WCB CONSULTATION

Submission on Proposed Policy: Occupational Health and Safety Penalty Policies

December 2015

BCFED

Authority

This document is respectfully submitted on behalf of the Executive Officers of the BC Federation of Labour and represents the views of more than 500,000 affiliated members across the province of British Columbia.

Irene Lanzinger, President

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Introduction

The BC Federation of Labour (Federation) appreciates the opportunity to provide our submission with respect to the Workers' Compensation Board's (Board) policy proposed in the discussion paper entitled "Occupational Health and Safety (OHS) Penalty Policies[1]", dated October, 2015.

The Federation represents more than 500,000 members of our affiliated unions, from more than 1,100 locals, working in every aspect of the BC economy. The Federation is recognized by the Board and the government as a major stakeholder in advocating for the health and safety of all workers in BC.

The Federation's submission was prepared in consultation with its affiliates and supports the individual submissions of its affiliates.

Background

According to the Board's discussion paper, the current administrative penalty policies were created in response to the addition of Part 3 (OHS) to the *Workers Compensation Act*[2] (Act) in 1999 through 2000. The proposed changes arise from areas identified through implementation

[1] Workers Compensation Board of BC. (2015, October). *Discussion Paper: Occupational Health and Safety (OHS) Penalty Policies*. Retrieved November 2015, from: http://www.worksafebc.com/regulation_and_policy/policy_consultation/assets/pdf/OHSPenalties.pdf [WCB DP]

[2] *Workers Compensation Act*, R.S.B.C. 1996, c. 492. Retrieved from: http://www.bclaws.ca/Recon/document/ID/freeside/96492_00 [WCA].

of the policies over the past fifteen years as well as from the recommendations provided to government by the special administrator, Gordon Macatee's, report[3] (Macatee report) in 2014.

Macatee provided the following recommendations in his report with respect to OHS penalties[4]:

> vii. Significantly shorten the timelines for the issuing of administrative penalties
>
> viii. Ensure that when administrative penalties are imposed, the amount of the penalty is proportional, with consideration of the circumstances of the incident and the size of the employer.

Macatee also suggested that the employer should have the onus for proving due diligence in defence of a possible penalty, rather than this being the responsibility of the Board as currently practiced.

In the discussion paper, the Board proposes changes to four policies and the deletion of one policy[5] related to administrative penalties set out in the Board's *Prevention Manual*[6]:

> D12-196-1: Administrative Penalties – Criteria for Imposing
>
> D12-196-3: Administrative Penalties – Prior Violations and Orders
>
> D12-196-6: Administrative Penalties – Amount of Penalty
>
> D24-73-1: Imposition of Levies – Charging of Claim Costs
>
> D8-160-1: First Aid Equipment – Imposition of Special Rate of Assessment

[3] Macatee, G. (2014). *WorkSafeBC Review and Action Plan.* Ministry of Jobs, Tourism and Skills Training, Government of BC. Retrieved from https://www.labour.gov.bc.ca/pubs/pdf/WBC_Review_and_Action_Plan.pdf [Macatee].

[4] *Ibid* at 100, 101

[5] WCB DP, *supra* note 1 at 2

[6] Workers Compensation Board of BC. (2010, September). *Prevention Manual*. Retrieved from: http://www.worksafebc.com/publications/policy_manuals/Prevention_Manual/Assets/PDF/prevmnl.pdf

Submission: D12-196-1 – OHS Penalty Criteria

The Board seeks feedback on the amendments proposed to policy D12-196-1 in the discussion paper at Appendix B starting on page 17.

Background – Explanatory Notes

The Board's proposed policy introduces much more information under the "Background – Explanatory Notes" section. It is the Federation's position that these additions are unnecessary

The first two paragraphs in the section are completely redundant as they are virtually repeated word for word in the "Policy" section of the policy. The intent of these documents should be to simplify, not to add extra unnecessary language.

- *The Federation recommends removing the first two paragraphs of the "Explanatory Notes" section as these points are already covered under the policy section.*

In addition, in reading the new policy the word "obey" in the last sentence of the first paragraph stands out. Although the words "obey" and "comply" are essentially the same in definition, the connotation of "obey" in the context of that sentence feels misplaced. This is a small item, but the Federation prefers the word "comply", despite the repetitiveness of it.

