

20030617-05

THE WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA

RESOLUTION OF THE BOARD OF DIRECTORS

Re: Miscellaneous Changes to the *Prevention Manual*

WHEREAS:

Pursuant to section 82 of the *Workers Compensation Act*, RSBC 1996, Chapter 492 and amendments thereto ("*Act*"), 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 safety and health;

AND WHEREAS:

Various minor changes are required to the *Prevention Manual*, to correct statutory and regulatory citations; remove references to statutory provisions that have not been proclaimed into effect; improve consistency and congruency with other policies and regulations; update terminology; reflect industry changes in licensing practices; and improve clarity in policy statements;

THE BOARD OF DIRECTORS RESOLVES THAT:

1. The amendments to the POLICY statements in the *Prevention Manual* Items attached as Appendix "A" to this resolution, as shown in Appendix "A", are approved.
2. This resolution applies to all orders, including orders imposing administrative penalties under section 196, issued on or after the effective date.
3. This resolution is effective July 1, 2003.

DATED at Richmond, British Columbia, on June 17, 2003

By the Workers' Compensation Board

**DOUGLAS J. ENNS, CHAIR
BOARD OF DIRECTORS**

APPENDIX "A"

**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.
- (2) 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(3). 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.

PRACTICE

There is no PRACTICE for this Item.

EFFECTIVE DATE:	October 1, 1999 July 1, 2003
AUTHORITY:	s.135, <i>Workers Compensation Act</i>
CROSS REFERENCES:	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)
HISTORY:	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.
APPLICATION:	

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

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- (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. ~~This applies to provisions that specifically refer to the payment of "wages", notably sections 147(1) and (2) and 148(1) following work refusals.~~

~~Other~~ **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);
- ~~147(3) (time spent accompanying an officer investigating a work refusal);~~
- 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.

PRACTICE

There is no PRACTICE for this Item.

EFFECTIVE DATE: ~~October 1, 1999~~ **July 1, 2003**
AUTHORITY: ss.150, 151, and 152 *Workers Compensation Act*
CROSS REFERENCES:
HISTORY: **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: 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;

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- 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, for example, citations of sections 8.11 and 20.11 of the *OHS Regulation* for failure to use safety headgear;**
- 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.

PRACTICE

There is no PRACTICE for this Item.

EFFECTIVE DATE:	October 1, 1999 July 1, 2003
AUTHORITY:	s.196(1), <i>Workers Compensation Act</i>
CROSS REFERENCES:	See also Administrative Penalties – High Risk Violations (Item D12-196-2), Prior Violations and Orders (Item D12-196-3), Due Diligence (Item D12-196-10 and s. 196(6) of the <i>Workers Compensation Act</i>)
HISTORY:	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 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, minor change made to the second bullet of the policy, for congruency with Items D12-196-3 and D12-196-6.
APPLICATION:	

**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 **snagsdangerous 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.

PRACTICE

There is no PRACTICE for this Item.

EFFECTIVE DATE:	October 1, 1999 July 1, 2003
AUTHORITY:	s. 196(1), <i>Workers Compensation Act</i>
CROSS REFERENCES:	See also Administrative Penalties – Criteria for Imposing (Item D12-196-1).
HISTORY:	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”.
APPLICATION:	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 –
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 \$500,000. 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 \$500,000 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 - Serious injury or illness or death; or high risk of serious injury or illness or death; or non-compliance was wilful or with reckless disregard

Assessable Payroll Range (\$)	Penalty Amount (\$)
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 – 3,500,001	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	68,250 + .125% of payroll over 5,000,000, or 75,000, whichever is less

Category B Penalties – Any other violations

Assessable Payroll Range (\$)	Penalty Amount (\$)
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 most recent full calendar year for which figures are available at the time the penalty is imposed. 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

Where an administrative penalty is imposed within three years of a decision imposing an additional assessment or a prior administrative penalty for the same violation, the penalty will be calculated as a "repeat penalty". This includes where, though a different section is cited, the violation is essentially the same, for example, citations of sections 8.11 and ~~20.22~~ **20.11** of the *OHS Regulation* for failure to use safety headgear.

"Repeat penalties" will be calculated as follows:

- (a) The "basic amount" for the current penalty, including any variation, will be calculated in accordance with 1. "**Basic amount of the penalty**" above.

- (b) The “basic amount“ for the current penalty, including any variation, will then be increased as follows:

Number of additional assessments or prior penalties imposed during three years preceding penalty notice	Increase to “basic amount”
one	x2
two	x3
three	x6
four	x12
five	x24

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

There is no PRACTICE for this Item.

EFFECTIVE DATE:	May 1, 2000 July 1, 2003
AUTHORITY:	s. 196(2), <i>Workers Compensation Act</i>
CROSS REFERENCES:	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).
HISTORY:	Item developed to implement the <i>Workers Compensation (Occupational Health and Safety) Amendment Act, 1998</i> , effective May 1, 2000. Consequential changes subsequently made throughout Item to implement the <i>Workers Compensation Amendment Act (No. 2), 2002</i> , on March 3, 2003. Effective July 1, 2003 minor change made at number four of the policy, to correct the reference of section 20.22 to section 20.11 of the OHSR.
APPLICATION:	This policy applies to all decisions to impose administrative penalties on and after March 3, 2003.

