

Title:  
**Legislation and Compliance**

## 1.0 **INTRODUCTION**

The New Brunswick's *Occupational Health and Safety Act* (OHS Act) and Regulations contain legal requirements that must be met by all New Brunswick workplaces. The OHS Act and Regulations were created to protect employees from unsafe work conditions and define the rights and responsibilities of employees and employers.

WorkSafeNB is the regulator of the OHS Act and Regulations in New Brunswick as well as the administrator of Worker's Compensation Act in the province. They have the authority to visit, inspect or investigate any provincially regulated workplace and are required to report any non-compliances to the employer that result from these visits. The Canadian Energy Regulator (CER) is responsible for ensuring companies meet regulations on the safety of employees, public and environment, as they may be affected by the design, construction, operation, maintenance and abandonment of a pipeline or international power line. On occasion CER may be the regulator on projects or infrastructure that cross a provincial or international borderline.

Health and safety in the workplace is based on the Internal Responsibility System, which means that employees and employers are responsible for their own health and safety as well as the health & safety of their co-workers and anyone else present in the workplace.

The purpose of this procedure is to ensure all legal and regulatory requirements that are directly applicable to employee occupational health and safety are identified and accessible to all employees and contractors.

The Director of Total Health and Safety provides guidance and oversight regarding regulatory requirements and makes recommendation to the company regarding the requirements. The Total Health and Safety department provides NB Power a compliant Health and Safety Management System for employees and supervisors.

## 2.0 **SCOPE**

This standard applies to every employer, employee and contractor working for NB Power.

## 3.0 **REFERENCES**

OHS Act - Chapter O-0.2	All Sections
NB Regulation 91-191	All sections
OHS Act - Chapter O-0.2	Section 36.1-36.6 Administrative penalties
Form 646	Deviation from Legislation
Form 645	Deviation from Health and Safety Management System

**TERMS AND DEFINITIONS**

Due Diligence	Employers, employees and contractors shall take all reasonable precautions to prevent injuries or accidents in the workplace.
Employee	(a) a person employed at or in a place of employment, or (b) a person at or in a place of employment for any purpose in connection therewith
Employer	employer” means a person who employs one or more employees or the person’s agent
Occupational Health and Safety Legislation	Regulates the standards of workplace health and safety with the aim to prevent workplace accidents, injuries and diseases, and outlines consequences for breaches of those standards.
Supervisor	A person who is authorized by an employer to supervise or direct the work of the employer’s employees regardless of title, this can be a lead, foreman, senior etc.

**4.0 ROLES AND RESPONSIBILITIES****4.1 Employer / Supervisor**

- Be knowledgeable about the OHS Act and applicable regulations,
- Adhere to the OHS Act, Regulations, NB Power standards, procedures and work methods,
- Ensure all employees adhere to the OHS Act, Regulations, in-house standards and procedures,
- Understand due diligence as it applies to this role as an employer,
- Cooperate with regulatory bodies when on NB Power sites performing inspections or investigations,
- Immediately notify NB Power’s Total Health and Safety department regarding any regulatory visits, inspections, investigation, reports or orders,
- Complete a Health & Safety Report (Eform #145) detailing any regulatory visits, inspections, investigation, reports or orders, and send a copy of the order to a member of the Total Health and Safety Team,
- Support corrective actions to address any non-compliance findings by a regulator.
- If a deviation is required from Legislation or NB Power’s Health and Safety Management System, *Form 646 – Deviation Request from Legislation* or *Form 645 Deviation Request from Health and Safety Management System (located on the Hard Hat site under “forms”)* must be completed and sent to Total H&S for approval.

## 4.2 Employee

- Be knowledgeable about the OHS Act and applicable regulations,
- Adhere to the OHS Act, Regulations,
- Follow NB Power established work methods, standards and procedures,
- Understand due diligence as it applies to the role as an employee
- Cooperate with regulatory bodies when on NB Power sites performing inspections or investigations.
- Notify your supervisor immediately regarding any regulatory visits, inspections, investigation, reports or orders.