- *The Federation suggests using the word "comply" instead of the word "obey" throughout the policy.*

The Board proposes to add the following paragraph into the explanatory notes section of this policy:

> Section 160(b) of the Act allows WorkSafeBC to impose a special rate of assessment for violations relating to first aid equipment. This is not done because OHS Penalties can be imposed in those circumstances instead.

The Federation submits that this is an inappropriate statement. First of all, the words "this is not done" makes it sound like the Board is trying to backdoor a policy that contradicts the Act. Second, the Federation disagrees with this stated practice, as described below in our discussion

of policy D8-160-1. Third, it is unclear as to the relevance of this paragraph to OHS penalty criteria.

- *The Federation urges the WCB Board of Directors (BOD) to remove the above-noted paragraph with respect to Section 160(b) of the Act from the "Explanatory Notes" section.*

A. Circumstances When WCB Will Consider a Penalty

The Board's authority to impose a penalty is provided by section 196 (1) of the Act which provides the following criteria:

> (1) The Board may, by order, impose on an employer an administrative penalty under this section if the Board is satisfied on a balance of probabilities 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**.

Subsection (3) outlines the only restriction to the Board in imposing a penalty in accordance with the above criteria:

> (3) An administrative penalty under this section must not be imposed on an employer if the employer establishes that the employer **exercised due diligence** to prevent the circumstances described in subsection (1).

The current policy has the following as one of the criteria for administering a penalty:

> 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; … [emphasis added]

In Section A, "Circumstances When WorkSafeBC Will Consider an OHS Penalty", of the proposed new policy the Board replaces the above criteria of "knowingly" or "with reckless disregard" with the following (criterion number 3):

> The employer **intentionally** or **deliberately** committed the violation.[7]

The Federation is completely opposed to this proposed amendment. The terms "intentionally" or "deliberately" clearly set a much higher test than that which is set forth in the Act, as quoted above, which uses the phrase "*failed to take sufficient precautions*".

The Federation prefers the logic provided in the "Significant Decision Summary" of Review Division Decision RFR #25638[8] which plainly illustrates that "knowingly" and "reckless disregard" are different and that neither are equitable to "intentionally" or "deliberately" or "wilfully":

> … The Board had repeatedly equated "knowing" with "wilful". However, the Review Officer was of the view that "knowing" and "wilful" were not the same.
>
> One of the factors to be considered in deciding whether, under policy item D12-196-1, to impose an administrative penalty was whether the employer had committed the violation(s) "knowingly or with reckless disregard". These were separate concepts. The first referred to simply having knowledge of one's obligation under the legislation, while the latter implied knowing that there might be an obligation, and refusing to inquire as to its existence or terms. …

[7] WCB DP, *supra* note 1 at 20

[8] Molnar, K. (2005, May 18). *Workers' Compensation Board Review Division*. Review Reference #: 25638. Retrieved from: http://www.worksafebc.com/review_search/decisions/significant_decisions/25638_decision_letter_sig.pdf

> "Wilful" was a deliberate act **made with intent** by an employer despite knowledge of its obligation under the Act and Regulation. … [emphasis added]

The above is in keeping with the description of reckless disregard in the current policy and supports that this phrase cannot properly be replaced with "deliberately". It was clearly the intent of this portion of the policy to reflect something less than "deliberate" which implies that one made a conscious choice to commit the violation. This is further evidenced by the fact that an "or" was used between knowingly and reckless disregard, identifying that these had **different** meanings.

The Board provides the following explanation in their discussion paper for removing the phrase "reckless disregard":

> The word reckless disregard was eliminated because it did not add anything beyond what the policy already covered. A violation committed recklessly in the face of a dangerous situation would already be considered for a penalty as high risk. The current policy talked about reckless disregard as including committing a violation due to ignorance of the Act or Regulation. However, this is not sufficient alone as a reason for considering a penalty and is not necessary if other grounds apply, such as high risk or repeat violations. [9] [emphasis added]

The Federation vehemently opposes the explanation provided above.

