

## COMPLIANCE WITH STATUTORY REQUIREMENTS

For any statutory program, compliance with the Act, regulations and policy is a key performance expectation. The Dorsey Report recommended that each agency in the health and safety and workers' compensation program publicly report the results of their monitoring for compliance each year. To this end, the following specifies the results of each agency's monitoring for compliance for 2006:

### A. WORKERS' COMPENSATION BOARD

| Statutory Requirement*  | Section of the Act | Level of Compliance   |
|---|--------------------|---|
| Establish a permanent-impairment rating schedule to be applied in calculating the award for a permanent impairment resulting from an injury | s.34(3)            | Partial Compliance  |
| Establish a schedule or procedure for determining required deductions   | s. 39 (1) & (3)    | Full Compliance   |
| WCB to determine an indexing factor based on one-half of the percentage change in the consumer price index for the preceding year           | s. 70(1)           | Full Compliance   |
| Collect sufficient assessments and maintain an adequate Accident Fund (as defined)  | s.115 & s.116      | Compliant. However the WCB's unfunded liability situation puts us at risk to meet the payment of future claims. |
| Keep separate accounts for every class, subclass or employer and every fund established by the Board  | s.119              | Full Compliance   |
| Establish (and maintain) an experience rating program   | s.121(7)           | Full Compliance. An experience rating program was implemented in 1996.  |
| Notify employers of assessment rates by Sept. 1 each year.  | s.123 & s.125      | Full Compliance   |
| Produce an annual report and quarterly reports meeting specific requirements  | s.160 & s.160A     | Full Compliance   |
| WCB offices to be located in Halifax (HQ) and Sydney  | s.170              | Full Compliance. The WCB has offices in both Halifax & Sydney.  |
| The Board shall pay a grant in lieu in respect of any real property exempt from taxation  | s.171(4)           | Full Compliance   |
| Make specific pension contributions regarding staff and Board of Directors members  | s.173(3)           | Full Compliance   |
| Appoint an external auditor to audit the Board's accounts   | s.175              | Full Compliance. Ernst & Young LLP are the external auditors for the WCB.                                       |
| All expenses shall be paid out of the accident fund   | s.177              | Full Compliance   |

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|---|-----------|---|
| The Board to issue a card or other form of identification to any compliance officer                                 | s. 181(2) | Full Compliance   |
| Make available to the public all Policies adopted by the Board of Directors   | s.183(4)  | Full Compliance. WCB policy manual is available on the WCB's web site |
| No release of information unless in accordance with the <i>Freedom of Information and Protection of Privacy Act</i> | s.192     | Full Compliance   |
| A hearing officer shall render a decision on an appeal within 60 days of completion of the hearing                  | s.197(8)  | Full Compliance   |
| A hearing Officer to postpone or adjourn an appeal and refer same to the Board Chair                                | s. 199(1) | Full Compliance   |
| The Board chair to ensure that the final disposition of an appeal is left to the discretion of a hearing officer    | s. 200(3) | Full Compliance   |

\* these represent key statutory requirements of the WCB

#### **B. WORKERS' ADVISERS PROGRAM**

| <b>Statutory Requirement</b>   | <b>Section of the Act</b>                                | <b>Compliance</b> |
|--|--|-------------------|
| The Chief Worker Adviser shall establish a head office for the Program in the City of Halifax and shall establish other offices in other parts of the Province where the number of appeals before the Board or the Appeals Tribunal by workers who reside in a part of the Province warrant the establishment of another office. | s.263  | Full Compliance   |
| The Chief Worker Adviser shall make an annual report on the finances and operation of the Program to the Minister.   | s.268  | Full Compliance   |
| No person shall be provided with advice or representation in connection with a claim for compensation...until a claim has been denied.   | s.270 (2).   | Full Compliance   |
| ...assistance, advice and representation under the Program may be provided to a worker where there is a reasonable expectation of success in the matter and of recovery of no less than \$500.   | Workers' Adviser Program Eligibility Regulations, s.2(1) | Full Compliance   |

