and safety representative, as applicable.

**POLICY**

At the request of persons outside the Board or Board staff, the Board may arrange for samples to be analyzed as part of a health monitoring program under section 5.54(2)(f). The Board will have the results organized into broad categories of body burden levels and reported to the person who made the request and to Board staff and industry representatives concerned with the particular program.

The actual body burden levels of individuals are confidential and will only be revealed to a worker if the worker inquires, and to anyone else with the worker's written authorization. Questions regarding specific analysis results should be referred to the Board staff concerned with the particular program.

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|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | s. 5.54(2)(f), <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 13.01(6) of the Prevention Division <i>Policy and Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 "editorial" consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 13.01(6), as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 13.01(6) was issued. |

**PART 8****PERSONAL PROTECTIVE CLOTHING AND EQUIPMENT**

Part 8 of the *Occupational Health and Safety Regulation* sets out requirements relating to:

- general matters;
- safety headgear;
- eye and face protection;
- limb and body protection;
- footwear;
- high visibility and distinguishing apparel;
- buoyancy equipment;
- flame resistant clothing; and
- respiratory protection.



**RE: Personal Protective Clothing and Equipment –  
General Requirements –  
Personal Clothing and Accessories**

**ITEM: R8.10-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 8.10 sets out restrictions on personal clothing and accessories and on cranial and facial hair to avoid the creation of hazards.

### **2. The Regulation**

Section 8.10:

- (1) The personal clothing of a worker must be of a type and in a condition which will not expose the worker to any unnecessary or avoidable hazards.
- (2) If there is a danger of contact with moving parts of machinery or with electrically energized equipment, or if the work process presents similar hazards
  - (a) the clothing of the worker must fit closely about the body,
  - (b) dangling neckwear, bracelets, wristwatches, rings or similar articles must not be worn, except for medical alert bracelets which may be worn with transparent bands that hold the bracelets snugly to the skin, and
  - (c) cranial and facial hair must be confined, or worn at a length which will prevent it from being snagged or caught in the work process.

## **POLICY**

The Board is only concerned with the lack of clothing if a worker is exposed to the possibility of injury from the material being handled or contact with an abrasive surface or object, or contact with a surface at a temperature which could cause a burn injury.

Workers handling hot tar or other material that could burn through splashing, fuming, or radiant heat must wear suitable clothing covering the body and arms.

Workers exposed to the abrasive action of material, such as the carrying of lumber on the shoulder or against the body, must wear appropriate clothing.

A worker may have to change or add clothing as the worker's job duties or work conditions change.

The employer may have a dress code or policy for clothing requirements during warm weather. An officer will not enforce an employer's policy of this type.

Officers will issue orders where the lack of clothing is exposing a worker to the possibility of injury.

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|                          |   |
|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | s. 8.10, <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> | s. 8.2, <i>Occupational Health and Safety Regulation</i>  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 14.02 of the Prevention Division <i>Policy and Procedure Manual</i>  |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 "editorial" consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 14.02, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 14.02 was issued. |

**RE: Personal Protective Clothing and Equipment –  
Footwear –  
General Requirement**

**ITEM: R8.22-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 8.22 sets out the general requirements for protective footwear, including the standards with which safety protective footwear must comply.

### **2. The Regulation**

Section 8.22:

- (1) A worker's footwear must be of a design, construction, and material appropriate to the protection required.
- (2) To determine appropriate protection under subsection (1) the following factors must be considered: slipping, uneven terrain, abrasion, ankle protection and foot support, crushing potential, temperature extremes, corrosive substances, puncture hazards, electrical shock and any other recognizable hazard.
- (3) If a determination has been made that safety protective footwear is required to have toe protection, metatarsal protection, puncture resistant soles, dielectric protection or any combination of these, the footwear must meet the requirements of
  - (a) *CSA Standard CAN/CSA-Z195-M92, Protective Footwear*
  - (b) *ANSI Standard Z41-1991, American National Standard for Personal Protection – Protective Footwear,*
  - (c) *British Safety Institution Standard BS EN 345:1993 Specification for Safety Footwear for Professional Use, or*
  - (d) *British Safety Institution Standard BS EN 346:1993 Specification for Protective Footwear for Professional Use.*
- (4) A worker must wear the appropriate footwear and ensure that it is in a condition to provide the required protection.
- (5) If it is not practicable for workers in the performing arts to wear safety footwear meeting the requirements of subsection (3) other effective measures must be taken for protection from injury.

## **POLICY**

Where the worker's job activity or work environment has a danger of injury to the toes, metatarsal area, or soles of the feet, the footwear must incorporate devices to protect against the danger. The dangers can be tools, materials or equipment dropping or rolling onto the toes or top of the foot, or stepping on sharp objects which can cut or puncture the sole of the foot. If one or more of these dangers are present, workers must wear footwear with the necessary protective features meeting the requirements of a standard authorized under section 8.22(3). If the footwear does not have the protective features, the alternative of using footguards or other effective devices is acceptable.

There are job activities and work environments where, although the dangers of injury to the worker do not require the specific protective footwear meeting the requirements of section 8.22(3), appropriate footwear must be worn to prevent injury to the worker. Other dangers against which protection is required include slipping, dampness, heat, cold, uneven ground or work surfaces that could twist the ankle, harmful materials that could contact the skin of the foot, ankle or lower leg, abrasion or hits to the ankle.

The standards in section 8.22(3) do not provide performance requirements to guide the selection or assessment of footwear for protection from these dangers. The employer must assess each worker's exposure to the dangers and ensure the worker's footwear is of a type and construction which minimizes, as far as is practicable, the risk of injury to the worker.

Athletic shoes provide a considerable degree of comfort and support to the foot in strenuous sports activities such as running, or court games like tennis or squash. This footwear is acceptable for occupational use provided the style and construction provides protection from the dangers to which the worker will be exposed. As illustrations:

- Mesh-type covering over the toe area would not be acceptable in a laboratory where there is danger of chemicals dropping onto the foot.
- Low cut uppers would not be acceptable where there is danger of abrasion to the ankle.

There are job activities and work environments where a heavy work shoe or boot or a specific protective feature would normally be required but the wearing of such footwear could endanger the worker or damage the work environment. The Board accepts the following:

- Roofers applying asphalt shingles or similar materials which can be damaged by heavy work boots generally wear light, soft-soled footwear.
- Carpet layers and similar finishing trades where workers are constantly kneeling down generally do not use safety-toed footwear.

- When workers are climbing or walking steel, safety-toed footwear is not required. However, they must wear substantial footwear having leather uppers reaching past the ankle.
- Workers in the logging industry walking on logs or on steep sidehills or uneven ground are not required to have safety-toes in their footwear.

Occasionally the Board receives a request under Division 9 of the *Act* to vary the application of section 8.22 for medical reasons. The Board will consider such a request if the concern is based on a medical reason and:

- there is no alternative means of modifying the work requirements or the work area in order to remove the risk of injury;
- the risk of injury is comparatively minor; and
- the medical reason is valid.

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|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | s. 8.22, <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> | Division 9, <i>Workers Compensation Act</i>   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Housekeeping changes were made on March 1, 2005 to reflect the October 29, 2003 changes to the <i>Occupational Health and Safety Regulation</i> (“OHSR”). This Item originally replaced Policy No. 14.08 of the former Prevention Division <i>Policy and Procedure Manual</i> .<br>Effective October 29, 2003, the reproduction of section 8.22(3)(e) of the OHSR in this Item was deleted to reflect its repeal.<br>A housekeeping change was made on December 14, 2001.<br>This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 14.08, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 14.08 was issued. |
| <b>APPLICATION:</b>      | This policy applies to worker footwear on and after April 1, 2001.  |



**RE: Personal Protective Clothing and Equipment –  
Respirators – Interchanging Air Cylinders****ITEM: R8.33-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 8.33 outlines the requirements for the selection of respirators.

### **2. The Regulation**

Section 8.33:

- (1) The employer, in consultation with the worker and the occupational health and safety committee, if any, or the worker health and safety representative, if any, must select an appropriate respirator in accordance with *CSA Standard CAN/CSA-Z94.4-93, Selection, Use and Care of Respirators*.
- (2) Only a respirator which meets the requirements of a standard acceptable to the Board may be used for protection against airborne contaminants in the workplace.

## **POLICY**

Compressed air cylinders may be interchanged with different makes of self-contained breathing apparatus (SCBA) provided the cylinders are fully compatible with the SCBA on which they will be used. The cylinders must have the same pressure rating and fittings with the same type of thread and thread length.

When interchanging is being done, the user should be aware that using cylinders originally made for one make of SCBA on another make will void the NIOSH approval for that SCBA. This may affect the user's ability to successfully recover damages from the SCBA manufacturer in the event of an equipment problem or malfunction.

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**EFFECTIVE DATE:**

August 1, 2001

**AUTHORITY:**s. 8.33, *Occupational Health and Safety Regulation***CROSS REFERENCES:****HISTORY:**

Housekeeping changes effective February 1, 2011 to reflect regulation changes effective on that date.

Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.

**PREVENTION MANUAL**

Housekeeping changes were made on March 1, 2005 to reflect the October 29, 2003 changes to the *Occupational Health and Safety Regulation* (“OHSR”). This Item originally replaced Policy No. 14.23(2)-1 of the former Prevention Division *Policy and Procedure Manual*. Effective October 29, 2003, the reproduction of section 8.33(1) of the OHSR in this Item was revised to reflect its amendment.

This Item results from the 2000/2001 “editorial” consolidation of all Prevention policies into the *Prevention Manual*. The POLICY in this Item merely continues the substantive requirements of Policy No. 14.23(2)-1, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 14.23(2)-1 was issued.

**APPLICATION:**

This policy applies to interchanging compressed air cylinders on self-contained breathing apparatus on and after August 1, 2001.

**RE: Personal Protective Clothing and Equipment –  
Respirators – Interchanging Air Lines**

**ITEM: R8.33-2**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 8.33 outlines the requirements for the selection of respirators.

### **2. The Regulation**

Section 8.33:

- (1) The employer, in consultation with the worker and the occupational health and safety committee, if any, or the worker health and safety representative, if any, must select an appropriate respirator in accordance with *CSA Standard CAN/CSA-Z94.4-93, Selection, Use and Care of Respirators*.
- (2) Only a respirator which meets the requirements of a standard acceptable to the Board may be used for protection against airborne contaminants in the workplace.

## **POLICY**

Air lines on respirators can generally be interchanged provided they:

- are NIOSH approved;
- are of the same inside diameter and length as recommended by the manufacturer; and
- have compatible end fittings.

When interchanging is being done, the user should be aware that using air lines originally made for one make of respirator on another make will void the NIOSH approval for that respirator. This may affect the user's ability to successfully recover damages from the respirator manufacturer in the event of an equipment problem or malfunction.

|                          |   |
|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | August 1, 2001  |
| <b>AUTHORITY:</b>        | s. 8.33, <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | <p>Housekeeping changes effective February 1, 2011 to reflect regulation changes effective on that date.</p> <p>Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.</p> <p>Housekeeping changes were made on March 1, 2005 to reflect the October 29, 2003 changes to the <i>Occupational Health and Safety Regulation</i> ("OHSR"). This Item originally replaced Policy No. 14.23(2)-2 of the former Prevention Division <i>Policy and Procedure Manual</i>.</p> <p>Effective October 29, 2003, the reproduction of section 8.33(1) of the <i>OHSR</i> in this Item was revised to reflect its amendment.</p> <p>This Item results from the 2000/2001 "editorial" consolidation of all Prevention policies into the <i>Prevention Manual</i>. The POLICY in this Item merely continues the substantive requirements of Policy No. 14.23(2)-2, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 14.23(2)-2 was issued. A caution has been added regarding the voiding of NIOSH approval in certain situations.</p> |
| <b>APPLICATION:</b>      | This policy applies to interchanging air lines on respirators on and after August 1, 2001.  |

## PART 10

### DE-ENERGIZATION AND LOCKOUT

Part 10 of the *Occupational Health and Safety Regulation* sets out various requirements relating to the de-energization and lockout of machinery and equipment.



**RE: De-Energization and Lockout –  
When Lockout Required  
(Automatic) J-Bar Sorting Systems**

**ITEM: R10.3-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 10.3 sets out requirements for locking out machinery and equipment. Other requirements are found in sections 4.3 and 12.15.

### **2. The Regulation**

Section 10.3:

- (1) If machinery or equipment is shut down for maintenance, no work may be done until
  - (a) all parts and attachments have been secured against inadvertent movement,
  - (b) where the work will expose workers to energy sources, the hazard has been effectively controlled, and
  - (c) the energy isolating devices have been locked out as required by this Part.
  