According to the Merriam-Webster Dictionary "reckless"[10] is defined as "*marked by lack of proper caution: careless of consequences*" and "disregard"[11] is defined as "*to pay no attention to: treat as unworthy of regard or notice"*. These definitions are certainly in keeping with the intent of the Act as well as the language in the current policy which suggests that if the

[9] WCB DP, *supra* note 1 at 3, 4

[10] Retrieved from http://www.merriam-webster.com/dictionary/reckless

[11] Retrieved from http://www.merriam-webster.com/dictionary/disregard

employer did not know they were in violation, because they never bothered to find out what their obligations were, they are still eligible for an administrative penalty.

The Federation agrees that "due diligence" *partially* covers the intent of the prior phrase "reckless disregard", however, as per the description in the current policy, the phrase implies something more than just lack of due diligence, rather a *careless* (or reckless) lack of due diligence. This is supported by the arguments of the Review Officer in Review Division (RD) decision number R0058736[12], which became the pattern for future decisions of the Review Division and the Workers Compensation Appeal Tribunal (WCAT), on the same matter:

> It seems that, in determining whether there has been reckless disregard in any case, the concern is not just whether the person failed to take reasonable care based on what the person knew and the other circumstances, but it must be possible to describe the failure by language such "wanton", "heedless", "extreme", "gross" or "highly irresponsible".

Therefore, removing the original intent of both "knowingly" and "reckless disregard" from the criteria means that in order to receive a penalty under the new policy, the violation must be:

- High risk; or
- A repeat violation; or
- Intentionally or deliberately committed; AND
- Employer lacked due diligence.

The above is a higher test than the current policy:

- High risk; or
- A repeat violation; or
- Knowingly (had knowledge of one's obligations) committed; ***or***

[12] Attewell, N. (2006, April 6). *Workers' Compensation Board Review Division*. Review Reference #: R0058736. Retrieved from http://www.worksafebc.com/review_search/decisions/prevention_decisions/r0058376_decision_letter_prev.pdf

- Committed with reckless disregard (knew they may have obligations but chose not to look into them); AND
- Employer lacked due diligence.

Again, the new criterion imposes a significantly higher test than the Act supports:

- Failed to take sufficient precautions; or
- Is not in compliance; or
- Has unsafe working or workplace conditions; AND
- Employer lacked due diligence.

There is noticeably no "intent" implied by the Act as grounds for a penalty. The Board is unmistakeably attempting to impose a significantly higher test with the introduction of "intentionally or deliberately" in the policy in place of "knowingly or with reckless disregard" that, again, is ***not supported by the Act***.

The Federation proposes that reckless disregard is left in the policy. Alternatively, the phrase "ought to have known" may more properly reflect the criteria in the current policy and does not stray as far from the Act. It is also language that is used throughout the Board's Occupational Health & Safety Regulation[13] (Regulation) and Board policy. [14] The revised criteria would then look something like this:

> *The employer knew or ought to have known they committed the violation.*

The above maintains the original "knowingly" (rather than the proposed intentionally or deliberately) while also incorporating the original intent of an employer's reckless disregard of their obligations, or to learn of their obligations.

[13] Occupational Health and Safety Regulation, B.C. Reg. 296/97; Retrieved from: http://www.bclaws.ca/Recon/document/ID/freeside/296_97_00. [OHSR]

[14] See sections 5.6 and 5.14 of the OHSR and also *Prevention Manual* policy items D3-115-2, D3-116-1 and D3-117-2 regarding workplace bullying and harassment.

- *The Federation is vehemently opposed to replacing "knowingly or with reckless disregard" with "intentionally or deliberately" in the new policy (section A. 3.) as it imposes a higher test than contemplated by the Act and the current policy.*

- *The Federation recommends the Board of Directors consider using the phrase "ought to have known", or something similar, in criterion number 3 of section A.*

B. Considering the Appropriateness of an OHS Penalty

The Federation is generally in support of the amended section B of the policy, except for the wording in one criterion as well as one glaring omission.

