

DISCUSSION PAPER

1. TITLE

Draft 2010 – 2012 Compensation, Occupational Disease and Assessment Policy Priorities Workplan

2. ISSUE

At issue is the draft 2010 – 2012 compensation, occupational disease and assessment policy priorities workplan for stakeholder review and comment.

3. OVERVIEW

3.1 2009 Workplan Overview

As of October 2009, the Compensation and Assessment Policy Department of the Policy and Research Division (“PRD”) completed the following projects related to compensation, occupational disease and assessments:

- Classification Policy – Annual Decision Cycle
- Mental Stress – Court of Appeal Decision
- Claims Management Solutions – Board Officer and Other Reference & Forms Redesign
- Short-Term Average Earnings for Variable Shift Workers
- Calculating the Short-term Average Earnings of Workers Participating in Non-WorkSafeBC Return to Work Programs
- Colonoscopy Testing for Firefighters

It is anticipated that the following policy projects will be referred to the Board of Directors (“BOD”) for decision in the last quarter of 2009.

- Notification of Decisions – Policy Item #99.20
- Re-openings Over Three Years – Policy Item #70.20

Considerable work has also been undertaken during 2009 on the following projects which are scheduled for referral to the BOD for decision in the first quarter of 2010:

- Bronchogenic Cancer in Asbestos Exposed Workers – Schedule B
- Enhancement/Devaluation of Permanent Disability Awards – Policy Items #39.12 and #39.13
- Room & Board – Policy Item #68.22
- Retirement of *Workers’ Compensation Reporter* Decision No. 99

3.2 2010 – 2012 Workplan Priorities

TAB A of this paper contains the draft 2010 – 2012 compensation and occupational disease workplan. TAB B contains the draft assessments workplan.

The items outlined in the draft workplans were identified from a number of sources, including:

- Board of Directors;
- Senior Executive Committee of WorkSafeBC (“WCB”);
- Stakeholders;
- WCB Operating Divisions;
- Review Division and Workers’ Compensation Appeal Tribunal (“WCAT”) decisions;
- Other jurisdictions; and
- Other sources such as the results of scientific reviews.

The 2010 key priorities for the Compensation and Assessment Policy Department of the PRD include the following:

- Completion of the Chapter 10, Medical Assistance re-write;
- Chronic Pain – Review of Policy Items #22.35 and #39.02;
- Review of the Permanent Disability Evaluation Schedule (“PDES”);
- Duration of Permanent Disability Periodic Payments;
- Workplace Status; and
- Activity Related Soft Tissue Disorder Policy Reviews.

It is anticipated that as in prior years, issues will arise during the year that will require immediate attention and will result in a shifting of work priorities.

4. CONSULTATION

Stakeholders are invited to provide feedback on the draft workplans, and any additional comments that may be relevant to the issue.

Stakeholder comments will be accepted until **November 16, 2009**. When responding, please provide your name, organization, and address. Comments may be sent by mail, fax or e-mail to:

By e-mail: policy@worksafebc.com

By mail: Susan Hynes
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By fax: (604) 279-7599

WorkSafeBC's governing body, the Board of Directors, will consider the opinions expressed by stakeholders before it adopts the proposed workplan.

Please note that all comments become part of the Policy and Research Division's database and may be published, including the identity of organizations and those participating on behalf of organizations. The identity of those who have participated on their own behalf will be kept confidential according to the provisions of the *Freedom of Information and Protection of Privacy Act*.

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Policy and Research Division

2010 – 2012 Policy Priorities

Compensation and Occupational Disease Policy Workplan

1. Medical Assistance, Re-write of Chapter 10 of the *RS&CM* – 2009/2010

This project involves a review of the 87 policies contained in Chapter 10 of the *Rehabilitation Services and Claims Manual*, Volume II ("*RS&CM*"). The re-write of the Chapter 10 policies consists of putting the policies into the new format and addressing various issues that have been raised, such as:

- Other Health Care Providers – re-writing policy to reflect changes to health care services provided to workers, such as physiotherapy, acupuncture and massage therapy.
- The Prescription of Narcotics and Other Drugs of Addiction – review of the current policy to ensure that it reflects the latest medical and scientific information.
- Respite Care – guidance on the provision of respite care is required.
- Review of discretionary allowances and benefits provided to injured workers, such as:
 - (i) those provided to seriously injured workers;
 - (ii) those regarding travel expenses and subsistence, related to workers' receipt of health care; and
 - (iii) those related to childcare and homemaker services.