- (2) If machinery or equipment is in use for normal production work, subsection (1) applies if a work activity creates a risk of injury to workers from the movement of the machinery or equipment, or exposure to an energy source, and the machinery or equipment is not effectively safeguarded to protect the workers from the risk.

Section 4.3:

- (1) The employer must ensure that each tool, machine and piece of equipment in the workplace is
  - (a) capable of safely performing the functions for which it is used, and
  - (b) selected, used and operated in accordance with
    - (i) the manufacturer's recommendations and instructions, if available,

- (ii) safe work practices, and
  - (iii) the requirements of this Regulation.
- (2) Unless otherwise specified by this Regulation, the installation, inspection, testing, repair and maintenance of a tool, machine or piece of equipment must be carried out
  - (a) in accordance with the manufacturer's instructions and any standard the tool, machine or piece of equipment is required to meet, or
  - (b) as specified by a professional engineer.
- (3) A tool, machine or piece of equipment determined to be unsafe for use must be identified in a manner which will ensure it is not inadvertently returned to service until it is made safe for use.
- (4) Unless otherwise specified by this Regulation, any modification of a tool, machine or piece of equipment must be carried out in accordance with
  - (a) the manufacturer's recommendations and instructions, if available,
  - (b) safe work practices, and
  - (c) the requirements of this Regulation.

#### Section 12.15:

Effective means of restraint must be used

- (a) on a connection of a hose or a pipe if inadvertent disconnection could be dangerous to a worker,
- (b) if unplanned movement of an object or component could endanger a worker, or
- (c) to secure an object from falling and endangering a worker.

## **POLICY**

Entry into bin areas of automatic J-Bar sorting systems, either above or below the lifts, is prohibited unless the system is locked-out in accordance with section 10.3.

In addition to lock-out, the following is required:

- (a) when maintenance, repair work, routine clean-up, or inspection requires entry into the bin area, the lifts must be lowered onto positive mechanical stops of adequate size, or onto the bin removal chains. Safety stops must not be depended on to withstand the impact of a falling lift; or

- (b) when circumstances require entry of a worker into a bin to clear a lumber hang-up which prevents lowering of the lift onto a positive stop, the lift must be restrained in accordance with section 12.15.

Guarding of bin removal chain drives is not required as this is a restricted access area and the system must be locked out before entry is permitted.

It is the employer's responsibility to:

- (a) obtain documentation (documentation from the equipment manufacturer is acceptable) that the blocking equipment or restraining devices are capable of performing the functions for which they are to be used under section 4.3(1)(a); and
- (b) maintain the equipment as specified by the manufacturer as required by section 4.3(2).

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|--------------------------|--|
| <b>EFFECTIVE DATE:</b>   | April 1, 2001  |
| <b>AUTHORITY:</b>        | ss. 10.3, 4.3 and 12.15, <i>Occupational Health and Safety Regulation</i>  |
| <b>CROSS REFERENCES:</b> |  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Housekeeping changes were made on March 1, 2005 to reflect the October 29, 2003 changes to the <i>Occupational Health and Safety Regulation</i> ("OHSR"). This Item originally replaced Policy No. 62.60 of the former Prevention Division <i>Policy and Procedure Manual</i> .<br>Effective October 29, 2003, the reproduction of section 4.3 of the <i>OHSR</i> in this Item was revised to reflect its amendment.<br>This Item results from the 2000/2001 "editorial" consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 62.60, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 62.60 was issued. |
| <b>APPLICATION:</b>      | This policy applies to locking out Automatic J-Bar Sorting Systems on and after April 1, 2001.   |



**PART 12****TOOLS, MACHINERY AND EQUIPMENT**

Part 12 of the *Occupational Health and Safety Regulation* sets out requirements relating to:

- general matters;
- guarding mechanical power transmission parts;
- conveyors;
- power presses, brake presses and shears;
- feed-rolls and metal-forming rolls;
- machine tools;
- abrasive equipment;
- power actuated tools;
- woodworking tools and equipment;
- mobile chippers;
- chain saws;
- automotive lifts and other vehicle supports;
- miscellaneous equipment;
- drilling rock or similar materials;
- breaking and melting metal;
- abrasive blasting and pressure washing;
- welding, cutting and allied processes;
- painting, coating and work with plastics and resins;
- laundry and dry cleaning activities; and
- rail car movement.



|   |                      |
|---|----------------------|
| <b>RE: Tools, Machinery and Equipment –<br/>General Requirements –<br/>Safeguarding Requirement (During Use of Dynamometer)</b> | <b>ITEM: R12.2-1</b> |
|---|----------------------|

## **BACKGROUND**

### **1. Explanatory Notes**

Section 12.2 sets out the general safeguarding requirement for machinery and equipment.

### **2. The Regulation**

Section 12.2:

Unless elsewhere provided for in this Occupational Health and Safety Regulation, the employer must ensure that machinery and equipment is fitted with adequate safeguards which

- (a) protect a worker from contact with hazardous power transmission parts,
- (b) ensure that a worker cannot access a hazardous point of operation, and
- (c) safely contain any material ejected by the work process which could be hazardous to a worker.

## **POLICY**

The following safeguards must be adhered to when testing motor vehicles on dynamometers:

- (a) only competent workers will operate vehicles and test equipment;
- (b) to prevent runaways, dynamometer units must have front-mounted idler safety rolls, unless the vehicle under test is chained or otherwise secured to substantial anchor points;
- (c) adequate chocks must be fitted to block the non-driving wheels;
- (d) when front-wheel drive vehicles are under test, lateral drift must be prevented;

- (e) prior to testing, the drive wheels and tires must be closely examined. No testing will be carried out when:
  - (i) wheels or tires are so out of balance as to cause bounce likely to result in lateral movement of the vehicle off the rolls,
  - (ii) wheels or tires are so damaged or worn as to be unsafe for operation at the road speeds to be reached during the test,
  - (iii) tires contain stones or other foreign material imbedded in the treads (All such material must be removed before testing commences.), or
  - (iv) tires are of a studded type;
- (f) guard screens of substantial construction and adequate size must be positioned closely behind the rear of the vehicle (These must be manufactured from shock-absorbing material designed to prevent ricochet of material striking the screens.);
- (g) the exposed portions of the rolls must be effectively guarded while in motion, in accordance with Part 12; and
- (h) the vehicle exhaust gases must be removed from work areas.

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|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | s. 12.2, <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> | Part 12, <i>Occupational Health and Safety Regulation</i>   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>This Item resulted from an editorial consolidation of prevention policies into the <i>Prevention Manual</i> , which was effective on October 1, 2000. The Policy in this Item continued the substantive requirements that existed before the consolidation, with any wording changes necessary to reflect legislative and other changes that have occurred. Policy No. 26.02-2 in the former Prevention Division <i>Policy and Procedure Manual</i> was replaced by this Item. A housekeeping change was made on December 14, 2001. A typographical error was corrected on March 30, 2004. |
| <b>APPLICATION:</b>      | The application of this policy remains unchanged from its previous authority under Policy No. 26.02-2 of the former Prevention Division <i>Policy and Procedure Manual</i> .  |

**PART 14****CRANES AND HOISTS**

Part 14 of the *Occupational Health and Safety Regulation* sets out requirements relating to:

- general matters;
- equipment operation;
- bridge, gantry and overhead travelling cranes;
- powered hoists and winches;
- manually powered hoists;
- mobile cranes, boom trucks and aerial ladder cranes;
- tower cranes;
- miscellaneous material hoists;
- construction material hoists; and
- chimney hoists.



**RE: Cranes and Hoists –  
General Requirements –  
Rated Capacity Indication (Bridge Cranes)**

**ITEM: R14.5-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 14.5 sets out the requirements for indicating the rated capacity of cranes and hoists on certain parts of the equipment.

### **2. The Regulation**

Section 14.5:

- (1) Subject to subsection (3), the rated capacity of a crane or hoist system must be permanently indicated on the superstructure, hoist and load block of the equipment.
- (2) The rated capacity of a monorail crane must be permanently marked on the hoist and at intervals not exceeding 10 m (33 ft.) on the monorail beam.
- (3) If the rated capacity of a crane or hoist is affected by
  - (a) the vertical or horizontal angle of a boom or jib,
  - (b) the length of a boom or jib,
  - (c) the position of a load supporting trolley, or
  - (d) the use or position of outriggers to increase the stability of the structure,

a load chart must be permanently posted on the crane or hoist or must be issued to the crane or hoist operator who must keep it available at all times when operating the crane or hoist.

- (4) A load chart under subsection (3) must indicate the rated capacity for the crane or hoist for the working positions and configurations in use and must be in a legible condition.

## **POLICY**

With respect to bridge cranes, the "superstructure" referred to in section 14.5 means the bridge girder.

Marking of the safe working load on the crane runways and their supporting structure is not mandatory or necessary for bridge cranes.

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|                          |   |
|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | s.14.5, <i>Occupational Health and Safety Regulation</i>  |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to amend reference to Section 14.5(1) of the Regulation, delete practice reference and make formatting changes.<br>Replaces Policy No. 56.04(2) of the Prevention Division <i>Policy and Procedure Manual</i> . A housekeeping change was made on December 14, 2001.  |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 "editorial" consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 56.04(2), as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 56.04(2) was issued. |

**RE: Cranes and Hoists –  
General Requirements – Support Structure  
(Hoist Load Capacity Not to Exceed  
Hoist Support Structure)**

**ITEM: R14.11-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 14.11(1) requires that the rated capacity of a hoist must not exceed the capacity of the support structure.

### **2. The Regulation**

Section 14.11(1):

The rated capacity of a hoist must not exceed the capacity of the structure supporting the hoist.

Section 14.5(1):

Subject to subsection (3), the rated capacity of a crane or hoist system must be permanently indicated on the superstructure, hoist and load block of the equipment.

## **POLICY**

Officers will order out of service any hoist installation where the rated load capacity marked on the hoist is greater than the safe working load marked on its supporting structure.

The hoist installation shall not come back into use until section 14.11(1) has been complied with. Among the methods of complying are:

- replacing the hoist with one having a rated capacity equal to or less than the safe working load of the support structure; and
- obtaining a certificate from a professional engineer that the support structure has a safe working load equal to or greater than the hoist capacity, and marking the support structure accordingly.

It is not permissible to downgrade the capacity of a hoist simply by posting on the hoist a rated capacity equal to the safe working load of the support structure.

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|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | August 1, 2001  |
| <b>AUTHORITY:</b>        | s. 14.11(1), <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> | 14.5(1), <i>Occupational Health and Safety Regulation</i>   |
| <b>HISTORY:</b>          | <p>Housekeeping changes effective September 15, 2010 to remove reference to Section 14.4 and amend Section 14.5(1) of the Regulation, delete practice reference and make formatting changes.</p> <p>Housekeeping changes were made on March 1, 2005 to reflect the October 29, 2003 changes to the <i>Occupational Health and Safety Regulation</i> (“OHSR”). This Item originally replaced Policy No. 56.04 of the former Prevention Division <i>Policy and Procedure Manual</i>.</p> <p>Effective October 29, 2003, the reproduction of section 14.4 of the OHSR in this Item was revised to reflect its amendment.</p> <p>This Item results from the 2000/2001 “editorial” consolidation of all Prevention policies into the <i>Prevention Manual</i>. The POLICY in this Item merely continues the substantive requirements of Policy No. 56.04, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 56.04 was issued.</p> |
| <b>APPLICATION:</b>      | This policy applies to all hoists where the hoist’s load capacity exceeds the load capacity of the support structure on and after August 1, 2001.   |

**RE: Cranes and Hoists –  
Tower Cranes – Limit Devices**

**ITEM: R14.81-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 14.81 sets out the requirements for load limiting devices on tower cranes.

### **2. The Regulation**

Section 14.81:

- (1) A tower crane must have automatic travel limit switches and automatic overload prevention devices that prevent overloading at any trolley position, the load block from travelling beyond the highest allowable position specified by the manufacturer and the trolley from travelling beyond the allowable limit specified by the manufacturer.
- (2) Subject to subsection (4), limit devices on a tower crane must be tested before the crane is first used on each work shift.
- (3) Any malfunction of an automatic limit or safety device on a tower crane must be remedied before the crane is used.
- (4) If it is not practicable, due to the configuration of the workplace, to position sufficient test weights to test the maximum load limit switch before the crane is first used on each work shift, the maximum load limit switch must
  - (a) be set to activate at a load of less than 80% of the maximum rated capacity for the crane and tested using test blocks, and
  - (b) be reset to the maximum load limit for the crane and tested using test blocks before making any lift that is greater than the load limit setting established under paragraph (a).
- (5) A tower crane with a luffing boom must have an automatic limit device that prevents the boom being raised beyond the maximum permitted boom angle.
- (6) In subsection (5), “luffing boom” means a boom that is raised and lowered about a pivot point to change the load radius.