In keeping with section 196(3) of the Act, the current policy lists the following as one of the considerations prior to administering a penalty:

> …whether the employer has otherwise exercised due diligence to prevent the failure, non-compliance or conditions to which the penalty relates;

The proposed new policy does not specifically list due diligence. It discusses whether the employer knew or should have known about the hazard, the Act or the regulations and about the effectiveness of the employer's approach to health and safety. It is the Federation's position that these points do not sufficiently cover the requirement of exercising due diligence in the Act. The Canadian Centre for Occupational Health and Safety describes due diligence as follows:

> Due diligence is the level of judgement, care, prudence, determination, and **activity** that a person would reasonably be expected to do under particular circumstances.
>
> Applied to occupational health and safety, due diligence means that employers shall **take all reasonable precautions**, under the particular circumstances, to prevent injuries or accidents in the workplace. This duty also applies to situations that are not addressed elsewhere in the occupational health and safety legislation. Reasonable precautions are also referred to as reasonable care. It refers to the care, caution, or action a reasonable person is expected to take under similar circumstances. …

> "Due diligence" is important as a legal defense for a person charged under occupational health and safety legislation…the defendant must be able to prove that all precautions, reasonable under the circumstances, were taken to protect the health and safety of workers.[15] [emphasis added]

It is evident by the above that due diligence is more than simply having an awareness of your obligations. And, although the employer's approach to health and safety is one factor in determining due diligence, it is our position that it does not necessarily equate to taking all reasonably precautions to prevent "the circumstances described in subsection (1)" of section 196 of the Act.

- *The Federation urges the Board of Director's to ensure that "due diligence" is included in the criteria for considering the appropriateness of an OHS penalty, as per section 196(3) of the Act.*

The Federation is also not in agreement with the new language proposed in B. 2. (d) of the policy which states:

> (d) the effectiveness of the employer's overall approach to ***managing*** health and safety…[16] [emphasis added]

The language in the current policy refers to having an effective overall program for complying with the Act and regulation. This language reflects sections 3.1 to 3.4 of the Regulation which discusses the requirement and contents of an OHS program. The guidelines provide more information with respect to what the Board considers as part of an effective program and actually suggests that "management" of health and safety is a step above having an OHS program and, therefore, over and above the requirements of the Act and Regulation. It is our position that the terminology in the policy should be consistent so that employers, workers,

[15] Canadian Centre for Occupational Health and Safety. (2015, January). *OH&S Legislation in Canada-Due Diligence*. Retrieved November 2015, from http://www.ccohs.ca/oshanswers/legisl/diligence.html.

[16] WCB DP, *supra* note 1 at 19

Board officers, as well as decision makers at the Review Division and the Worker Compensation Appeal Tribunal, all understand what the criterion is referring to.

- *The Federation recommends that criterion 2. (d) refers to an employer's OHS program, with reference to the applicable regulation, rather than introducing a new term "managing" into the policy.*

Submission: D12-196-3 – Transfer of OHS History

The Federation supports the reorganization and amended language in policy item D12-196-3 as proposed in the Board's discussion paper.[17]

Submission: D12-196-6 – OHS Penalty Amounts

The Board proposes significant amendments to policy item D12-196-6 in the discussion paper. The Board's rationale behind this was partly based on an assessment of the current penalty calculations which identified that the small to medium sized employers were carrying significantly more of the penalty burden than large employers. The prediction is that the new penalty calculation model will provide more balance and fairness across the employer payroll assessment spectrum.[18]

Payroll Used – Multiple Fixed Locations

In section 1 (b), "Multiple Fixed Locations and Divisional Registration"[19], the Board proposes the following policy:

> Where a firm has more than one permanent location or is divisionally registered (AP1-38-1), WorkSafeBC will determine the penalty payroll based on the **lowest applicable amount** of the following where the violation occurred[20]:

[17] WCB DP, *supra* note 1 at 31

[18] WCB DP, *supra* note 1 at 57

[19] WCB DP, *supra* note 1 at 36

[20] As a side note, this sentence makes no sense – it should be reworded at the very least.

(i) fixed location,

(ii) division, or

(iii) classification unit… [emphasis added]

It seems that this is a substantive change from the current policy which states that only in circumstances where an employer has a violation which qualifies as a *location violation*[21] will the Board **consider** using only the assessable payroll for the location, rather than the employer's total payroll.