Considerable work has been undertaken on this project and it is anticipated that draft proposed policies will be released for stakeholder consultation in the first quarter of 2010.

2. Notification of Decisions – Policy item #99.20 of the *RS&CM* – 2009

Policy item #99.20 of the *RS&CM* sets out when WorkSafeBC is required to provide written notification of a decision. Written notification is currently provided where a decision is adverse to the worker or an employer has protested a decision to allow a claim. Where a claim is allowed and there is no protest from the employer, the policy provides that no written decision is required.

An issue is whether a decision has to be documented and/or communicated to the affected parties in some form before it can be considered to have been "made" for the purposes of the reconsideration and appeal provisions of the *Workers Compensation Act* ("*Act*"). A secondary issue is the distinction between the terms "reject" and "disallow", which has created some confusion among officers and has led to incorrect coding of claims.

Consultation on this project will be concluded in October. This project is scheduled to be referred to the Board of Directors ("BOD") for decision in December 2009.

3. Reopenings Over Three Years – Policy item #70.20 of the *RS&CM* – 2009

Section 32(1) of the *Act* provides that, where there is a recurrence of a temporary disability after a lapse of three years following the occurrence of the injury, WorkSafeBC may calculate the compensation as if the recurrence was the happening of the injury.

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This project involves a review of policy item #70.20 to ensure it is consistent with the wording of section 32(1) of the *Act*. This project will also include a review of the application of the policy to persons with personal optional protection.

Consultation on this project will be concluded in October. This project is scheduled to be referred to the BOD for decision in December 2009.

4. Compensation for Bronchogenic Carcinoma (Lung Cancer) in Asbestos Exposed Workers – 2009/2010

Schedule B item #4(a) provides a presumption of work causation in favour of a worker who has developed a primary site lung cancer which is associated with either asbestosis or bilateral diffuse pleural thickening, or fibrosis measuring a specified size.

At issue is whether these descriptions are current and supportable based on the most current medical science. Another issue is whether WorkSafeBC should consider the recognition of primary site lung cancers in workers who have had significant exposures to asbestos in British Columbia, but who do not display radiographic evidence of benign asbestos-related pleural or lung disease. This second issue has arisen out of recent studies and reports including the "Report by the Industrial Injuries Advisory Council" (United Kingdom) dated July 2005.

In October 2006, the Research Secretariat released a request for proposals for a systematic review of available literature on bronchogenic carcinoma (Lung Cancer) in asbestos exposed workers. The results of this review will form the basis for a comprehensive analysis and development of WorkSafeBC policy options that could be applied in the adjudication of lung cancer claims.

Consultation on this project is currently underway and it is scheduled for decision in the first quarter of 2010.

5. Claims Management Solutions ("CMS") System – 2010

It is anticipated that issues will be identified as part of the ongoing development of CMS which will require policy guidance and policy development in order to improve delivery of claims services, increase consistency in decision-making, and enhance business and application efficiency.

6. Enhancement/Devaluation – 2009/2010

This policy project will involve a review of policy items #39.12 and #39.13 of the *RS&CM*. Policy item #39.12 provides that a permanent partial disability award *may be* increased ("enhanced") in certain situations, for example, injuries in both arms, or injuries in both legs. Policy item #39.13 directs that a permanent partial disability award *must be* decreased ("devaluation") when there are multiple injuries existing alongside each other in the same part of the body, for example, multiple injuries to one leg.

The Workers' Compensation Appeals Tribunal ("WCAT") has taken a different approach to the application of these policies. At issue is whether these policies should be clarified to ensure consistent application.

This issue is scheduled for referral to the Board for approval to consult in December of 2009.