**POLICY**

Unless otherwise specified by the manufacturer, load-limiting devices must be tested in the following manner:

- connect test blocks #1 and #2 by a wire rope of sufficient length to permit block #1 to be raised clear of the ground without lifting block #2;
- attach the crane load hook to the lifting eye of block #1 and lift the block clear of the ground; and
- continue the lift until the load limiting switch is activated, or block #2 is clear of the ground.

The load limit switch is correctly adjusted if the crane will lift and hold test block #1, but will not lift the combined weight of test block #1 and #2.

Inability to lift test block #1, or ability to lift both blocks #1 and #2, indicates the need for adjustment of the load limit switch.

If the crane is able to lift both test blocks #1 and #2, the crane must not be used until the load limit switch is correctly adjusted and a satisfactory test has been made.

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| <b>EFFECTIVE DATE:</b>   | August 1, 2001  |
| <b>AUTHORITY:</b>        | s. 14.81, <i>Occupational Health and Safety Regulation</i>  |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to amend reference to Section 14.81 of the Regulation, delete practice reference and make formatting changes.<br>Replaces Policy No. 56.42(5) of the Prevention Division <i>Policy and Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all Prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 56.42(5), as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 56.42(5) was issued. |

**PART 16****MOBILE EQUIPMENT**

Part 16 of the *Occupational Health and Safety Regulation* sets out requirements relating to:

- general matters;
- guards;
- seat requirements and rider restrictions;
- seat belts;
- operating requirements;
- tire servicing; and
- all-terrain vehicles.



**RE: Mobile Equipment –  
General Requirements – Operation and Maintenance  
(Fuel Tank Filler and Vent Outlet Locations)**

**ITEM: R16.3-2**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 4.3(1) requires that equipment be operated in accordance with safe work practices.

### **2. The Regulation**

Section 4.3(1):

The employer must ensure that each tool, machine and piece of equipment in the workplace is

- (a) capable of safely performing the functions for which it is used, and
- (b) selected, used and operated in accordance with
  - (i) the manufacturer's instructions, if available,
  - (ii) safe work practices, and
  - (iii) the requirements of this Regulation.

## **POLICY**

A fuel tank fill point or tank vent opening is not permitted within the enclosed cab of a vehicle. This condition is most likely to arise when a winter cab enclosure is installed on a vehicle.

Officers finding a tank fill point, or a vent outlet within a worker-occupied enclosure on a vehicle, will require extension of the filler and/or vent line to safe locations outside the cab. The connection between the extension and the original opening must be liquid and vapour tight to prevent fuel leakage or vapour release into the enclosure.

If the feasibility of doing the modifications appears doubtful, officers will discuss their concerns with a Board engineer before issuing orders.

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|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | s. 4.3(4), <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to update Regulation provisions due to repeal of Section 16.3(4), delete practice reference and make formatting changes.<br>Replaces Policy No. 26.02-3 of the Prevention Division <i>Policy and Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 26.02-3, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 26.02-3 was issued. |

**RE: Mobile Equipment –  
Guards – Protective Structures  
(Hydraulic Excavators)**

**ITEM: R16.21-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 16.21 sets out requirements for protection of operators of mobile equipment from various hazards.

### **2. The Regulation**

Section 16.21(1):

Operators of mobile equipment must be protected against falling, flying or intruding objects or material by means of suitable cabs, screens, grills, shields, deflectors, guards or structures.

Section 16.21(2), in part:

The means of protection must meet the requirements of the following applicable standard:

- (a) *WCB Standard – G601, Standard for Log Loader and Log Yarder Backstops;*
- (b) *WCB Standard – G602, Standard for Log Loader and Log Yarder Raised Cabs;*
- (c) *WCB Standard – G603, Standard for Log Loader and Log Yarder Window Guards;*
- (d) *WCB Standard – G604, Standard for Light-Duty Screen Guards for Off-Highway Equipment;*
- (e) *WCB Standard – G605, Standard for Mobile Equipment Half-Doors;*
- (f) *WCB Standard – G607, Standard for Medium Duty Screen Guards – Front End Log Loader;*
- (g) *WCB Standard – G608, Standard for Mobile Equipment Roof Structures – Heavy Duty;*
- (h) *WCB Standard – G609, Standard for Mobile Equipment Roof Structures – Light Duty ....*

## **POLICY**

The standards referenced in Section 16.21(2) mean that the minimum operator protection expected on hydraulic excavators exposed to hazards caused by intruding or flying objects, such as loose debris, snags, tree trunks, or limbs, normally encountered in pioneering steep side hill logging grades and right-of-way construction, is:

- WCB G602 - cab structure designed to resist a force of at least 2,000 lbs. (simulating a blunt log impact at 3.9 miles per hour), and an alternate exit meeting the requirements of Section 16.17.
- WCB G603 - window guards (mild steel bars or rods with a maximum opening of 64 square inches) on the front, sides (where permitted by boom clearance), and back of the cab where there is a hazard of intruding or flying objects.
- WCB G608 - heavy duty roof structure (able to absorb 8500 foot - pounds of energy). SAE J1043 - Minimum Performance Criteria for Falling Object Protective Structures for Industrial Equipment or equivalent standard is an accepted option under G608.

Polycarbonate at least ¼ inch thick and supported from behind with at least a one inch overlap along the perimeter is an adequate substitute for WCB Standard G604 light duty wire screen or brush guards.

Polycarbonate at least ½ inch thick and adequately supported from behind along the perimeter and by members in one direction not more than 10 inches apart may be an adequate substitute for G603 window guards. Consult with the WCB Engineering Section for assistance in assessing G603 window guards with polycarbonate.

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|--------------------------|--|
| <b>EFFECTIVE DATE:</b>   | April 1, 2001  |
| <b>AUTHORITY:</b>        | s. 16.21, <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> | s. 16.17, <i>Occupational Health and Safety Regulation</i>   |
| <b>HISTORY:</b>          | <p>Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.</p> <p>Housekeeping changes were made on March 1, 2005 to reflect the October 29, 2003 changes to the <i>Occupational Health and Safety Regulation</i> (“OHSR”). This Item originally replaced Policy No. 26.16(1) of the former Prevention Division <i>Policy and Procedure Manual</i>.</p> <p>Effective October 29, 2003, the reproduction of section 16.21(2) of the OHSR in this Item was revised to reflect its amendment.</p> <p>This Item results from the 2000/2001 “editorial” consolidation of all Prevention policies into the <i>Prevention Manual</i>. The POLICY in this Item merely continues the substantive requirements of Policy No. 26.16(1), as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 26.16(1) was issued.</p> |
| <b>APPLICATION:</b>      | This policy applies to protective structures for hydraulic excavators on and after April 1, 2001.  |



**RE: Mobile Equipment –  
Guards – Rollover Protective Structures  
(Pipe Layers or Side Boom Tractors)**

**ITEM: R16.22-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 16.22(1) requires that certain types of mobile equipment, weighing 700 kg (1,500 lbs) or more, must have protective rollover structures. Included in the list of equipment are pipe layers or side boom tractors manufactured after January 1, 2000.

### **2. The Regulation**

Section 16.22(1) in part:

The following types of mobile equipment, weighing 700 kg (1,500 lbs) or more, must have rollover protective structures (ROPS):

...

- (h) pipe layers or side boom tractors manufactured after January 1, 2000.

## **POLICY**

Pipe layers or side boom tractors manufactured before January 1, 2000 are exempt from the requirement for ROPS.

However, although not required, the fitment of a ROPS canopy should be encouraged where possible in such cases.

If a ROPS is not fitted, the employer must provide the operator with detailed safe work procedures which, when followed, will minimize the possibility of machine roll over.

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|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | s. 16.22(1)(h), <i>Occupational Health and Safety Regulation</i>  |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 26.16(3)(b) of the Prevention Division <i>Policy and Procedure Manual</i>  |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all Prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 26.16(3)(b), as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 26.16(3)(b) was issued. |

**RE: Mobile Equipment –  
Guards – ROPS Certification  
(Sweep Arms)**

**ITEM: R16.24-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 16.24 sets out the requirements for certification of ROPS and changes to ROPS.

### **2. The Regulation**

Section 16.24:

- (1) A ROPS must be certified by the ROPS manufacturer or a professional engineer as meeting a standard specified in section 16.23.
- (2) Any addition, modification, welding or cutting on a ROPS must be done in accordance with the instructions of and be recertified by the ROPS manufacturer or a professional engineer.

## **POLICY**

The sweep arms on rubber-tired skidders are intended to deflect material away from in front of the canopy. Sweep arms occasionally get damaged (bent or deformed) through contact with large trees or logs.

Where the sweep arm is an integral part of the ROPS on a skidder, the ROPS must be replaced or recertified when structural damage to the sweep arm is observed.

Damage to the sweep arm alone does not invalidate the ROPS certification where the sweep arm is not an integral part of the ROPS.

|                          |   |
|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | s.16.24, <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 26.16(2)-2 of the Prevention Division <i>Policy and Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 26.16(2)-2, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 26.16(2)-2 was issued. The references to specific brand names in Policy No. 26.16(2)-2 have been deleted as not being appropriate for inclusion in policy. |

**PART 17****TRANSPORTATION OF WORKERS**

Part 17 of the *Occupational Health and Safety Regulation* sets out requirements relating to:

- general matters;
- crew cars, buses and crummies;
- marine craft; and
- aircraft.



**RE: Transportation of Workers –  
Crew Cars, Buses and Crummies – Seating Design**

**ITEM: R17.12-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 17.12 sets out the seating design requirements for crew cars, buses and crummies used to transport workers.

### **2. The Regulation**

Section 17.12:

A worker transportation vehicle must be equipped with seats that

- (a) are safely located and securely attached to the vehicle, with a width of at least 41 cm (16 in) for each passenger and an upholstered seat and seat back which provide normal and comfortable seating for passengers,
- (b) face to the front or rear of the vehicle, unless installed otherwise by the vehicle manufacturer, and
- (c) provide a spacing of at least 66 cm (26 in) measured between the face of the seat back at seat level and the back of the seat or other fixed object in front.

## **POLICY**

Where seats are installed facing each other, each seat will be considered the “fixed object in front” for purposes of section 17.12(c) and the spacing of at least 66 cm (26 in) will be measured between the face of one seat back at seat level and the front edge of the facing seat.

|                          |   |
|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | s. 17.12(c), <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces part of Policy No. 28.12(1) of the Prevention Division <i>Policy and Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all Prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 28.12(1), as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 28.12(1) was issued. |

**RE: Transportation of Workers –  
Crew Cars, Buses and Crummies –  
Seating Capacity**

**ITEM: R17.13-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 17.13 sets out the seating capacity requirements for crew cars, buses and crummies used to transport workers.

### **2. The Regulation**

Section 17.5.1:

The gross vehicle weight rating (GVWR) of the worker transportation vehicle must not be exceeded.

Section 17.13:

For vehicles that do not have seat belt assemblies in every seating position, the seating capacity must be determined by the number of 41 cm (16 in) seat widths available, provided the gross vehicle weight rating (GVWR) is not exceeded.

## **POLICY**

Under section 17.13, seating capacity based on seat width is determined by measuring each passenger seat and dividing the seat length in inches by 16 inches per passenger. The capacity of the seat is the number of full 16 inch seat widths and does not include a fraction or part of seat width.

Each passenger is assumed to weigh at least 68 kg (150 lbs) for the purpose of estimating GVW under section 17.13 and 17.5.1.

The employer must ensure the vehicle is not loaded beyond the GVW or in excess of the seating capacity based on seat width whenever workers are being transported. Officers of the Board may assist an employer in measuring seats to determine seating capacity but will not designate or rate the maximum number of passengers a worker transportation vehicle may carry.

Vehicles operating where the *Motor Vehicle Act* of British Columbia applies must comply with the requirements of that *Act*.

|                          |   |
|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | ss. 17.5.1 and 17.13, <i>Occupational Health and Safety Regulation</i>  |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to add section 17.5.1 and amend section 17.13, delete practice reference and make formatting changes.<br>Replaces part of Policy No. 28.12(1) of the Prevention Division <i>Policy and Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all Prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 28.12(1), as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 28.12(1) was issued. |

**PART 19****ELECTRICAL SAFETY**

Part 19 of the *Occupational Health and Safety Regulation* sets out requirements relating to:

- general electrical matters;
- working on low voltage electrical equipment;
- working on high voltage electrical equipment;
- working on de-energized high voltage power systems;
- working close to energized high voltage equipment and conductors;
- tree pruning and falling near energized conductors;
- control systems; and
- electrofishing.