### C. WORKERS' COMPENSATION APPEALS TRIBUNAL

| Statutory Requirement   | Section of the Act | Compliance  |
|---|--------------------|---|
| The Tribunal shall determine its own procedures...  | s. 240(1)          | Full Compliance, see WCAT Practice Directions at <a href="http://www.gov.ns.ca/wcat">www.gov.ns.ca/wcat</a> |
| The Appeals Tribunal shall notify the Board that an appeal has been filed and provide the Board with a list of the issues raised by the appeal.   | s.243(2)           | Full Compliance   |
| A decision of the Appeals Tribunal shall be communicated to the participants in writing.  | s.246(2)           | Full Compliance   |
| ...the Appeals Tribunal shall decide an appeal within 60 days of completion of the oral hearing or, where no oral hearing is held, the date on which all submissions ...have been received [unless appeal is postponed pursuant to s. 247 or s.251] | s.246(3)           | Full Compliance   |
| The Appeals Tribunal shall issue a decision clearly stating the determination of the Appeals Tribunal on the appeal and shall state the reasons for the decision as briefly as possible without undue elaboration.                                  | s. 252A            | Full Compliance.  |
| The oral evidence given before the Appeals Tribunal at a hearing shall be recorded... Recordings...shall be kept by the Appeals Tribunal for a period of two years...   | s.253(1),(2)       | Full Compliance   |
| The Chief Appeal Commissioner shall make an annual report to the Minister of Justice within 90 days of the fiscal year end of the Appeals Tribunal respecting the operations and transactions of the Appeals Tribunal during the year.              | s.257(1)           | Full Compliance   |

### D. OHS DIVISION, NS DEPT OF ENVIRONMENT AND LABOUR

(1) Department Compliance with the Occupational Health and Safety Act

| Statutory Requirement  | Section of the Act | Level of Compliance |
|--|--------------------|---------------------|
| The Division shall be concerned with and maintain reasonable standards | s. 9(a)            | Full Compliance     |
| The Division shall prepare and maintain statistics                     | s. 9(b)            | Full Compliance     |
| The Division shall provide assistance                                  | s. 9(c)            | Full Compliance     |
| The Division shall promote or conduct studies and research             | s. 9(d)            | Full Compliance     |
| The Division shall encourage and conduct educational programs          | s. 9(e)            | Full Compliance     |

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|---|--------------------|--------------------------------|
| The Division shall submit an annual report to the OHS Advisory Council  | s. 9(f)            | Full Compliance                |
| Recover percentage of costs from WCB  | s. 10              | Full Compliance                |
| Appoint personnel   | s. 11(1)           | Full Compliance                |
| No personnel with employment conflict appointed   | s. 11(4)           | Full Compliance                |
| Appoint OHS - Advisory Council  | s. 24(2)           | Full Compliance                |
| OHS – Advisory Council with equal representation for employer and employee stakeholders   | s. 25(2)           | Full Compliance                |
| The Director shall determine the size of the committee; designation of employees to be members; or rules of procedure where agreement cannot be reached | s. 30              | Not invoked during this period |
| Duty of the officer to provide certain information  | s. 36              | Full Compliance                |
| Investigate work refusals   | s. 43(1)(c)        | Full Compliance                |
| Investigate discriminatory action complaints and provide order or decision  | s. 46(2)           | Full Compliance                |
| Seizure or removal of evidence  | s. 48              | Full Compliance                |
| Officer shall endeavour to consult with a reasonable number of employees during the inspection.   | s. 50              | Full Compliance                |
| Provision of written decision or order where requested  | s. 54              | Full Compliance                |
| Provision of written order following an oral order  | s. 55(2)           | Full Compliance                |
| Specify time within which an order has to be complied with  | s. 56(2)           | Full Compliance                |
| Protect confidential business information   | s. 61(3)           | Full Compliance                |
| Protect medical information   | s. 62(1)           | Not invoked during this period |
| Protect information provided in confidence  | s. 62(2)           | Full Compliance                |
| Director will consider appeals  | s. 67(3)           | Full Compliance                |
| Director to provide copies of decision to parties   | s. 67(9)           | Full Compliance                |
| Minister to seek recommendations from employer and employee representatives in establishing a pool of Appeal Panel members                              | s. 68(1)           | Full Compliance                |
| Minister to designate an Appeal Panel to hear an appeal   | s. 68(3)           | Full Compliance                |
| Deputy Minister to provide notice of appeal to Appeal Panel members   | s. 69(5)(a)        | Full Compliance                |
| Appointed Appeal Panel to hold hearing  | s. 69(5)(b)        | Full Compliance                |
| Appeal Panel Chair to provide copies of decision to parties   | s. 69(10)          | Full Compliance                |
| Monies to be held “In Trust”  | s. 72(6)           | Not invoked during this period |
| “In Trust” monies to be paid  | s. 72(7)           | Not invoked during this period |
| Procedures to follow where power to arrest utilized   | s. 73(1), (2), (3) | Not invoked during this period |