7. Chronic Pain – Policy Items #22.35 and #39.02 of the *RS&CM* – 2010

The policies with respect to chronic pain have been in effect since January 1, 2003. A review of these policies is underway in order to evaluate their effectiveness and to improve consistency in the adjudication and management of chronic pain. To date, the following issues have been identified for clarification:

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- whether the current fixed 2.5% loss of function award for chronic pain is appropriate;
- how compensation should be provided when chronic pain occurs at multiple sites on the body;
- whether a Pain Disorder diagnosed under the *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision* (“DSM-IV-TR”) should be adjudicated as a claim for chronic pain, or as a distinct psychological disability, using the permanent psychological disability schedule; and
- whether the terminology used in the current policies is appropriate.

8. Duration of Permanent Disability Periodic Payments – Policy Item #41.00 of the RS&CM – 2010

On January 1, 2008, amendments were made to the *Human Rights Code* to eliminate mandatory retirement in British Columbia. A new provision was also added that allows for distinction on the basis of age, where the distinction is permitted or required by another Act or Regulation. An example of this is section 23.1 of the *Workers’ Compensation Act* which contains statutory limits on the duration of compensation payments based on age.

Policy item #41.00 provides guidance on the evidence required to determine whether a worker would have continued to work past age 65. At issue is a review of the policy language to ensure that it is appropriate given the changes to the *Human Rights Code*.

9. Provisional Rate – Policy Item #65.04 of the RS&CM – 2010

This policy provides guidance on when to establish a provisional wage rate in situations where there is a delay in obtaining information required to make a decision about a worker’s average net earnings. When WorkSafeBC sets a provisional rate on a claim, this is a preliminary determination pending receipt of further information required to determine a worker’s average net earnings.

Concerns have been raised that provisional rates are not being considered in situations where WorkSafeBC is determining a worker’s the long-term average net earnings at the 10-week point of a claim. At issue is a review of the policy to consider whether additional guidance is required on when a provisional wage rate may be set.

10. Room & Board – Policy Item #68.22 of the RS&CM – 2009/2010

This policy provides guidance on when to include the dollar value of room and board in average earnings. Situations have arisen where the provision of room and board changes during the claim and after 75 days has elapsed from the date of the original wage loss decision. This is creating adjudicative problems as workers seek a reconsideration of the original wage loss decision.

At issue is a review of policy item #68.22 to ensure that it is consistent with section 96(5) of the *Act* which provides that the WCB may not reconsider a decision or order if more than 75 days have elapsed since the decision or order was made.

This issue is scheduled for referral to the BOD for approval to consult in December of 2009.

11. Experience Rating Exclusions for Subsequent Non-Compensable Incidents – 2010

Policy item #34.55, *Subsequent Non-Compensable Incidents*, was created as part of the policy project to review Chapter 3 in the *RS&CM*, Volume II, to replace policy item #22.14, *Treatment Unrelated to Injury*. It comes into effect on July 1, 2010. The new policy defines “subsequent non-compensable incident” and

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directs WorkSafeBC to estimate when a worker's disability resulting from a compensable injury (and therefore the worker's wage-loss benefits) would end, if he or she is disabled when a subsequent non-compensable incident occurs.

When the estimated date for terminating wage-loss benefits arrives, if the worker is still disabled, WorkSafeBC makes a new decision as to whether the disability, or increased disability, is due to the compensable injury or the subsequent non-compensable incident. If the disability is due to the compensable injury, WorkSafeBC may continue to pay wage-loss benefits, even if the reason for the continued disability from the compensable injury is that the subsequent non-compensable incident has delayed the worker's recovery.

At issue is whether an experience rating adjustment under section 42 of the *Act* should be made for employers whose workers' disability from a compensable injury is aggravated, or recovery is delayed, by a subsequent non-compensable incident.

12. Mental Stress and *Government Employees Compensation Act* (“*GECA*”) – 2010

GECA provides direction on the provision of workers' compensation for federal government employees. Under *GECA*, compensation is paid to employees who are caused personal injury by an accident arising out of and in the course of employment or who are disabled by reason of an industrial disease due to the nature of the employment. *GECA* does not include a specific entitlement provision on mental stress.