**RE: Electrical Safety –  
Working Close to Energized High Voltage  
Equipment and Conductors**

**ITEM: R19.25-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 19.24.1 requires, in part, that employers ensure that a specified minimum distance is maintained between high voltage electrical equipment and conductors and workplace equipment. If this specified minimum safe distance cannot be maintained, section 19.25 requires that an employer must obtain a written assurance of certain matters from a representative of the power system.

### **2. The Regulation**

Section 19.24.1:

Subject to section 19.24.2, or unless otherwise permitted by this Part, if exposed electrical equipment or conductors at a workplace have a voltage within a range set out in Column 1 of Table 19-1A, the following must remain at least the distance from the exposed electrical equipment and conductors that is set out in Column 2 opposite that range of voltage:

- (a) a person working at the workplace;
- (b) a tool, a machine, material or equipment at the workplace.

**Table 19-1A**

| Column 1<br>Voltage   | Column 2<br>Minimum approach distance for<br>working close to exposed<br>electrical equipment or<br>conductors |      |
|-----------------------|--|------|
|                       | Metres   | Feet |
| Phase to phase        |  |      |
| Over 750 V to 75 kV   | 3  | 10   |
| Over 75 kV to 250 kV  | 4.5  | 15   |
| Over 250 kV to 550 kV | 6  | 20   |

Section 19.25, in part:

- (1) If the minimum distance in Table 19-1A cannot be maintained because of the circumstances of work or the inadvertent movement of persons or equipment, an assurance in writing on a form acceptable to the Board and signed by a representative of the owner of the power system, must be obtained.
- (2) The assurance must state that while the work is being done the electrical equipment and conductors will be displaced or rerouted from the work area, if practicable.
- (3) If compliance with subsection (2) is not practicable the assurance must state that the electrical equipment will be isolated and grounded, but if isolation and grounding is not practicable the assurance must state that the electrical equipment will be visually identified and guarded.

## **POLICY**

The minimum distances specified in section 19.24.1 and Table 19-1A must be taken into account when planning the operation of a crane or other equipment close to overhead electrical conductors. If the operation is planned, with due regard to the environmental conditions, the condition of the equipment, the capability of the operators, and the movement of material, so that no part of the equipment, workers, or material come within the stipulated minimum distance, an assurance in writing under section 19.25(1) is not required.

For the purposes of section 19.24.1, if no other effective means is provided to assist the operator of a tower crane in maintaining the minimum distance:

- the crane must have a marker placed at an appropriate position on the jib; and
- the employer must specifically instruct the operator that, when the jib is in a position such that the load line could enter within the minimum applicable distance, the trolley must be positioned only on the mast side of the marker.

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|--------------------------|--|
| <b>EFFECTIVE DATE:</b>   | October 29, 2003   |
| <b>AUTHORITY:</b>        | ss.19.25 and 19.24.1, <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |  |
| <b>HISTORY:</b>          | Housekeeping changes effective February 1, 2011 to reflect regulation changes effective on that date.<br>Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes. |

Effective April 1, 2001, this Item replaced Policy No. 24.04(1) of the former Prevention Division *Policy and Procedure Manual*. Effective October 29, 2003, the policy incorporated a paragraph from Item R14.53-1 which was deleted in response to the duplication and redundancy package of regulatory amendments.

**APPLICATION:**

This policy applies to all instances where workplace equipment comes in close proximity to high voltage electrical equipment and conductors on and after October 29, 2003.



**RE: Electrical Safety –  
Tree Pruning and Falling Near Energized Conductor –  
Preliminary Inspection**

**ITEM: R19.30-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 19.30 sets out requirements for preliminary inspections to identify hazardous areas prior to commencing tree-pruning and falling near energized conductors. Included in the inspection is whether any part of the tree to be pruned or felled is, or may be, within the minimum distance specified in Section 19.24.1 and Table 19-1A.

### **2. The Regulation**

Section 19.30:

- (1) Before commencing tree pruning or falling close to energized high voltage overhead conductors, the worksite must be inspected by a qualified person, authorized by the owner of the power system, to identify any hazardous areas, including situations where any part of a tree to be pruned or felled is within the applicable minimum distance from an energized conductor as specified in Table 19-1A, or may fall within that distance.
- (2) Immediately before commencing work, an inspection must be performed by a qualified person to verify the results of the initial inspection done under subsection (1) are still valid.

Section 19.24.1:

Subject to section 19.24.2, or unless otherwise permitted by this Part, if exposed electrical equipment or conductors at a workplace have a voltage within a range set out in Column 1 of Table 19-1A, the following must remain at least the distance from the exposed electrical equipment and conductors that is set out in Column 2 opposite that range of voltage:

- (a) a person working at the workplace;
- (b) a tool, a machine, material or equipment at the workplace.

**Table 19-1A**

| Column 1<br>Voltage   | Column 2<br>Minimum approach distance for<br>working close to exposed<br>electrical equipment or<br>conductors |      |
|-----------------------|--|------|
|                       | Metres   | Feet |
| Phase to phase        |  |      |
| Over 750 V to 75 kV   | 3  | 10   |
| Over 75 kV to 250 kV  | 4.5  | 15   |
| Over 250 kV to 550 kV | 6  | 20   |

## **POLICY**

Tree trimmers intending to work close to energized high voltage lines must call the utility to request a qualified person to perform the preliminary inspection under section 19.30(1). The following guidelines are to be used in determining if tree-trimming is close to energized high voltage overhead conductors:

- any part of the tree, as it stands near an energized line, is within the general limits of approach specified in section 19.24.1;
- any branches are above an energized line in such a way that any severed portion may fall within the general limits of approach of section 19.24.1; or
- any contemplated topping operation will produce a cut length capable of extending from the tree to within the limits of approach of section 19.24.1.

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| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | ss.19.30 and 19.24.1, <i>Occupational Health and Safety Regulation</i>  |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective February 1, 2011 to reflect regulation changes effective on that date.<br>Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 24.08(1) of the Prevention Division <i>Policy and Procedure Manual</i>  |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 "editorial" consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 24.08(1), as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 24.08(1) was issued. |

**PART 20****CONSTRUCTION, EXCAVATION AND DEMOLITION**

Part 20 of the *Occupational Health and Safety Regulation* sets out requirements relating to:

- general matters;
- safe work areas and safe access;
- bridges and similar structures;
- concrete formwork and falsework;
- concrete pumping;
- tilt-up building construction;
- concrete pre-stressing and post-tensioning;
- open web joists and trusses;
- roof work;
- excavations;
- scaling operations;
- pile driving and dredging;
- demolition; and
- work in compressed air.



**RE: Construction, Excavation and Demolition –  
Concrete Formwork and Falsework –  
Specifications and Plans**

**ITEM: R20.17-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 20.17 sets out the requirements for specifications and plans for concrete formwork and falsework.

### **2. The Regulation**

Section 20.17:

- (1) The employer must ensure that a set of plans and specifications meeting the requirements of *CSA Standard S269.1-1975, Falsework for Construction Purposes* and *CSA Standard CAN/CSA-S269.3-M92, Concrete Formwork* is prepared for the formwork for each job and for all items of concrete work, the failure of which could cause injury.
- (2) Erection drawings and supplementary instructions for concrete formwork, falsework and reshoring must be certified by a professional engineer and available at the site during erection, use and removal of the concrete formwork, falsework and reshoring.
- (3) The following types of concrete formwork require erection drawings and supplementary information certified by a professional engineer:
  - (a) flyforms;
  - (b) gang forms;
  - (c) jump forms;
  - (d) vertical slip forms;
  - (e) formwork more than 4 m (13 ft) in height;
  - (f) suspended forms for slabs, stairs and landings;
  - (g) beam forms;
  - (h) single sided forms over 2 m (6.5 ft) in height;
  - (i) cantilever forms;

- (j) bridge deck forms;
- (k) shaft lining forms;
- (l) tunnel lining forms;
- (m) forms so designated by the designer of the structure.

## **POLICY**

Occasionally a portion of formwork and falsework may be designed as part of a sales or rental subcontract by a scaffold and shoring supplier, or designed as part of the permanent structure by the design engineer for the structure.

Generally, the "partial designs" supplied in such cases are certified by a professional engineer, but do not contain all the information and instructions required by the *Regulation*. Typically, documents are deficient in the area of section views, packing, blocking, and form details. Reshoring, where required, is either not specified or not referenced. There may also be a statement in such documents indicating or implying the documents do not satisfy the requirements of the *Regulation* without further detailing.

These documents are not acceptable unless additional detailing and documentation, certified by a professional engineer, are available at the site for the portions of the design not covered by the "partial designs" referred to above.

It is the responsibility of the employer to ensure the erection drawings and any supplementary instructions are complete and comply with the *Regulation*.

An "inspection certificate" issued by an engineer prior to pour, based on incomplete erection drawings and supplementary instructions, is not valid.

Officers will order concrete placing stopped if the inspection certificate is not available at the site or is not valid.

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|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | s. 20.17, <i>Occupational Health and Safety Regulation</i>  |
| <b>CROSS REFERENCES:</b> | s. 20.18 – 20.26, <i>Occupational Health and Safety Regulation</i>  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Housekeeping changes were made on March 1, 2005 to reflect the October 29, 2003 changes to the <i>Occupational Health and Safety Regulation</i> ("OHSR"). This Item originally replaced Policy No. 34.28(6) of the former Prevention Division <i>Policy and Procedure Manual</i> . Effective October 29, 2003, the reproduction of section 20.17(1) of the OHSR in this Item was revised to reflect its amendment. |

This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the *Prevention Manual*. The POLICY in this Item merely continues the substantive requirements of Policy No. 34.28(6), as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 34.28(6) was issued.

**APPLICATION:**

This policy applies to certified plans and specifications for formwork and falsework on and after April 1, 2001.



**RE: Construction, Excavation and Demolition –  
Concrete Formwork and Falsework –  
Inspections**

**ITEM: R20.26-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 20.26 sets out the requirements for inspection of concrete formwork and falsework before placement of concrete or other loading.

### **2. The Regulation**

Section 20.26:

- (1) Immediately before placement of concrete or other intended loading, the employer must ensure that the concrete formwork and falsework is inspected and an engineering certificate is issued by a professional engineer, which
  - (a) indicates the specific areas inspected,
  - (b) certifies that the concrete formwork and falsework has been erected in accordance with the latest approved erection drawings and supplementary instructions, and
  - (c) certifies that specified reshoring is in place.
- (2) The certificate required by subsection (1) must be available at the site for inspection by an officer.
- (3) If a gangform is being reused on the same jobsite without modification, an inspection by a qualified person must be performed before each pour, in which case a new professional engineer's inspection certificate under subsection (1) is not required.

## **POLICY**

The professional engineer who issues the written certificate prior to each concrete placing need not personally inspect the formwork. The professional engineer must ensure an adequate inspection is done by a competent person immediately prior to concrete placing before issuing a certificate

The phrase "immediately before" in section 20.26(1) is normally interpreted to mean that the inspection must be done not more than 24 hours prior to the start of concrete placing. Inclement weather subsequent to the inspection, or other causes for delay of the concrete placing, will normally necessitate an additional inspection and an engineer to revalidate the inspection certificate.

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|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | s.20.26, <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 34.28(17) of the Prevention Division <i>Policy and Procedure Manual</i>  |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 "editorial" consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 34.28(17), as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 34.28(17) was issued. |

**RE: Construction, Excavation and Demolition –  
Concrete Pumping – Outriggers**

**ITEM: R20.40-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 20.40 requires that outriggers be used in accordance with the manufacturer's specifications. These specifications may not, however, cover all situations. Section 4.3(1) requires that equipment be operated in accordance with safe work practices.

### **2. The Regulation**

Section 20.40:

- (1) Outriggers must be used in accordance with the concrete placing boom or mast manufacturer's specifications.
- (2) Extendible outriggers for a concrete placing boom or mast must be marked to indicate maximum extension.
- (3) A concrete placing boom or mast manufactured after January 1, 1999 must have its outriggers or jacks permanently marked to indicate the maximum load they will transmit to the ground.

Section 4.3(1):

The employer must ensure that each tool, machine and piece of equipment in the workplace is

- (a) capable of safely performing the functions for which it is used, and
- (b) selected, used and operated in accordance with
  - (i) the manufacturer's instructions, if available,
  - (ii) safe work practices, and
  - (iii) the requirements of this Regulation.

## **POLICY**

Manufacturer's instructions generally require that outriggers be fully deployed when the boom on a concrete pump is raised. Section 20.40 requires compliance with these instructions.

However, in some situations it may be impracticable to fully deploy outriggers. The manufacturer's instructions do not generally cover this possibility.