> 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…

The Board's discussion paper states the following as its explanation for the change:

> The current policy allows discretion about whether to use the location payroll when the requirements are met but does provide any guidance for when this should occur. It also does not address divisional registration or employers with multiple classification units.
>
> The proposed changes simplify this by providing that the applicable location payroll will be used if the criteria are met. They also provide that divisional or classification unit payroll can also be used, as applicable.

It is unclear exactly why divisional or classification unit payroll should be taken into consideration when this is not taken into account with respect to what constitutes a location violation. If the intent was to simply the policy, it is our position that this has not simplified it at all. The simplest amendment would have been to directly tie the payroll to the location violation – if the violation qualifies for a location violation than the *location payroll* should be used. Rather than simplifying, it appears that this is simply a cost savings measure for the employer, especially with the statement that the "*lowest* applicable amount" will be used.

[21] A "location violation" is defined in the Board's discussion paper in Appendix B on page 19.

- *The Federation vehemently opposes the proposed language to use the "lowest applicable" payroll for determining the penalty amount.*

- *The Federation urges the Board of Directors to change the policy to reflect that the employer's "location payroll" will be used if the violation qualifies as a "location violation".*

Basic Amount of the Penalty

With respect to the multipliers table, the Federation opines that "failure to comply with an order" should be added to the list of multipliers, as this is more serious than simply receiving a penalty for an initial violation.

- *The Federation recommends adding "failure to comply with an order" to the multipliers table.*

Discretionary Penalties

The Federation has no real issue with respect to the proposed amendments to the section that is currently titled "Penalties up to the Statutory Maximum".

However, it is pertinent to note that the phrase "reckless disregard" has been reintroduced as a criterion to determine whether a discretionary penalty can be imposed. In this policy, reckless disregard is used in the same way as it was in the current policy D12-196-1, which the Board has proposed to remove from the revised D12-196-1 (see discussion above). It is difficult to understand the logic behind removing it from one policy but not the other.

The key difference between the criteria in D12-196-1 and D12-196-6 is that in the former it is to be considered as one of the possible criteria to impose a penalty (using an "or" after each criteria), whereas in the latter ***all*** of the criteria listed must be present (using an "and") in order to impose a discretionary penalty. Aside from the differentiation in how the criteria is applied, the language of the criteria in the two policies should be absolutely consistent.

- *The Federation urges the Board of Directors to ensure that the language for the criterion with respect to "intentional", "deliberate", and "reckless disregard" (or the BCFED*

proposed language "knew or ought to have known") is consistent in policies D12-196-1 and D12-196-6.

Submission: D24-73-1 – Claim Cost Levies

The Board seeks to make amendments to policy D24-73-1. The authority to levy claim costs from employers is provided under Part 1, "Compensation to Workers and Dependents", Section 73 of the Act which states:

> (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 $54,426.67.
>
> (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.

The Federation would agree with the proposed amendments[22] if the proposal was only to align it with the test set out in the Act above. However, the Board proposes to retain—and add—criteria in the policy that have the potential to arbitrarily raise the test in the Act.

[22] WCB DP, *supra* note 1 at 59

First, it is completely inappropriate to retain the criteria that in order to administer a claim cost levy the grounds for an administrative penalty must be met. This is especially true under the amended criteria proposed for OHS penalties which strays significantly from section 196 (1), as discussed above.

The necessity to qualify for an administrative penalty was certainly not contemplated in the Act, in fact, the provision is not even in Part 3 of the Act, but rather under Part 1. Surely, if this was the intent of the legislative body in developing the Act it would have been included as such. The Act very clearly states what the test is: (a) a worker suffered a serious injury or illness or died **and** (b) this was **substantially** due to gross negligence or failure on the part of the employer. There is no logical—or legal—rationale to confuse or complicate this test by adding criteria not supported by the Act.

The Federation submits that it is irrelevant that the Board's current practice is to only administer a claims cost levy along with a penalty – policy should not be created to confirm practice, especially if it is arbitrarily fettering the provisions in the Act. The Act does not restrict the Board from administering a claim cost levy is absence of an administrative penalty.