Recent appeal court decisions from the Atlantic Provinces have concluded that the ordinary reading of the definition of accident under *GECA* is sufficiently broad enough to include gradual onset stress. The Review Division has considered the issue of *GECA* and gradual onset stress in four recent appeals. In all cases, the Review Division supported the views taken in the appeal courts decisions referenced above.

At issue is whether specific policy direction is required to guide the adjudication of *GECA* claims for gradual onset stress.

13. Tinnitus – 2010

Policy item #31.00, *Hearing Loss*, of the *RS&CM* provides that tinnitus alone is not considered a condition for which a permanent disability award can be granted. However, tinnitus in combination with a permanent degree of hearing loss may have an impact on a worker's employability and affect the amount of the resulting award.

At issue is a review of the current medical and scientific literature related to this condition to determine whether the current policy is appropriate. The PRD has received a systematic review of the medical and scientific literature on this issue. The systematic review is currently undergoing peer review. The PRD expects to receive the peer review report in November of 2009. Based on the findings of the scientific reviews, policy development may be required.

14. Carpal Tunnel/Cubital Tunnel Review – 2010

Activity related soft tissue disorder (“ASTD”) claims are difficult to adjudicate. Certain ASTDs are recognized under Schedule B of the *Act*, for example shoulder or knee bursitis, while others are set out in policy, such as carpal tunnel syndrome.

At issue is a review of the ASTD policies to ensure that they are consistent with medical science and to improve consistency in decision-making. This review will be undertaken in stages, beginning with a review of the carpal tunnel and cubital tunnel policies.

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The Research Secretariat is funding a systematic review on the causal relationship between work-related activities and the development of upper limb nerve entrapment disorders such as carpal tunnel and/or cubital tunnel syndrome. It is anticipated that the systematic review will be completed in late 2009.

Following receipt of the systematic review, policy review will be undertaken to determine what, if any, changes are required to policy items #27.32, *Carpal Tunnel Syndrome* and #27.33, *Other Peripheral Nerve Entrapments and Stenosing Tenovaginitis* of the *RS&CM*.

15. Permanent Disability Evaluation Schedule (“PDES”) – 2010/2011

At issue is the ongoing review of the percentages listed on the PDES to ensure that the PDES remains current with emerging medical and scientific knowledge. This issue is complex and will require considerable research and analysis including significant cross-jurisdictional analysis of schedules, methods of application and scientific bases. Included in this project will be a review of the Additional Factors Guidelines to ensure it is also medically current and clear enough to ensure consistency in application.

16. Average Earnings, Chapter 9 of the *RS&CM* – 2010/2011

This project is part of the overall plan to redevelop the *RS&CM*, Volume II on a chapter by chapter basis. This project will involve putting the policies into the new format, conducting a review of the Chapter 9 policies on average earnings as a whole and addressing various issues that have been raised, such as:

- Review of policy item #65.02, *Workers with Two Jobs*, to determine if clarification is required with respect to calculation of wage rates for persons with two jobs. In addition, a review of policy item #35.22, *Calculation of Earnings for Workers with Two Jobs*, is required to ensure that the two policies are consistent.
- Consideration of whether additional policy guidance is required with respect to calculation of long-term average earnings for workers with multiple employment where more than one of the average earnings exceptions appears to be applicable.

17. Skin Cancer – 2010/2011

Skin cancer is the most commonly diagnosed form of cancer. Schedule B item #4(g) provides a presumption of work causation in favour of a worker who has developed a primary site skin cancer where there is prolonged contact with coal tar products, arsenic, cutting oils or prolonged exposure to solar ultraviolet light.

At issue is whether this description is current and supportable based on the most current medical science. Another issue is whether the specific types of skin cancer should be set out in Schedule B. A systematic review of the medical science will be undertaken as part of this project.

18. Osteoarthritis of the First Carpo-Metacarpal Joint in Physiotherapists – Policy Item #26.02 of the *RS&CM* – 2010

Policy item #26.02 addresses the recognition of an occupational disease under section 6(4.2) of the *Act* as a “disease that is peculiar to or characteristic of a particular process, trade or occupation”. To date, only one disease has been recognized in this manner – osteoarthritis of the first carpo-metacarpal joint in physiotherapists who perform deep friction massage.