Section 4.3(1) provides that, in the absence of manufacturer's instructions, the operation of mobile equipment must be carried out in accordance with safe work practices. Set out below are guidelines for determining the "safe work practices" to be followed under section 4.3(1) in such cases.

- (1) As far as possible, the worksite must be organized so that concrete pump trucks can have their outriggers fully deployed when raising the boom. Where section 118 of the *Act* applies, the prime contractor or owner and the employer of the truck operator share responsibility for planning truck location. Truck location should be addressed if a pre-job meeting is held.
- (2) The full deployment of outriggers will **not** be considered impracticable just because it:
  - is more convenient;
  - saves money;
  - avoids repositioning the truck; or
  - requires the removal of stored materials that might reasonably be moved.
- (3) Among the situations where it may be impracticable to fully deploy outriggers are:
  - where it would put the machine within an unsafe distance to hazards such as excavations and powerlines;
  - where the outriggers would extend into traffic and the circumstances of the job render it impracticable to obtain permission to close traffic lanes (This is subject to municipal by-laws governing the obstruction of traffic that may result from using the pump truck.); and
  - where adjoining structures or an excavated or natural bank restricts deployment.

- (4) The pump operator must be trained as to the situations where the outriggers need not be fully deployed and, where they are not fully deployed, as to the regions where the boom may be located so as to maintain truck stability. The operator must have written detailed instructions in the truck.
- (5) Outriggers that cannot be fully deployed must be extended as far as possible and all jacks lowered to apply ground loading and to level the truck. Floats must be used where required. Outriggers must be fully deployed on the working side of the boom.

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| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | ss.20.40 and 4.3(1), <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to add section 4.3(1), delete section 16.3(4) which has been repealed, make consequential changes to the text, delete practice reference and make formatting changes.<br>Replaces Policy No. 26.02-4 of the Prevention Division <i>Policy and Procedure Manual</i> . A housekeeping change was made on December 14, 2001.                   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 "editorial" consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 26.02-4, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 26.02-4 was issued. |



**RE: Construction, Excavation and Demolition –  
Open Web Joists and Trusses –  
Erection Instructions  
(All-Wood Plate-Connected Open Web Trusses)**

**ITEM: R20.72-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 20.72 requires that written instructions from a professional engineer or the manufacturer be available at the worksite before work is undertaken on the erection of premanufactured open web joists and trusses.

### **2. The Regulation**

Section 20.72:

- (1) Work must not be undertaken on the erection of premanufactured open web joists and trusses until clear and appropriate written instructions from a professional engineer or the manufacturer of the joists or trusses, detailing safe erection procedures, are available at the worksite.
- (2) Erection and temporary bracing of open web joists and trusses must be done in accordance with the written instructions required by subsection (1).

## **POLICY**

This policy applies to all-wood plate-connected open web flat and pitched trusses. It does not apply to multi-member chord types or pin-connected, wood chord-metal tube web-type trusses (Trus Joists).

The employer responsible for the handling and installation of the trusses must have clear and appropriate written instructions from the truss manufacturer or a professional engineer, stipulating safe erection procedures. The truss manufacturer will normally provide some General Recommended Erection and Bracing Instructions with delivery of the trusses.

Officers will stop truss erection when:

- erection and bracing instructions are not available at the site or are obviously incomplete;
- work is not being done in accordance with the erection and bracing instructions;
- the side walls or skeletal structural building frame are inadequately braced (Typically, the recommended maximum spacing braces on walls is 30 feet or 10 metres.);
- damaged trusses (including twisted webs, bent connector plates, cracked chords) are being or have been installed; or
- heavy loads are being applied to trusses before all bracing, bridging and decking has been installed.

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| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | s. 20.72, <i>Occupational Health and Safety Regulation</i>  |
| <b>CROSS REFERENCES:</b> | s. 191, <i>Workers Compensation Act</i>   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 34.42-1 of the Prevention Division <i>Policy and Procedure Manual</i>  |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 "editorial" consolidation of all Prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 34.42-1, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 34.42-1 was issued. |

**PART 24****DIVING, FISHING AND OTHER MARINE OPERATIONS**

Part 24 of the *Occupational Health and Safety Regulation* sets out requirements relating to:

- wharves, docks and mooring floats; and
- diving operations:
  - general matters;
  - scuba diving;
  - surface supply diving;
  - deep diving;
  - altitude diving;
  - specific diving hazards;
  - live boating; and
- fishing operations:
  - general matters;
  - specific fishing operations:
    - gillnetting;
    - handlining;
    - longlining;
    - seining;
    - trap fishing;
    - trawling; and
    - trolling.



|   |                      |
|---|----------------------|
| <b>RE: Diving, Fishing and Other Marine Operations –<br/>Diving Operations –<br/>General Requirements – Application (Variances)</b> | <b>ITEM: R24.7-1</b> |
|---|----------------------|

## **BACKGROUND**

### **1. Explanatory Notes**

Sections 24.7 to 24.68 set out the requirements for occupational diving operations.

### **2. The Regulation**

Section 24.7:

Sections 24.7 to 24.68 apply to all persons involved in any occupational diving operation.

## **POLICY**

An employer planning to use a diving procedure different from the requirements of the *Regulation* must request a variance under Division 9 of the *Act*. The application for the variance must include details of the proposed procedure.

If the variance is granted, the variance order will include explicit terms controlling the dive. A copy of the variance must be posted at the workplace under section 169(3) of the *Act*.

Officers inspecting such diving operations must ensure the terms of the variance are being met. If not, an order is to be issued stopping the operations.

If a copy of the variance is not available at the dive site, only diving activities conforming to the *Regulation* are permitted.

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| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | s.24.7, <i>Occupational Health and Safety Regulation</i>  |
| <b>CROSS REFERENCES:</b> | Division 9, <i>Workers Compensation Act</i>   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 11.02 of the Prevention Division <i>Policy and Procedure Manual</i> . A housekeeping change was made on December 14, 2001. |

**APPLICATION:**

This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the *Prevention Manual*. The POLICY in this Item merely continues the substantive requirements of Policy No. 11.02, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 11.02 was issued.

|  |                       |
|--|-----------------------|
| <b>RE: Diving, Fishing and Other Marine Operations –<br/>Fishing Operations –<br/>General Requirements – Application</b> | <b>ITEM: R24.69-1</b> |
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## **BACKGROUND**

### **1. Explanatory Notes**

Sections 24.70 to 24.143 of the *Regulation* set out the requirements for fishing operations. Section 24.69 identifies the persons to whom these requirements apply.

### **2. The Regulation**

Section 24.69:

Sections 24.70 to 24.143 apply to all owners, masters and crewmembers of licensed commercial fishing vessels.

Section 24.1:

|              |  |
|--------------|--|
| “owner”      | for the purposes of sections 24.69 to 24.143, means the person who holds legal title to a fishing vessel and also includes a charterer of a fishing vessel |
| “master”     | for the purposes of sections 24.69 to 24.143, means the person in overall command of a fishing vessel  |
| “crewmember” | for the purposes of sections 24.69 to 24.143, means any person who is working on a fishing vessel  |

## **POLICY**

### **(a) Owner**

“Owner” includes a charterer of a fishing vessel. Whenever a Board officer finds a violation of a section of the *Regulation* that expressly makes the “owner” responsible and the vessel has been chartered, the order will be made both against the person holding the legal title and the charterer.

**(b) Master**

The master may be a "supervisor" for the purpose of other sections of the *Regulation* and the *Act*.

**(c) Crewmember**

The definition of "crewmember" includes all persons employed in the harvesting or transporting of fish on a fishing vessel. It includes the "master", and the "owner" when he or she is working on the vessel.

Sections 24.69 to 24.143 do not apply to passengers or other persons who do no work on the vessel or employees of contractors who come on board to repair the vessel while it is in harbour. The latter are, however, subject to other sections of the *Regulation*.

**(d) Application**

Many provisions of sections 24.69 to 24.143 impose obligations on the "owner", "master" or "crewmember". Some do not specifically impose an obligation on any person. These will apply to owners, masters and crewmembers, as appropriate.

Sections 24.69 to 24.143 cover all commercial fishing activities conducted from licensed vessels, including geoduck divers. Among the activities not covered are:

- fishing operations conducted entirely on shore, such as clam diggers;
- operations that fall within the category of fish farms, such as oyster farms; and
- fishing done for the purpose of obtaining the fisher's own food.

Sections 24.69 to 24.143 apply to activities incidental to fishing operations that are carried out on land, such as on the dock where the vessel is moored or in a locker where the vessel's gear is stored. The regular maintenance or minor repair of a fishing vessel conducted by the owner, master or crew or individual workers hired by the owner or master is also covered.

Sections 24.69 to 24.143 do not apply to constructing a fishing vessel or doing major repairs.

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|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | July 1, 2003  |
| <b>AUTHORITY:</b>        | ss.24.1 and 24.69, <i>Occupational Health &amp; Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy Nos. 85.01 and 85.2 of the Prevention Division <i>Policy and Procedure Manual</i> . A housekeeping change was made on December 14, 2001. Effective July 1, 2003, the definition of crewmember under section (c) clarified and the reference to the now defunct personal commercial fishing licenses was removed. |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 "editorial" consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy Nos. 85.01 and 85.2, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy Nos. 85.01 and 85.2 were issued.                                  |



**RE: Fishing Operations –  
Compliance with Standards**

**ITEM: R24.70-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 24.70 sets out requirements relating to the construction and ongoing seaworthiness of fishing vessels.

### **2. The Regulation**

Section 24.70:

All fishing vessels must

- (a) be maintained in seaworthy condition, and
- (b) if constructed after January 1, 1995, be built in accordance with applicable Canadian Coast Guard Regulations, or other standard acceptable to the board.

## **POLICY**

### **(a) Seaworthiness**

"Seaworthy" is defined in Kerchove's International Maritime Dictionary (2nd Edition) as:

The sufficiency of a vessel in materials, construction, equipment, crew and outfit for the trade or service in which it is employed....

It involves consideration of a number of factors, including:

- construction, structure and stability of the vessel;
- machinery and equipment on the vessel;
- load being carried and its distribution on the vessel;
- place or places to which the vessel will be voyaging; and
- weather and sea conditions that the vessel is likely to encounter.

Section 24.70 imposes a general obligation to keep a vessel seaworthy. No person is expressly made responsible to do this, but the responsibility will normally be on the owner or master. The owner will be responsible where there is no master in charge of the vessel or the lack of seaworthiness relates to the structure or equipment of the vessel. The master may be found responsible for a lack of seaworthiness relating to structure and equipment where it arises during a voyage. The master will be responsible where the lack of seaworthiness relates to the operation of the vessel.

Where a Board officer considers that a vessel is clearly unseaworthy, he or she will make an order to correct the situation. Where the officer has a concern over seaworthiness but is not sure, and the vessel is over 15 tons, the officer may require production of the vessel's Canada Steamship Inspection certificate issued under the *Canada Shipping Act*. If no certificate is available, the officer may order that one be obtained. Where the vessel is less than 15 tons, the officer may consult with the Canada Coast Guard for advice as to the seaworthiness of the vessel and whether applicable federal regulations have been complied with. The officer may order that a survey be conducted by a marine surveyor, architect or engineer if he or she considers that there is a serious question as to the seaworthiness of a boat. The officer may accept a certificate of inspection by a marine insurance company as evidence of seaworthiness where accompanied by a survey carried out by or on behalf of the company.

### **(b) Construction Standards**

Until the Canada Coast Guard regulations (the *Small Fishing Vessel Safety Regulations* proposed under the *Canada Shipping Act*) referred to in section 24.70(b) are in effect, the Board will accept the March, 1993 published draft of these regulations as the standard to which new vessels must be constructed after January 1, 1995.

In determining whether a vessel was constructed before or after January 1, 1995, regard will be had to the date the keel was laid.

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|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | July 1, 2000  |
| <b>AUTHORITY:</b>        | s.24.70, <i>Occupational Health &amp; Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> | See Fishing Operations - Vessel Preparation (R24.76-1)  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 85.4 of the Prevention Division <i>Policy and Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 "editorial" consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 85.4, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 85.4 was issued. |

**RE: Fishing Operations –  
Owner and Master Responsibilities****ITEM: R24.71-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 24.71 sets out various responsibilities of owners and masters of fishing vessels.

### **2. The Regulation**

Section 24.71

- (1) An owner of a fishing vessel must ensure that all machinery and equipment on board a fishing vessel is capable of safely performing the functions for which it is used.
- (2) The owner must ensure that major modifications to a fishing vessel do not adversely affect the stability of the vessel.
- (3) The master of a fishing vessel must ensure that
  - (a) machinery and equipment is properly maintained and functions safely during the voyage, and
  - (b) any replacement equipment meets the requirements of this Part.