|   |                          |                 |
|---|--------------------------|-----------------|
| Prosecution initiated within two years            | s. 79                    | Full Compliance |
| Sunset clause provisions                          | s. 82(1A),<br>(1B), (1C) | Not Proclaimed  |
| Requirements related to deviation decision        | s. 83(10)                | Full Compliance |
| Director to provide copies of decision to parties | s. 83(12)                | Full Compliance |

(2a) Legal Requirement from Regulations

| <b>Legal Requirement from Regulations</b>  | <b>Section</b> | <b>Level of Compliance</b>        |
|--|----------------|-----------------------------------|
| <b>Appeal Panel Regulation Requirements</b>  |                |                                   |
| Appeal office shall identify to the Minister the selected chair and members  | 5              | Full compliance                   |
| Where parties to an appeal agree on having one person hear the appeal the appeal office shall provide that information to the Minister   | 5              | Not invoked during this period    |
| The appeal office shall assist the selected chair in scheduling the hearing and communicate the date and location of the hearing   | 6              | Full compliance                   |
| The appeal office shall identify a selected chair from the list of persons established pursuant to the Act for the purpose of chairing an appeal panel.  | 7              | Full compliance                   |
| The appeal office shall identify two selected members for an appeal panel, one representing employers and one representing employees   | 8              | Full compliance                   |
| The appeal office will inform the Minister of the availability of the selected members, and prepare an appointment letter for consideration by the Minister, and the Minister shall designate an appeal panel to hear the matter   | 9              | Full compliance                   |
| The appeal office to maintain a record of the decision-making process for possible future submission to the court  | 13             | Full compliance                   |
| <b>Disclosure of Information Regulation Requirements</b>   |                |                                   |
| Where a denial of a request by health professional is referred to the Director, the Director shall forthwith inform the employer, supplier or manufacturer who denied the request, of the referral and shall give the health professional and the employer, supplier or manufacturer who denied the request a reasonable opportunity to make representations | 10             | No review completed during period |
| Director shall receive representations and ensure confidentiality; any other information and representations submitted to the Director shall not be open to or made available to the public or any other person.   | 11             | No review completed during period |
| <b>General Blasting Regulation Requirement</b>   |                |                                   |
| Director shall issue the certificate to the blaster.   | 21             | Full compliance                   |
| <b>Occupational Health Regulation Requirements</b>   |                |                                   |

| <b>Legal Requirement from Regulations</b>  | <b>Section</b> | <b>Level of Compliance</b>                 |
|--|----------------|--|
| Officer to issue a Notification Order where it can be shown an occupational health hazard exists and the employer has been advised of the hazard, its extent and implication.  | 7              | No notification order issued during period |
| Notification Order to be in writing  | 7              | No notification order issued during period |
| Officer to report facts to Director if compliance with notification orders has not occurred  | 8              | No notification order issued during period |
| Compliance Order referred shall be in writing; record that the employer is in violation of these regulations; record that a Notification Order has been issued; specify a period of time within which the employer shall be required to remedy the hazardous situation | 8              | No compliance order issued during period   |
| <b>Radiation Emitting Devices Regulation Requirements</b>  |                |  |
| Radiation Health Officer shall make a recommendation to the Minister with regard to the issuing of a registration for an ionizing device   | 3.6            | Regulation repealed during period          |
| Radiation Health Officer notifies owner of any condition which contravenes the provisions of the regulations, or is inconsistent with good operating practices   | 6.1            | Regulation repealed during period          |
| <b>Underground Mining Regulation Requirements</b>  |                |  |
| Director must review information in a timely manner  | 58             | Full compliance                            |
| Director must notify the employer when the review is complete and the notice must state the cost of the review   | 58             | Full compliance                            |