Policy item #26.02 states that this recognition is limited to factual situations substantially the same as those applied to the worker in *Workers’ Compensation Reporter (“WCR”) Decision No. 231*, dated February 9, 1977. *WCR Decision No. 231* is one of two remaining *WCR Decisions* that have yet to be retired from policy status. The general reference in policy item #26.02 to *WCR Decision No. 231* is

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problematic, as accessibility to old *WCR* Decisions is limited. The old *WCR* has not been published in over ten years, nor is it available electronically.

At issue is a review of the scientific and medical literature related to this condition to determine whether the current recognition is current and supportable. This project will also facilitate the retirement of the related *WCR* Decision. A medical and scientific literature review is currently underway.

19. Suspension of Benefits – 2010/2011

Sections 57(2) and 57.1(2) of the *Act* give WorkSafeBC the authority to reduce or suspend compensation to a worker in certain situations of worker noncompliance. Current policy does not provide sufficient guidance to determine whether the resumption of full benefits (after a suspension is lifted) includes retroactive entitlement to the benefits that were reduced or suspended. Policy is also silent with respect to the type or extent to which compensation is to be reduced or suspended.

20. Tendinosis – 2010/2011

This project is being undertaken as part of a larger review of the ASTD policies.

Schedule B lists “Hand-wrist tendinitis, tenosynovitis (including deQuevain’s tenosynovitis)” and “Shoulder tendinitis” as occupational diseases. Policy item #27.12 of the *RS&CM* confirms that a claim made by a worker diagnosed with hand-wrist tendinitis/tenosynovitis or with shoulder tendinitis where no specific event or trauma, or series of events or traumas, has occurred, will be treated as a disease and adjudicated in accordance with policies in Chapter 4 of the *RS&CM*. The policy item provides the guiding principles when interpreting Schedule B. As well, the policy details risk factors typically associated with these conditions to assist in determining whether it is biologically plausible that the hand-wrist tendinitis/tenosynovitis has resulted from the work activities.

It appears that there is a growing acceptance of the condition “tendinosis” in the medical community. As a result, WorkSafeBC is receiving an increasing number of medical reports where the diagnosis is tendinosis. An ‘itis’ condition is characterized by inflammation and typically will heal within 6 weeks. However, tendinosis is considered a chronic deterioration of the tendon and does not necessarily have the same risk factors or treatment protocols as tendinitis.

At issue is whether WorkSafeBC should recognize tendinosis as an occupational disease and whether policy should be developed to provide guidance on the risk factors and treatment protocols for tendinosis. A systematic review of the medical science will be undertaken as part of this project.

21. Multiple Sclerosis as a Compensable Consequence – 2010/2011

Policy item #22.31, *Multiple Sclerosis*, of the *RS&CM* includes the following statements, “While the cause of multiple sclerosis is unknown, there has been much medical literature on factors which may precipitate the onset of the disease in an already predisposed person. One of these factors is traumatic injury.”

This policy project will involve a review of the current medical and scientific literature with respect to whether multiple sclerosis may be caused by a traumatic injury.

22. Aggravation of a Disease – Policy Item #26.55 of the *RS&CM* – 2010

Policy item #26.55 provides guidance with respect to compensability for a disability resulting from an aggravation of a pre-existing disease by a work activity. A concern has been raised that the policy is unclear as to whether certain diseases should be excluded, such that any worsening of the condition would not be considered compensable or whether there is a requirement for the pre-existing disease to

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be recognized as an “occupational disease” by WorkSafeBC. If it need not be a recognized occupational disease, additional guidance may be required as to when the aggravation is compensable.

23. Retirement of WCR Decision #99 – 2010

This project is part of a larger project to retire the WCR Decisions from policy status. At issue is a review of Decision No. 99, *Re Degeneration of the Spine*, to determine whether this decision should be retired.

24. Whole Body Vibration – Policy Item #26.50 of the RS&CM – 2011

The Worker and Employer Services Division has requested policy direction regarding the possible relationship between occupational exposure to Whole Body Vibration (“WBV”) and back injuries/disorders. There are conflicting views in the medical literature as to whether there is a causal link between WBV and certain back disorders.