Second, the Federation submits that adding the criterion with respect to failing to exercise due diligence is also unnecessary and redundant. It is our position that the criteria already contemplate this and therefore adding it in as a separate ground is going to spurn a plethora of new appeal decisions that are trying to determine what this means in relation to the first set of criteria, as in what differentiation the Board is trying to make between them.

Again, the Act specifies that in order to levy claim costs to the employer the death, serious injury or illness must be **substantially** due to gross negligence or a failure on the part of the employer. In the first criterion, the phrase "gross negligence" in and of itself denotes the opposite of "due diligence". One definition of the phrase sums up the significance of gross negligence as follows:

> carelessness which is in reckless disregard for the safety or lives of others, and is so great it appears to be a conscious violation of other people's rights to safety. It is more than simple inadvertence, but it is just shy of being intentionally evil.[23] [emphasis added]

In the second and third criterion provided in the Act, the term "failure" is used. According to the Merriam-Webster Dictionary, failure is defined as "omission of occurrence or performance; *specifically*: a failing to perform a duty or expected action".[24] Again, it could be reasonably argued that a failure, in the context of Section 73 of the Act is tantamount to a lack of due diligence.

- *The Federation urges the Board of Directors to remove the proposed criterion (c) and (d) in policy item D24-73-1 as they arbitrarily fetter the test in the Act, are redundant, and have the potential to confuse or complicate the grounds clearly provided for in Section 73 of the Act.*

Submission: D8-160-1 – First Aid – Special Rate of Assessment

The Board proposes to delete policy item D8-160-1 with the explanation that the provision has not been used since Part 3 of the Act was created as administrative penalties are used instead.[25] The Board further states that a note would be add to D12-196-1 indicating that a penalty would be used "in lieu of" the special rate of assessment provided for in Section 160 (b) of the Act:

> 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;

[23] See the LAW.COM Dictionary, retrieved from http://dictionary.law.com/Default.aspx?selected=838 . Also supported by the definition in the Cornell University Law School dictionary, retrieved from https://www.law.cornell.edu/wex/gross_negligence

[24] See Merriam-Webster online dictionary, retrieved from http://www.merriam-webster.com/dictionary/failure .

[25] WCB DP, *supra* note 1 at 10

(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.

It is the position of the Federation that it is completely inappropriate for a policy to state that it will essentially ignore a provision of the Act in favour of doing something else. The Federation prefers the language in the current policy which states that the Board will use the provisions of Section 196 of the Act "where appropriate".

The Board does not provide any rationale in the discussion paper as to why this special rate of assessment has not been used. There may still be situations where a special assessment would be more effective than simply imposing a penalty and the Board should not be restricting it's own enforcement toolbox simply because it has not been used recently.

In addition, the Federation proposes that the Board amends the current policy to include more practice information with respect to how the provision in Section 160 (a) can be effectively utilized, as well as training for the officers. It is our position that this provision in particular is more effective in many cases, and achieves the ultimate goal of ensuring that the proper equipment is available, than administering penalties.

- *The Federation is opposed to deleting policy item D8-160-1, and the associated notation in D12-196-1, as it improperly fetters the provision of Section 160 (b) of the Act by policy.*
- *The Federation recommends expanding the current policy to include more practice information with respect to section 160 (a) of the Act.*

D12-196-4 – Administrative Penalties – Authority to Impose

As the intent of this review was to clean up and simplify some of the policies related to OHS penalties, levies, and assessments, we were surprised that policy item D12-196-4, "Administrative Penalties – Authority to Impose" was not addressed.

It is the position of the Federation that policy item D12-196-4 is redundant as the authority under the Act is established in each of the policies specific to Sections 73, 160 and 196.

- *The Federation recommends deleting policy item D12-196-4 as it is redundant.*

Conclusion

The Federation appreciates the opportunity to provide a submission regarding the proposed OHS penalty policies. We are confident that the Board of Directors will seriously consider this submission and revise the proposed policy based on our recommendations, in support of healthier and safer workplaces and work activities.

NH/mp

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