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Update 2017 – 5

TO: HOLDERS OF THE *PREVENTION MANUAL*

This update of the *Prevention Manual* contains amendments implemented since update 2017 – 4. This update is effective **October 18, 2017**.

- Policy D12-196-6, OHS Penalty Amounts

A summary of the amendments is attached and the amended pages are included as part of this package.

These amended pages and the complete manual are available at
<https://www.worksafebc.com/en/law-policy/occupational-health-safety/ohs-policies>

Ian Shaw
Senior VP and General Counsel

Attachments

PREVENTION MANUAL
Transmittal Sheet for Update 2017 – 5

Check As Done	Remove Old Pages Numbered/Titled:	Insert New Pages Numbered/Titled:
<input type="checkbox"/>	D12-196-6	Pages 9 to 11

The following table provides examples of the repeat penalty calculations from item 4. The table is for reference only. All amounts will be calculated according to the Policy.

Penalty Payroll	Calculation from Item 2 with no multipliers and no variation	Number of prior similar penalties		
		One (2x)	Two (4x)	Three (8x)
Up to \$250,000	\$1,250	\$2,500	\$5,000	\$10,000
\$500,000	\$2,500	\$5,000	\$10,000	\$20,000
\$1,000,000	\$5,000	\$10,000	\$20,000	\$40,000
\$2,500,000	\$12,500	\$25,000	\$50,000	\$100,000
\$5,000,000	\$25,000	\$50,000	\$100,000	\$200,000
\$10,000,000	\$50,000	\$100,000	\$200,000	\$400,000
\$20,000,000	\$100,000	\$200,000	\$400,000	Stat Max
\$30,000,000	\$150,000	\$300,000	\$600,000	Stat Max
\$40,000,000	\$200,000	\$400,000	Stat Max	
\$50,000,000	\$250,000	\$500,000	Stat Max	
\$63,741,560 or more	\$318,707.80 (half statutory max)	Stat Max (\$637,415.60)		

EFFECTIVE DATE:	July 4, 2017
AUTHORITY:	s. 196(2), <i>Workers Compensation Act</i>
CROSS REFERENCES:	See also Criteria for Imposing OHS Penalties (Item D12-196-1), Transfer of OHS History (D12-196-3), OHS Penalties - Due Diligence (Item D12-196-10).
HISTORY:	<p>On October 18, 2017, the application statement was revised to clarify that the July 4, 2017 amendments do not apply to violations occurring before March 1, 2016 which have resulted in administrative penalties. Violations occurring before March 1, 2016 will still be considered as part of an employer's compliance history for the purposes of determining a repeat penalty amount.</p> <p>Amendments effective July 4, 2017 to provide clarification on how to calculate a repeat penalty.</p> <p>Housekeeping amendment effective April 15, 2016 to provide additional practice information regarding calculation of repeat penalty amounts.</p> <p>Amendments effective March 1, 2016 including changes to penalty amount calculations, discretionary penalties, cost savings and profits and repeat penalties.</p> <p>Housekeeping changes effective September 15, 2010 to correct paragraph reference in item 4(4) and make formatting changes.</p> <p>Effective January 2, 2010 a change was made to</p> <ul style="list-style-type: none"> (a) Item 1 to correct a typographical error in the Category A penalty table, and (b) Item 4 so that an administrative penalty will be imposed as a "repeat penalty" where: <ul style="list-style-type: none"> (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; (ii) the violations occurred within 3 years of one another; and (iii) at least 14 days prior to the date of the violation giving rise to the repeat penalty, WorkSafeBC <ul style="list-style-type: none"> (1) had imposed a penalty for the prior violation, or (2) provided notice of a potential penalty for the prior violation. <p>The amendments made effective January 2, 2010 applied to all penalties where a penalty was imposed on or after the effective date of the changes. Transitional provisions applied to penalties within the appeal period, before Review Division or before WCAT on the effective date.</p> <p>Transitional Provision for Repeat Penalty Calculation:</p> <p>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, WorkSafeBC</p> <ul style="list-style-type: none"> (a) had imposed a penalty for the prior violation, or (b) provided notice of a potential penalty for the prior violation.

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 WorkSafeBC to estimate payroll in certain situations. The amendments made effective March 25, 2009 applied to all decisions, including appellate decisions, made on or after the effective date of the changes.

Effective October 29, 2003, an example referencing section 20.11 of the Occupational Health and Safety Regulation in the policy was deleted to reflect the repeal of that section.

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 Occupational Health and Safety Regulation.

Consequential changes were subsequently made throughout the Item to implement the *Workers Compensation Amendment Act (No. 2)*, 2002, on March 3, 2003.

This Item was originally developed to implement the *Workers Compensation (Occupational Health and Safety) Amendment Act*, 1998, effective September 15, 2000.

APPLICATION:

This policy applies to all administrative penalty decisions for violations occurring on or after March 1, 2016. This policy also applies to all appellate decisions made on or after July 4, 2017 with respect to violations occurring on or after March 1, 2016.