Policy item #26.50 provides that disability can occur due to natural aging processes. Where degeneration results from multi-factoral causes, it is difficult for WorkSafeBC to measure or determine whether the occupation had any significant effect in advancing the pace of the degeneration compared with other occupations.

For a disability to be compensable, evidence must establish that the work activity brought about a disability that would probably not otherwise have occurred, or that the work activity significantly advanced the development of a disability that probably would have occurred later.

This project will involve a review of the scientific and medical literature on back disorders in workers exposed to whole body vibration. The results of this review will form the basis for a comprehensive analysis and development of policy options for stakeholder consultation.

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Policy and Research Division

2010 – 2012 Policy Priorities

Assessment Policy Workplan

1. Workplace Status – 2010/2011

In 2007 the Board of Directors' approved changes to the workplace status policies in the Assessment Manual that guide the determination of whether an individual is a worker, employer or independent operator. These policy changes were scheduled to come into effect on January 1, 2010.

Employer stakeholders have continued to express significant concerns regarding the impact of the policy changes on business relationships and activities. In addition, the Assessment Department has raised significant concerns regarding the challenges in implementing the policy changes.

Given these concerns, as well as concerns that assessment policy is not well positioned to address workplace health and safety issues, the Board of Directors' decided at their September 15, 2009 meeting to rescind the policy changes. The Policy and Research Division has been directed to undertake additional analysis on the issues and develop a discussion paper and draft policy which focuses on addressing the assessment issues. Specifically challenges relating to the labour contractor policy would be addressed.

2. Exemption of Principals – 2010/2011

WorkSafeBC policy applies the rule of corporate law that a corporation is a separate legal entity from its shareholders and principals. Employer stakeholders have expressed concern that application of this rule may result in inequities in the workers' compensation system. At issue is a review of the implications of WorkSafeBC's treatment of principals as workers.

It is anticipated that this review would consider whether principals of corporations should be treated the same as unincorporated proprietors or partners, and whether an exemption under the authority of section 2(2) of the *Act* is possible or warranted.

3. Classification Policy Review – Consistent Language – 2010

Since 2003, the PRD has completed several reviews of specific classification policies. A review of all five classification policies is required to ensure consistent guidance between policies and to ensure consistency in the description and usage of terms in the policies.

4. Clarifying the Obligation of Firms to Maintain and Furnish Records – 2010

An issue that has arisen on review and appeal is the failure of some firms to keep complete and accurate payroll information and to supply such information to WorkSafeBC. This includes financial data and information regarding the workplace status of subcontractors, all of which is required to determine assessable payroll figures.

Section 38(1) of the *Act* provides that maintaining and furnishing this information is the responsibility of all employers. However, on review and appeal, some firms have argued that WorkSafeBC has power of

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inquiry under the *Act* and therefore is responsible for performing its own investigation to obtain the required information.

A review of the *Assessment Manual* policies concerning payroll reporting and audits is required to clarify WorkSafeBC's power of inquiry and a firm's responsibility to keep and supply payroll records as required by the *Act*. At issue is whether there is adequate guidance in policy with respect to the following:

- an employer's duty to compute and furnish an estimate of the probable amount of its assessable payroll;
- an employer's duty to maintain necessary records;
- WorkSafeBC's authority with respect to audit and inquiry; and
- the nature and scope of WorkSafeBC's audit function.

5. Inclusion of Shareholder Dividends in Assessable Payroll – 2009/2010

Item AP1-38-2 of the *Assessment Manual* provides that dividends are not considered part of payroll unless paid for services rendered to the company. Current practice of the Assessment Department, however, is to include dividend payments in assessable payroll where they exceed T4 amounts, without regard to the value of the shareholders' activities. A review of the policy is required to address this inconsistency. Consultation has been completed on this project, and the policy is under further consideration based on stakeholder feedback.

6. Forest Firefighter Status Under the Act – AP-1-1-5 – 2010

The language and direction of item AP-1-1-5 of the *Assessment Manual*, which guides the determination of the status of forest firefighters under the *Act*, is inconsistent with the British Columbia *Wildfire Act* and *Regulations*. This project would bring the policy in line with the current statutory framework.