## **POLICY**

The owner's responsibility under section 24.71(1) is to ensure that the machinery and equipment placed on board before the start of the season is appropriate for the size of the vessel and the fishery in which it will be engaged. The machinery and equipment must be working and must meet all the requirements of the *Regulation*.

Section 24.71 does not specify who provides or pays for equipment. That is a matter of contract between the parties or, in certain situations, may be covered by other regulatory requirements. The owner's obligation under section 24.71(1) extends to machinery and equipment brought on board by the master and crewmembers.

After the machinery and equipment has been provided by the owner, section 24.71(3) states that the master must ensure it is maintained until the end of the voyage. The master must also ensure that, where equipment must be replaced during the voyage, it meets the requirements of the *Regulation*. A voyage will generally continue until the vessel returns to its home port, regardless of short stop-overs in other ports. However, there may be situations where the voyage ends at another port.

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| <b>EFFECTIVE DATE:</b>   | July 1, 2000  |
| <b>AUTHORITY:</b>        | s.24.71, <i>Occupational Health &amp; Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 85.5 of the Prevention Division <i>Policy and Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 85.5, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 85.5 was issued. |

**RE: Fishing Operations –  
Documentation****ITEM: R24.72-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 24.72 requires fishing vessel owners to provide certain documentation on board the vessel that is readily accessible to crewmembers.

### **2. The Regulation**

Section 24.72:

The owner of every fishing vessel must provide documentation on board, readily accessible to crewmembers, which describes

- (a) engine room instructions,
- (b) vessel characteristics, including stability,
- (c) the location and use of firefighting equipment, and
- (d) the location and use of emergency equipment, including radio equipment.

## **POLICY**

Under section 24.72(b), the owner must give notice of unique features of the vessel which might not otherwise be known to a new master and crew and which might cause hazards in certain situations if the boat is not properly handled. This includes instructions on how to perform operations on the vessel without impairing its stability and seaworthiness.

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| <b>EFFECTIVE DATE:</b>   | July 1, 2000  |
| <b>AUTHORITY:</b>        | s.24.72, <i>Occupational Health &amp; Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 85.6 of the Prevention Division <i>Policy and Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 85.6, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 85.6 was issued. |



**RE: Fishing Operations –  
Instruction****ITEM: R24.73-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 24.73 requires fishing vessel masters to provide crewmembers with certain instruction before the start of the season.

### **2. The Regulation**

Section 24.73:

- (1) Before the start of each fishing season, the master must ensure that each crewmember is instructed in the operational characteristics of the fishing vessel including
  - (a) the location and use of safety equipment, engine room components and controls,
  - (b) deck equipment and rigging,
  - (c) navigation equipment and electronic aids,
  - (d) fishing equipment and its use, including safe work practices for each fishery the vessel will be engaged in,
  - (e) procedures for anchoring the vessel,
  - (f) the location and use of emergency equipment, including firefighting and radio equipment, and
  - (g) escape routes in the event of fire.
- (2) The master must ensure as far as is reasonably practicable, that the instruction required by subsection (1) results in each crewmember being able to apply the information as needed to protect the crewmember's health and safety.
- (3) New crewmembers joining the vessel must be instructed in accordance with the requirements of this section at the time that they join the vessel.

## **POLICY**

The information provided and testing carried out under section 24.73(1) and (2) will vary to a certain extent according to the job of the person being instructed. Some of the operational characteristics of the fishing vessel will affect the health and safety of all crewmembers and everyone should know about them. However, other characteristics

will only affect certain crewmembers and they must receive individual instruction about the features and operations with which they are concerned.

With regard to section 24.73(3) the instructions must be given prior to sailing.

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| <b>EFFECTIVE DATE:</b>   | July 1, 2000  |
| <b>AUTHORITY:</b>        | s.24.73, <i>Occupational Health &amp; Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 85.7 of the Prevention Division <i>Policy and Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 85.7, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 85.7 was issued. |

**RE: Fishing Operations –  
Emergency Procedures****ITEM: R24.74-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 24.74 requires fishing vessel masters to establish procedures for various types of emergencies.

### **2. The Regulation**

Section 24.74:

- (1) The master must establish procedures and assign responsibilities to each crewmember to cover all emergencies including
  - (a) crewmember overboard,
  - (b) fire on board,
  - (c) flooding of the vessel,
  - (d) abandoning ship, and
  - (e) calling for help.
- (2) The master must ensure that drills are conducted at the start of each fishing season, when there is a change of crew, and at periodic intervals to ensure that crewmembers are familiar with emergency procedures.

## **POLICY**

With regard to section 24.74(2), a "drill" involves actually using the equipment to the extent that this is practicable without damaging the equipment or creating a hazard. It is not necessary to inflate life rafts on every occasion.

A one person crew is expected to carry out a drill to the extent it is practicable.

How frequently drills are held will depend on how familiar the crew are with the emergency procedures. More drills may be necessary with a new crew than with an experienced crew.

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| <b>EFFECTIVE DATE:</b>   | July 1, 2000  |
| <b>AUTHORITY:</b>        | s.24.74, <i>Occupational Health &amp; Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 85.8 of the Prevention Division <i>Policy and Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 85.8, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 85.8 was issued. |

**RE: Fishing Operations –  
Crewmember Responsibility****ITEM: R24.75-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 24.75 sets out various responsibilities of crewmembers of fishing vessels.

### **2. The Regulation**

Section 24.75:

Crewmembers must take all reasonable precautions necessary to ensure the health and safety of themselves and other persons on board the fishing vessel.

## **POLICY**

This provision establishes a crewmember's responsibility to use personal protective equipment where required, to follow safe work practices, to point out hazards to other crewmembers, and to discourage horseplay.

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| <b>EFFECTIVE DATE:</b>   | July 1, 2000  |
| <b>AUTHORITY:</b>        | s.24.75, <i>Occupational Health &amp; Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 85.9 of the Prevention Division <i>Policy and Procedure Manual</i> .   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 "editorial" consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 85.9, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 85.9 was issued. |



**RE: Fishing Operations –  
Vessel Preparation****ITEM: R24.76-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 24.76 requires fishing vessel masters to ensure the vessel can safely make the passage, with reference to specific factors.

### **2. The Regulation**

Section 24.76:

Before leaving on a voyage the master must ensure that the fishing vessel is capable of safely making the passage, due consideration being given to

- (a) the seaworthiness of the vessel,
- (b) the stowage and securing of all cargo, skiffs, equipment, fuel containers and supplies,
- (c) ballasting, and
- (d) present and forecast weather conditions.

## **POLICY**

Section 24.76 imposes an obligation on the master to consider the vessel's seaworthiness in relation to the particular voyage being planned. (This is in addition to the general obligation regarding seaworthiness set out in section 24.70 and Item R24.70-1.) Section 24.76 recognizes that a vessel may be seaworthy for voyages to some places, such as on a river, but not for voyages to other places, such as on the open sea.

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| <b>EFFECTIVE DATE:</b>   | July 1, 2000  |
| <b>AUTHORITY:</b>        | s.24.76, <i>Occupational Health &amp; Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> | See Fishing Operations – Compliance with Standards (Item R24.70-1)  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 85.10 of the Prevention Division <i>Policy and Procedure Manual</i>  |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 85.10, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 85.10 was issued. |



**RE: Diving, Fishing and Other Marine Operations –  
Fishing Operations –  
General Requirements – Reporting Injuries**

**ITEM: R24.77-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 24.77 requires the master of a fishing vessel to report to the owner of the fishing vessel all injuries that required medical aid and record all injuries in the vessel log book.

### **2. The Regulation**

Section 3.19

- (1) The employer must maintain at the workplace, in a form acceptable to the Board, a record of all injuries and exposures to contaminants covered by this Regulation that are reported or treated.
- (2) First aid records must be kept for at least 3 years.
- (3) First aid records are to be kept confidential and may not be disclosed except as permitted by this Regulation or otherwise permitted by law.
- (4) First aid records must be available for inspection by an officer of the Board.
- (5) Workers may request or authorize access to their first aid records for any treatment or report about themselves.

Section 24.77:

- (1) Crewmembers must report all injuries to the master, without delay.
- (2) The master must report to the owner of the fishing vessel all injuries that required medical aid and record all injuries in the vessel log book.

## **POLICY**

Section 3.19 provides for keeping a first aid book and access to first aid records. This section must be complied with to the extent it is consistent with section 24.77, which requires the master to report injuries requiring medical aid to the owner and record all injuries in the vessel log book. The vessel log book thereby becomes the first aid book

and records required by section 3.19. Therefore, it is not necessary to keep a dual set of first aid records.

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| <b>EFFECTIVE DATE:</b>   | July 1, 2003  |
| <b>AUTHORITY:</b>        | ss.24.77, 33.6 and 33.7, <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to update Regulation provisions, consequential changes to text, delete practice reference and make formatting changes.<br>Replaces Policy No. 85.13 of the Prevention Division <i>Policy and Procedure Manual</i> . Effective July 1, 2003, a minor change was made to the policy statement, to clarify that only one set of first aid records is required. |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001/2002 "editorial" consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 85.13, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 85.13 was issued.                |

**RE: Fishing Operations –  
Slipping and Tripping Hazards****ITEM: R24.80-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 24.80 sets out certain requirements for preventing slipping and tripping hazards.

### **2. The Regulation**

Section 24.80:

- (1) All work areas must be kept
  - (a) clear of unnecessary obstructions, and
  - (b) free of slipping and tripping hazards.
- (2) Decks must have non-skid surfaces except in those locations where a smooth deck is required for handling fish.
- (3) Tools and equipment must be securely stowed when not in use.

## **POLICY**

With regard to section 24.80(1)(b), it may be impossible to keep work areas free of slipping and tripping hazards, such as when work must be done on a beach. The obligation under section 24.80(1) is to do what is reasonably practicable in the way of removing or reducing hazards, alerting crewmembers to their presence or training them to recognize them.

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| <b>EFFECTIVE DATE:</b>   | July 1, 2000  |
| <b>AUTHORITY:</b>        | s.24.80, <i>Occupational Health &amp; Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> | See Fishing Operations - Compliance with Standards (Item R24.70-1)  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 85.14 of the Prevention Division <i>Policy and Procedure Manual</i>  |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 85.14, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 85.14 was issued. |



**RE: Diving, Fishing and Other Marine Operations –  
Fishing Operations –  
General Requirements – Access and Egress**

**ITEM: R24.83-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Sections 24.83 sets out requirements for portable ladders and gangways. Section 13.2 creates a general obligation to comply with Canadian Standards Association, American National Standards Institute or Workers' Compensation Board standards for ladders, scaffolds and temporary work platforms.

### **2. The Regulation**

Section 24.83:

Every portable ladder or gangway between a fishing vessel and shore, between vessels, or when used on board a vessel must be designed and rigged to provide safe access and egress.

Section 13.2:

- (1) A ladder, window cleaner's belt or work platform must meet and be used in accordance with
  - (a) the applicable CSA or ANSI standard in effect when the equipment or structure was manufactured, except as otherwise determined by the Board,
  - (b) another standard acceptable to the Board, or
  - (c) if there is no applicable standard under paragraphs (a) or (b), the requirements of a professional engineer.
- (2) In designing and installing a work platform, appropriate safety factors and minimum rated loads must be used in the materials and method of installation, in accordance with
  - (a) *WCB Standard WPL 1, Design, Construction and Use of Wood Frame Scaffolds, 2004,*
  - (b) *WCB Standard WPL 2, Design, Construction and Use of Crane Supported Work Platforms, 2004,*

- (c) *WCB Standard WPL 3, Safety Factor and Minimum Breaking Strength for Suspended Work Platforms and Associated Components, 2004, and*
- (d) *WCB Standard LDR 1, Job Built Ladders, 2004.*

## **POLICY**

Section 24.83 does not specifically require a safe means of access. It only applies to a "portable ladder or gangway" where they are provided.

Where a portable ladder is used for access, Part 13 (Ladders, Scaffolds and Temporary Work Platforms) will be used as a guideline for determining whether it is safe.

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| <b>EFFECTIVE DATE:</b>   | January 1, 2005  |
| <b>AUTHORITY:</b>        | s.24.83, <i>Occupational Health &amp; Safety Regulation</i>  |
| <b>CROSS REFERENCES:</b> |  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>This policy incorporates portions of, and replaces, Policy No. 85.17, "Access and Egress" of the former Prevention Division <i>Policy and Procedure Manual</i> . A housekeeping change was made on December 14, 2001. Effective January 1, 2005, this policy is amended to comply with amendments to Part 13 (Ladders, Scaffolds and Temporary Work Platforms) of the <i>Occupational Health and Safety Regulation</i> made on that date. |
| <b>APPLICATION:</b>      |  |

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| <b>RE: Diving, Fishing and Other Marine Operations –<br/>Fishing Operations –<br/>General Requirements – Protection from Falling</b> | <b>ITEM: R24.84-1</b> |
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## **BACKGROUND**

### **1. Explanatory Notes**

Sections 24.84 and 24.137 set out fall protection requirements in respect of crewmembers.