**RE: Diving, Fishing and Other Marine Operations - ITEM: R24.69-1
Fishing Operations -
General Requirements - Application**

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 ~~The definition of "crewmember"~~ includes the "master", and the "owner" when he or she is working on the vessel.

~~Only persons required to have a personal commercial fishing license or who, but for their age, would be required to have a license, are considered "crewmembers" for the purpose of sections 24.69 to 24.143. These sections~~ **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~~ 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.

PRACTICE

For any relevant PRACTICE information, readers should consult the Prevention Division's OHS Guidelines available on the WCB website.

EFFECTIVE DATE:	July 1, 2000 July 1, 2003
AUTHORITY:	ss.24.1 and 24.69, <i>Occupational Health & Safety Regulation</i>
CROSS REFERENCES:	
HISTORY:	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.
APPLICATION:	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: Diving, Fishing and Other Marine Operations - ITEM: R24.77-1
Fishing Operations -
General Requirements - Reporting Injuries**

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. This section must be considered in conjunction with sections 33.6 and 33.7, which set out the general occupational first aid requirements for recording injuries and manifestations of disease reported and treated.

2. The Regulation

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.

Section 33.6:

- (1) The employer must maintain at the workplace a record of all injuries and manifestations of disease reported or treated.
- (2) Each entry or record required by subsection (1) must contain
 - (a) the full name of the injured worker,
 - (b) the date and time of injury or report of illness,
 - (c) the date and time the injury or illness was reported to the employer or employer's representative,
 - (d) the names of witnesses,
 - (e) a description of how the injury or illness occurred,
 - (f) a description of the nature of the injury or illness,

- (g) a description of the treatment given and any arrangements made relating to the injured worker,
 - (h) a description of any subsequent treatment given for the same injury or illness, and
 - (i) the signature of the attendant or person giving first aid, and if possible, the signature of the worker receiving treatment.
- (3) First aid records for an injury or illness reported as occurring after December 31, 1988 must be kept for at least 10 years.

Section 33.7:

- (1) Access to first aid records is restricted to individuals requiring access for reasons of medical treatment, workplace inspection, accident investigation, claims processing and appeals, and for reasons relevant to the workplace health and safety program, including the gathering of statistics.
- (2) First aid records must be available for inspection by an officer of the board.
- (3) Persons with access to first aid records must keep confidential the information contained in the records, except as required for the legitimate purpose of their access.
- (4) On request, a worker must be given a copy of first aid records for any treatment or report pertaining to the worker.

POLICY

Sections 33.6 and 33.7 provide for keeping a first aid book and access to first aid records. These sections must be complied with to the extent they are 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 information that must be recorded under section 33.6(2) must also be entered into the vessel's log book by the master.~~ **The vessel log book thereby becomes the first aid book and records required by sections 33.6 and 33.7. Therefore, it is not necessary to keep a dual set of first aid records.**

PRACTICE

For any relevant PRACTICE information, readers should consult the Prevention Division's OHS Guidelines available on the WCB website.

EFFECTIVE DATE:	October 1, 1999 July 1, 2003
AUTHORITY:	ss.24.77, 33.6 and 33.7, <i>Occupational Health and Safety Regulation</i>
CROSS REFERENCES:	
HISTORY:	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.
APPLICATION:	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: Occupational First Aid -
Certification of First Aid Attendants -
Medical Certificates**

ITEM: R33.41-1

BACKGROUND

1. Explanatory Notes

Section 33.41 sets out the requirements that must be met before a candidate will be examined for a first aid certificate.

2. The Regulation

Section 33.41:

A candidate for examination leading to certification at Level 2 or 3 must, before a certificate is issued, provide a medical certificate of the candidate's fitness from a physician on a form acceptable to the board and every two years thereafter on renewal of the Level 2 or 3 certificate.

POLICY

A medical certificate of fitness on a form acceptable to the Board must be received by a person or organization authorized by the Board to grant Level 2 or 3 certificates, before the certificate is issued. A listing of authorized persons and organizations is available for the Board. The Board's medical certificate of fitness form used for divers and blasters certification may be used. The certificate must not be older than 6 months prior to the date received. The candidate must pay for the medical examination.

PRACTICE

For any other relevant PRACTICE information, readers should consult the Prevention Division's OHS Guidelines available on the WCB website.

EFFECTIVE DATE:	October 28, 2002 July 1, 2003
AUTHORITY:	s33.41, <i>Occupational Health & Safety Regulation</i>
CROSS REFERENCES:	See also Instructor and Training Agencies – Courses and Examinations (Item R33.52-1)
HISTORY:	Replaces Policy No. 80.41 of the Prevention Division <i>Policy and Procedure Manual</i> . A housekeeping change was made on December 14, 2001. Effective October 28, 2002, amendments to the <i>Occupational Health & Safety Regulation</i> were made to enable first aid certification and examination by authorized persons and organizations external to the Board. Policy changes were made on October 28, 2002, to comply with these amendments. Effective July 1, 2003, a minor change was made to the policy, to remove the suggestion that the WCB requires medical certification for blasters.
APPLICATION:	This Item generally 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. 80.41, as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and regulatory changes since Policy No. 80.41 was issued.