7. Procedure for Applying Sections 47(2) and (3) of the Act – AP1-47-2 – 2010

Sections 47(2) and (3) of the *Act* guide the charging of claim costs to employers who fail to comply with assessment obligations under the *Act*. Policy relating to these sections is contained in policy item #115.11 of the *Rehabilitation and Services Manual* ("RS&CM") and Item AP1-47-2 of the *Assessment Manual*. At issue is whether the policy should be updated to remove outdated practice information and consolidated into the *Assessment Manual*, for reasons of consistency and transparency.

8. Experience Rating Cost Inclusions and Exclusions – AP1-42-2 – 2010

Item AP1-42-2 of the *Assessment Manual* and policy item #115.30 of the *RS&CM* each contain a list of types of claim costs that are excluded from consideration for experience rating. The two lists are not identical, and result in inconsistent application of policy. This project would consider the consolidation of the list into the *RS&CM*.

9. Contractor Liability – Item AP1-51-1 – 2010

At issue is a review of the minimums for the exemptions set out in Item AP1-51-1 regarding when prime contractors and homeowners will be assessed for unpaid subcontractors' premiums. Currently the thresholds, which have been in place since 1985, are set at \$200 and \$500 respectively in Appendix A of the *Assessment Manual*. These minimum amounts require review to determine whether adjustments are necessary.

10. Coverage for Spouses – AP1-2-2 – 2011

The Assessment Department's practice has been to deny coverage to the spouse of a proprietor or partner when the spousal coverage had not been applied for and granted. Coverage has been denied in circumstances where the proprietor is registered and reporting earnings and paying assessments on the wages of his or her spouse, but has not applied for coverage. Denial of coverage in these circumstances is not explicitly provided for in policy.

A recent decision of the Workers' Compensation Appeals Tribunal has noted this gap in the policy framework and has held that the current practice is not supported. A review of the policy is required to clarify the intent of the spousal exemptions as originally intended by *Workers' Compensation Reporter Decision* No. 60.

11. Determining Net Assessable Payroll – Item AP1-38-3 – 2011

Item AP1-38-3(f) of the *Assessment Manual* provides that "net assessable payroll" is the payroll that is directly applicable to a specific classification, including the earnings of *any* labour contractors, after deducting any excess earnings that are attributable to the individuals included. It is the Assessment Department's practice to include the earnings of unregistered labour contractors, and exclude the earnings of registered labour contractors when calculating a firm's "net assessable payroll"

A recent decision of the Review Division has calculated a firm's net assessable payroll by including the earnings of *all* labour contractors, including those who are registered. A review of the policy is required to address this inconsistency.

12. Allocation of Claim Costs – 2011

At issue is a review of policy to clarify WorkSafeBC's jurisdiction to withdraw claim costs from a firm and transfer the costs to the firm that was the employer of the injured worker, or to transfer costs between classifications on an employer's account where appropriate. The issue is of significance, as the correct allocation of claim costs affects employers' rates and experience rating calculations.

13. Section 4 of the Act and the Fishing Industry Regulations – 2011

Following the review of the workplace status policies, a review of the *Fishing Industry Regulations* may be required in order to clarify fishing industry workplace roles and responsibilities, and assessment obligations.

14. Combining Experience Rating of Affiliated Firms – Item AP1-42-3 – 2011

The Assessment Department has raised concerns that there is no specific policy to address the combining of experience rating for affiliated firms acting in concert in business. At issue is a review of item AP1-42-3, Transfer of Experience Between Firms, to address this issue.

15. Property Managers and Registration Requirements for Building Owners – Item AP1-1-4 – 2011

At issue is the interpretation of AP1-1-4(f) *Property Managers* of the *Assessment Manual*. Prior to January 1, 1994, certain industries including property management were not subject to compulsory registration and coverage under the *Act*. The current policy was initially developed prior to the 1994 changes to the *Act*. Clarification is needed to update policy so that the registration requirements of building owners and the duties of property managers are clearly set out.