### **2. The Regulation**

Section 24.84:

- (1) Crewmembers must be protected from falling overboard by means of grabrails, siderails, handrails, guardrails or personal fall protection equipment.
- (2) Crewmembers working aloft or on deck during adverse weather conditions must tie off to a lifeline to prevent falling.

Section 24.137:

Crewmembers working on the stern setting black cod traps must be tied off with a safety belt or harness, and lifeline, both meeting standards acceptable to the Board.

## **POLICY**

Section 24.84(1) is intended to stop workers from falling overboard. In applying this section, regard will be had to the particular needs of fishing operations. Guardrails need not be installed in places where they will interfere with the work process. However, if another method of preventing workers from falling overboard is practicable in this situation, it must be used.

Section 24.84(2) is intended to prevent workers from falling from a height onto a deck. A crewmember is "aloft" for the purpose of this section when he or she is more than 3 metres (10 feet) above the lowest deck to which a fall may occur.

Section 24.137 provides for fall protection in regard to trap fishing.

The rails and fall protection equipment required by sections 24.84 and 24.137 need not conform with the requirements contained in Part 11. They must, however, effectively restrain a worker from falling or arrest a fall that has occurred. In the case of fall protection equipment, it is not sufficient to tie a rope around the body. A suitable harness or belt must be used.

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| <b>EFFECTIVE DATE:</b>   | July 1, 2000  |
| <b>AUTHORITY:</b>        | ss.24.84 and 24.137, <i>Occupational Health &amp; Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 85.18 of the Prevention Division <i>Policy and Procedure Manual</i> . A housekeeping change was made on December 14, 2001.   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 "editorial" consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 85.18, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 85.18 was issued. |

**RE: Fishing Operations –  
Deck Openings****ITEM: R24.85-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 24.85 sets out requirements for deck openings and hatches.

### **2. The Regulation**

Section 24.85:

- (1) Deck openings and hatches on a fishing vessel must be
  - (a) equipped with an effective means of securing them, and
  - (b) closed and secured when it is not essential to the fishing operation that they be open.
- (2) When deck openings and hatches are required to be open for ventilation or other purposes, they must be marked and guarded.

## **POLICY**

Deck openings need not be marked and guarded when opened for short periods to gain access and egress. This need only be done where the hatch will remain open for a prolonged period or may result in a hazard.

Deck openings and hatches are considered "guarded" if a system exists that will warn crewmembers and place a physical barrier to entry, such as lines in the right places with red flags tied to them. The "guard" does not have to be capable of physically precluding the crewmember from access.

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| <b>EFFECTIVE DATE:</b>   | July 1, 2000  |
| <b>AUTHORITY:</b>        | s.24.85, <i>Occupational Health &amp; Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 85.19 of the Prevention Division <i>Policy and Procedure Manual</i>  |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 85.19, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 85.19 was issued. |

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| <b>RE: Diving, Fishing and Other Marine Operations –<br/>Fishing Operations –<br/>General Requirements – De-energization</b> | <b>ITEM: R24.86-1</b> |
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## **BACKGROUND**

### **1. Explanatory Notes**

Section 24.86 sets out requirements for the de-energization of power sources during the maintenance and repair of machinery or equipment.

### **2. The Regulation**

Section 24.86:

- (1) The maintenance and repair of machinery or equipment on board a fishing vessel must only be carried out when the power source has been de-energized and effectively secured to prevent inadvertent startup.
- (2) If it is essential that equipment remain operational during the maintenance process, the master must establish a procedure to prevent injury from contact with moving or energized parts.
- (3) The main engine must be shut off whenever a diver is conducting work underwater in proximity to the vessel.

## **POLICY**

"Maintenance" under section 24.86 has the same meaning as in Part 10, which requires that machinery be "locked out" for maintenance. "Maintenance" is defined in section 10.1 as:

work performed to keep machinery or equipment in a safe operating condition, including installing, repairing, cleaning, lubricating and the clearing of obstructions to the normal flow of material

Section 24.86 requires that de-energization be "effectively secured". There are three basic ways in which this may be done:

- the person doing the maintenance may keep the means of energizing the equipment within his or her sight and under his or her control;

- the equipment may be locked out following section 10.4; or
- if the first two methods are not practicable, other work procedures may be established that will effectively prevent the equipment being re-energized while it is being maintained.

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| <b>EFFECTIVE DATE:</b>   | July 1, 2000  |
| <b>AUTHORITY:</b>        | s.24.86, <i>Occupational Health &amp; Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 85.20 of the Prevention Division <i>Policy and Procedure Manual</i> . A housekeeping change was made on December 14, 2001.   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 85.20, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 85.20 was issued. |

**RE: Fishing Operations -  
Equipment Control Devices****ITEM: R24.87-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 24.87 sets out requirements for equipment control devices.

### **2. The Regulation**

Section 24.87:

- (1) Winches, drums, capstans, and similar equipment on board a fishing vessel must have at least one master on/off control that is readily accessible on deck.
- (2) Drum pedals and other types of hold-to-run controls must not be bypassed or otherwise rendered ineffective.

## **POLICY**

On a vessel operated by one person, section 24.87 is satisfied by the regular control switch on each piece of equipment. On vessels operated by more than one person, there must be another switch or switches away from the equipment at a central location on the deck.

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| <b>EFFECTIVE DATE:</b>   | July 1, 2000  |
| <b>AUTHORITY:</b>        | s.24.87, <i>Occupational Health &amp; Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 85.21 of the Prevention Division <i>Policy and Procedure Manual</i>  |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 "editorial" consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 85.21, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 85.21 was issued. |



**RE: Fishing Operations –  
Ventilation****ITEM: R24.90-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 24.90 requires crew spaces to be provided with adequate fresh air.

### **2. The Regulation**

Section 24.90:

All crew spaces on fishing vessels must be provided with an adequate supply of fresh air either by passive or mechanical means.

## **POLICY**

The primary purpose of section 24.90 is to prevent oxygen deficiency or a build up of carbon monoxide inside the boat when the windows and doors are closed and any devices such as heaters and engines are running.

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| <b>EFFECTIVE DATE:</b>   | July 1, 2000  |
| <b>AUTHORITY:</b>        | s.24.90, <i>Occupational Health &amp; Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 85.24 of the Prevention Division <i>Policy and Procedure Manual</i>  |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 85.24, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 85.24 was issued. |



**RE: Fishing Operations –  
Crewmember Overboard (Immersion Suits)**

**ITEM: R24.97-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 24.97 sets out requirements for immersion suits and for overboard recovery equipment and procedures.

### **2. The Regulation**

Section 24.97:

- (1) Every fishing vessel must carry, for each crewmember, one immersion suit meeting standards acceptable to the board.
- (2) The master of a vessel must ensure that there is suitable equipment on board and that procedures have been developed which will enable the prompt recovery of a crewmember overboard.

## **POLICY**

Section 24.97(1) states that a vessel must have an immersion suit for each crewmember but does not specifically state who provides them. The owner, master and crew may agree among themselves as to how compliance with section 24.97(1) is achieved. However, the Board will hold the owner or master, as appropriate in the circumstances, responsible for non-compliance, where it is found that the vessel does not carry an adequate number of immersion suits.

The following alternatives exist:

- Crewmembers may provide their own suits.

Since it is the crewmember's life that is at issue, crewmembers may prefer having their own suits to ensure they are of good quality, good fit and well maintained. This is common practice with crewmembers who fish regularly. On the other hand, a newcomer to the industry or someone who fishes irregularly may not be willing or not have funds to provide their own suit.

- The owner or master must provide good quality and proper fitting suits for all crewmembers who do not supply their own.

Any concern over crewmembers' treatment of the suits may be covered by measures such as collecting a refundable deposit or obtaining authorization to withhold from the crewmember's share of the catch the cost of repair or replacement resulting from improper use or carelessness.

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|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | July 1, 2000  |
| <b>AUTHORITY:</b>        | s.24.97, <i>Occupational Health &amp; Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 85.31 of the Prevention Division <i>Policy and Procedure Manual</i>  |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 "editorial" consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 85.31, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 85.31 was issued. |

**RE: Fishing Operations –  
Davits****ITEM: R24.98-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 24.98 sets out requirements for davits.

### **2. The Regulation**

Section 24.98:

The owner of a fishing vessel must ensure that all moveable davits are fitted with an effective locking device.

## **POLICY**

"Locking" does not mean that there has to be a lock. It means that davits must be capable of being effectively secured.

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|--------------------------|---|
| <b>EFFECTIVE DATE:</b>   | July 1, 2000  |
| <b>AUTHORITY:</b>        | s.24.98, <i>Occupational Health &amp; Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 85.32 in the Prevention Division <i>Policy and Procedure Manual</i>  |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 "editorial" consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 85.32, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 85.32 was issued. |



**RE: Fishing Operations –  
Ozone Generators****ITEM: R24.100-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 24.100 sets out requirements for ozone generating equipment.

### **2. The Regulation**

Section 24.100:

The owner of a fishing vessel must ensure that ozone generating equipment is installed and operated in accordance with standards acceptable to the board.

## **POLICY**

Section 24.100 does not require that the equipment be installed. The intent is only to set a standard for when the owner chooses to install it.

The equipment must, as far as is practicable, be installed in accordance with the Board's Manual of Standard Practice on Ozone.

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| <b>EFFECTIVE DATE:</b>   | July 1, 2000  |
| <b>AUTHORITY:</b>        | s.24.100, <i>Occupational Health &amp; Safety Regulation</i>  |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 85.34 of the Prevention Division <i>Policy and Procedure Manual</i>  |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 "editorial" consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 85.34, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 85.34 was issued. |



**PART 26****FORESTRY OPERATIONS**

Part 26 of the *Occupational Health and Safety Regulation* sets out requirements relating to:

- general matters;
- falling and bucking;
- yarding and skidding;
- landings and log dumps;
- hauling;
- roads and road maintenance; and
- water operations.



**RE: Forestry Operations –  
General Requirements – Dangerous Trees  
(Removal Prior to Silviculture Activities)**

**ITEM: R26.11-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 26.11 sets out the requirements for removal of dangerous trees where forestry operations are taking place.

### **2. The Regulation**

Section 26.1:

*“dangerous tree”* means a tree that is a hazard to a worker due to

- (a) its location or lean,
- (b) its physical damage,
- (c) overhead conditions,
- (d) deterioration of its limbs, stem or root system, or
- (e) any combination of the conditions in paragraphs (a) to (d);

Section 26.11:

- (1) If it is known or reasonably foreseeable that work will expose a worker to a dangerous tree,
  - (a) the tree must be felled, or
  - (b) a risk assessment of the tree must be undertaken by a person who has completed a training program acceptable to the Board.
- (2) If a risk assessment under subsection (1) determines that a tree poses a risk to a worker, the recommendations made in the risk assessment for eliminating or minimizing the risk must be implemented before the work referred to in that subsection starts.

- (3) Despite subsections (1) and (2), if work in a forestry operation is to be carried out in an area that has more than 500 dangerous trees per hectare, the Board may approve a request to work without felling or assessing all the dangerous trees if, before the work starts,
- (a) a person who has completed a training program acceptable to the Board conducts a risk assessment of a representative sample of the dangerous trees, and
  - (b) any recommendations made in the risk assessment for eliminating or minimizing the risks are implemented.

## **POLICY**

Silviculture activities include tree planting, juvenile spacing, tree thinning, surveys, cone collecting, brush or weed control and chemical use in tree thinning practices.

Except where section 26.11 applies, the responsibility for ensuring that dangerous trees are removed rests with the B.C. Ministry of Forests, owner, licensee or contractor responsible for the work. The felling of dangerous trees is not to be carried out in conjunction with silviculture activities. Dangerous tree removal must be undertaken before silviculture workers are permitted into the hazard area. It is also the B.C. Ministry of Forests, owner, licensee or contractor's responsibility to ensure all falling activities are carried out by trained and competent fallers. Failure to comply with these requirements will result in orders being issued on the B.C. Ministry of Forests, owner, licensee, or contractor.

This policy does not relieve any sub-contractor of responsibility for compliance with the *Regulation*.

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| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | s.26.11, <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> | s.118, <i>Workers Compensation Act</i> , ss.26.2 and 26.21, <i>Occupational Health and Safety Regulation</i>  |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to update Regulation provisions and consequential changes to text, delete practice reference and make formatting changes.<br>Replaces Policy No. 60.14 of the Prevention Division <i>Policy and Procedure Manual</i>  |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 "editorial" consolidation of all prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 60.14, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 60.14 was issued. |

**RE: Forestry Operations –  
Roads and Road Maintenance –  
Haul Road Standards (Maintenance of Forest Roads)**

**ITEM: R26.79-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 26.79 sets out requirements for maintenance and construction of roads used to transport workers and forest products in forestry operations.

### **2. The Regulation**

Section 26.79:

Roads, bridges, elevated platforms, and other structures used by vehicles transporting workers, logs or other forest products in forestry operations must be constructed and maintained to a standard which will permit safe transit.

## **POLICY**

Each industrial user of a forest road must have a permit from the B.C. Ministry of Forests (MOF). Responsibility for maintenance of forest roads will be assigned by MOF to one or more holders of such permits. Where it is not known which permit holders are responsible for maintenance of a portion or all of a forest road, this information can be obtained from the district office of the MOF.

Officers of the Board will issue orders to the permit holder(s) responsible for maintenance of a forest road if road conditions are creating a danger to workers. The orders will require the correction or control of the unsafe condition and, if necessary, restrict use of the road until the danger is controlled or eliminated.

Each employer is responsible for ensuring the safe travel of any of its equipment on any forest road or haul road system.

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| <b>EFFECTIVE DATE:</b>   | April 1, 2001   |
| <b>AUTHORITY:</b>        | s. 26.79, <i>Occupational Health and Safety Regulation</i>  |
| <b>CROSS REFERENCES:</b> |   |
| <b>HISTORY:</b>          | Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.<br>Replaces Policy No. 60.226 of the Prevention Division <i>Policy and Procedure Manual</i>   |
| <b>APPLICATION:</b>      | This Item results from the 2000/2001 “editorial” consolidation of all Prevention policies into the <i>Prevention Manual</i> . The POLICY in this Item merely continues the substantive requirements of Policy No. 60.226, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 60.226 was issued. |

**RE: Forestry Operations –  
Water Operations – Boat Equipment  
(Towline Guards and OPS for Boom Boats)**

**ITEM: R26.86-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 26.86(1)(c) and (d) sets out requirements for suitable cabins, screens or guards in certain circumstances for operators of boats used in or about a forestry operation.

### **2. The Regulation**

Section 26.86(1) in part:

A boat must be equipped with

...

- (c) suitable cabins, screens or guards to protect operators against injury from towline breakage if the boats are regularly required to pull logs, booms or barges,
- (d) suitable cabins, screens or guards meeting the requirements of *WCB Standard G606, Boom Boat Operator Protective Structures* if operators are subject to injury from logs or limbs intruding into the control area ....

## **POLICY**

Towline guards are only required on boats used primarily for towing.

Operator Protective Structures (OPS) are only required on boats used to break “jackpots”. Jackpots are piles of logs resulting from self-dumping barges.

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|--------------------------|--|
| <b>EFFECTIVE DATE:</b>   | April 1, 2001  |
| <b>AUTHORITY:</b>        | s. 26.86(1)(c) and (d), <i>Occupational Health and Safety Regulation</i>   |
| <b>CROSS REFERENCES:</b> |  |
| <b>HISTORY:</b>          | <p>Housekeeping changes effective September 15, 2010 to delete practice reference and make formatting changes.</p> <p>Housekeeping changes were made on March 1, 2005 to reflect the October 29, 2003 changes to the <i>Occupational Health and Safety Regulation</i> (“OHSR”). This Item originally replaced Policy No. 60.260(6) and (7) of the former Prevention Division <i>Policy and Procedure Manual</i>. Effective October 29, 2003, the reproduction of section 26.86(1)(d) of the <i>OHSR</i> in this Item was revised to reflect its amendment.</p> <p>This Item results from the 2000/2001 “editorial” consolidation of all Prevention policies into the <i>Prevention Manual</i>. The POLICY in this Item merely continues the substantive requirements of Policy No. 60.260(6)&amp;(7), as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 60.260(6)&amp;(7) was issued.</p> |
| <b>APPLICATION:</b>      | This policy applies to towline guards and operator protective structures for boom boats on and after April 1, 2001.  |

**PART 30**  
**LABORATORIES**

Part 30 of the *Occupational Health and Safety Regulation* sets out requirements relating to:

- general matters; and
- specific substances and procedures.



**RE: Laboratories –  
General Requirements – Fume Hoods  
(Ventilation Systems)**

**ITEM: R30.8-1**

## **BACKGROUND**

### **1. Explanatory Notes**

Section 30.8 sets out the general requirements relating to fume hoods in laboratories.

### **2. The Regulation**

Section 30.8:

- (1) A laboratory fume hood and its related ductwork must be designed, installed and maintained in accordance with the *Industrial Ventilation, A Manual of Recommended Practice*, published by the American Conference of Governmental Industrial Hygienists, as amended from time to time.
- (2) A laboratory fume hood must
  - (a) be connected to a local exhaust ventilation system,
  - (b) provide average face velocities of 0.4 m/s (80 fpm) to 0.6 m/s (120 fpm) across the operational face opening,
  - (c) not have face velocities of less than 80% of the average face velocity required in paragraph (b) at any point across its operational face opening, and
  - (d) not have face velocities of more than 120% of the average face velocity required in paragraph (b) at any point across its operational face opening.
- (2.1) A laboratory fume hood must have a sash that is positioned to protect the upper body and face of a worker working in the laboratory fume hood from accidental releases of the contents of the hood while allowing hand and arm access to equipment inside the hood.
- (2.2) A laboratory fume hood with a movable sash must be clearly marked to identify the maximum size of the operational face opening that will maintain the average face velocities required in subsection (2) (b).

- (2.3) The employer must ensure
  - (a) that before it is used, a commercially manufactured laboratory fume hood has been certified as being tested by the manufacturer, and
  - (b) following installation and before it is used, a custom built laboratory fume hood is tested on site by a qualified person.
- (2.4) A laboratory fume hood tested under subsection (2.3) must demonstrate containment not greater than the control level of 0.05 ppm when tested under "as manufactured " test conditions in accordance with the methods described in ANSI/ASHRAE Standard 110-1995, Method of Testing Performance of Laboratory Fume Hoods.
- (2.5) The installation of a laboratory fume hood must be certified by a professional engineer.
- (3) A laboratory fume hood must be located to prevent cross drafts or other disruptive forces from lowering the air flow across the operational face opening to unacceptable levels.
- (4) A laboratory fume hood and its ductwork must be constructed from materials compatible with its use.
- (5) A laboratory fume hood that will be or is being used for working with
  - (a) radioactive material in amounts that exceed the exemption quantity specified by the Canadian Nuclear Safety Commission, or
  - (b) perchloric acidmust be clearly labelled with applicable restrictions on its use.
- (6) A laboratory fume hood must not be used for storage of chemicals unless it is used exclusively for this purpose and is labelled with this limitation.
- (7) Controls for the operation of a laboratory fume hood and its service fixtures must be
  - (a) located on the outside of the laboratory fume hood, and
  - (b) immediately accessible to the worker conducting work in the laboratory fume hood.
- (8) Despite subsection (7), water taps may be located inside a laboratory fume hood if the main shutoff valve for the water is located outside the laboratory fume hood.

- (9) Equipment being used in a laboratory fume hood must
  - (a) be kept at least 15 cm (6 in.) from the operational face opening of the laboratory fume hood, and
  - (b) not adversely affect airflow into the laboratory fume hood.
- (10) Written procedures must be developed and implemented to ensure safe use and operation of a laboratory fume hood.

**Section 30.9:**

- (1) Face velocities over the operational face opening of a laboratory fume hood must be quantitatively measured and recorded.
- (2) The ability of a laboratory fume hood to
  - (a) maintain an inward flow of air across the operational face opening, and
  - (b) contain contaminantsmust be assessed and recorded using a smoke tube or other suitable qualitative method.
- (3) The actions described in subsections (1) and (2) must be performed
  - (a) after the laboratory fume hood is installed and before it is used,
  - (b) at least once in each 12 month period after installation, and
  - (c) after any repair or maintenance that could affect the air flow of the hood.
- (4) If a laboratory fume hood is found to be operating with an average face velocity of less than 90% of the average face velocity required in section 30.8 (2), the employer must immediately take corrective action to bring the average face velocity within the required range of velocities.
- (5) Airflow in a laboratory fume hood must be monitored continuously if loss of airflow will result in risk to a worker.
- (6) A laboratory fume hood that is being installed must have an alarm capable of indicating when the average face velocity falls below the minimum average face velocity level required in section 30.8 (2) when the hood is in use.

## **POLICY**

Section 30.8(2) specifies fume hood exhaust ventilation rates in terms of air velocities measured over the operational face area of the hood. The operational face area is determined by the height of the sash and will vary with the work carried out in the fume hood.

The air velocity is the average of measurements made over 6 points at the operational face of the hood with the sash raised to its highest position. A calibrated anemometer must be used.

If the measured average velocity is less than specified in section 30.8(2), repeated measurements must be made with the sash lowered successively until the specified average air velocity is attained. The sash height where this is determined must be marked in accordance with section 30.8(2.2). The minimum sash height is 12 inches.

If the fume hood cannot be used at the height determined above, modification is required to improve the ventilation so the specified air velocities are maintained at the sash height required for the work performed in the fume hood.

Smoke tube tests must be done to determine whether conditions of air turbulence exist at the face of the hood. If conditions of severe turbulence exist so that air spills out past the hood face, the condition must be corrected.

When a sash height adjustment is necessary on a fume hood that is part of a manifolded system (several hoods serviced by a single exhaust fan), all fume hoods in the system must be rechecked at the completion of the adjustments to ensure face velocity compliance (this operation may have to be repeated several times before compliance is achieved).

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**EFFECTIVE DATE:** April 1, 2001  
**AUTHORITY:** ss. 30.8 and 30.9, *Occupational Health and Safety Regulation*  
**CROSS REFERENCES:**

**HISTORY**

Housekeeping changes effective October 14, 2011 to reflect a change in the regulation to make alarms mandatory.

Housekeeping changes effective September 15, 2010 to update Regulation provisions and consequential changes to text, delete practice reference and make formatting changes.

This Item resulted from an editorial consolidation of prevention policies into the *Prevention Manual*, which was effective on October 1, 2000.

The Policy in this Item continued the substantive requirements that existed before the consolidation, with any wording changes necessary to reflect legislative and other changes that have occurred. Policy No. 76.05 in the former Prevention Division *Policy and Procedure Manual* was replaced by this Item. A housekeeping change was made on December 14, 2001. A cross-reference correction was made on March 30, 2004 to reflect regulatory amendments relating to occupational exposure limits, effective October 29, 2003.

**APPLICATION:**

The application of this policy remains unchanged from its previous authority under Policy No. 76.05 of the former Prevention Division *Policy and Procedure Manual*.



## **APPENDIX 1**

### **RETIRED DECISIONS FROM VOLUMES 1 – 6 (DECISIONS NO. 1 – 423) OF THE *WORKERS' COMPENSATION REPORTER***

The Board of Directors Bylaw re: Policies of the Board of Directors lists the policy manuals and other documents that are policies for purposes of the *Workers Compensation Act*. Included in the list are Decisions No. 1 – 423 in volumes 1 – 6 of the *Workers' Compensation Reporter*. These Decisions consist, for the most part, of decisions made by the former commissioners on various matters between 1973 and 1991.

In order to reduce the number of sources of policies, a strategy has been approved for consolidating Decisions No. 1 – 423 into the various policy manuals, as appropriate, and “retiring” the Decisions over time.

“Retire” for this purpose means that, as of the “retirement date”, the Decision is no longer current policy under the Board of Directors Bylaw.

“Retiring” does not affect a Decision’s status as policy prior to the date it was “retired”. A “retired” Decision therefore applies in decision-making on historical issues to the extent it was applicable prior to the “retirement date”. “Retiring” also does not affect the disposition of any individual matters dealt with in a Decision.

Please note that:

- As of January 1, 2010, only one Decision from Volumes 1 – 6 of the *Workers' Compensation Reporter* remains to be retired: No. 231. This Decision deals with a compensation matter (osteoarthritis of the first carpo-metacarpal joint) and will be addressed in the near future.
- Policy decisions of the former Governors and the former Panel of Administrators still in effect immediately before February 11, 2003 are numbered similarly to Decisions No. 1 – 423. Many decisions of the former Governors and the former Panel of Administrators remain policies of the Board of Directors, and have not been retired.