## 4.3 Total Health and Safety

- Provides the identification and monitoring of all health and safety legislation, codes of practice, applicable standards and any other requirements relevant to the OHS Act and Regulations,
- Support any requests for a deviations made by NB Power and contractors to a regulator or government body,
- Support corrective actions to close non-compliances identified by a regulator,
- Report on NB Power's safety non-compliances to senior leadership,
- Maintain records of NB Power's deviations granted by WorkSafeNB to the OHS Act and Regulations,
- Perform a gap assessment of any pending legislative changes to NB Power's Management System,
- Establish a plan and communication requirements for any gaps identified in the company's Health & Safety Management System during the gap assessment,
- Implement any changes required,
- Provide reports of non-compliance to Senior Management.
- Review all deviation requests from legislation or NB Power's Health and Safety Management System.

## 5.0 STANDARD

### 5.1 Due Diligence

Exercising due diligence means taking care and acting conscientiously, this is accomplished by taking every reasonable precaution. An employer must consider what a reasonable and informed person would do in the same situation, acting within the requirements of the legislation. Ignorance of the legislation is not an acceptable rationale for failing to take proper precautions.

NB Power management must ensure the following:

- Appropriate supervision and oversight is provided for all workers, both employees and contractors
  - Employees are knowledgeable of and comply with the legislation and health and safety standards,
  - Employees are knowledgeable of and comply with internal standards,
  - Employees are trained for their tasks,
  - Employees can identify hazards and controls with every job,
  - Employees have appropriate Personal Protective Equipment (PPE) for their job,
  - Regular workplace inspections are completed and actions taken to address deficiencies.
-

## 5.2 New and Revised Legislation

WorkSafeNB has a policy for legislative change.

- A request for legislation or regulation change is made by WorkSafeNB,
- WorkSafeNB's board of directors considers the request and approves or denies the proposal,
- If approved, staff establishes a technical committee of specialists to review the issues and make recommendations,
- The board approves appointments to the technical committee,
- Once the change has been completed, WorkSafeNB posts a review of the changes on their website to solicit discussion and act as notification,
- Once the review period is complete and the new or revised legislation is approved, employers must update internal standards to ensure compliance, review the changes with JHSC members and communicate the changes to employees.

## 5.3 Compliance

Safety legislation sets the minimum safety standards for the health and safety of workers in NB. The company must develop standards to meet or exceed the minimum requirements. By maintaining high safety standards and a healthy safety culture NB Power can lower injury rates, claim costs, absentee rates and increase productivity.

Legislation states "what" we must do to maintain a safe workplace, NB Power documents "how" we meet or exceed the legislation by means of policies, standards, procedures, work methods and documentation.

To ensure we meet or exceed the legislative requirements:

- Employers and employees must understand the OHS Act and Regulations,
- Employers and employees must understand the standards/ work methods, procedures etc., before work begins
- Employers must monitor and enforce compliance with the safety rules,
- Employees are adequately trained on the task being performed,
- Employees understand hazards and how to mitigate them,
- Supervision provides oversight to ensure employees are working safely,
- Employees understand their rights and supervisors support those rights,
- Inspections are completed on equipment, vehicles and buildings.

WorkSafeNB enforces compliance with OHS legislation. When enforcing compliance, WorkSafeNB will, where appropriate, take one or more of the following measures:

- Inspect workplaces for compliance with legislation,
- Investigate accidents at places of employment,
- Issue compliance orders,
- Issue Stop Work Orders and
- Recommend prosecution of a party or individual who may have violated OHS legislation, as appropriate.

## 5.4 Legislative Interpretation – Use of Non-CSA Approved Equipment

Equipment that is not CSA-approved may still be used if the applicable section of Regulation 91-191 permits it—for example, where the regulation specifies compliance with the verbiage: *"a standard offering equivalent or better protection"*.

While a CSA (or ANSI or ASHRAE) label provides a convenient and widely accepted

---

indication that equipment meets a recognized standard, such certification is not the only means of demonstrating compliance.

The phrase “meets the requirements of” a standard means that the equipment must be manufactured in accordance with the technical specifications of that standard. However, it does not necessarily require formal certification by CSA. For instance, if a CSA standard specifies that a rope must withstand a load of 5,000 lb, then a rope that has been demonstrated—through testing or verification—to meet that load capacity would be considered compliant, even without a CSA label.

When equipment lacks such labeling, it becomes more difficult to verify compliance. In such cases, supporting documentation such as test results from an independent laboratory, a professional engineer’s certification, or non-destructive testing reports may be acceptable forms of evidence. Unless the equipment appears clearly substandard or deficient, such additional proof is typically not required by a regulatory officer.

**Link to interpretation:** [WorkSafeNB |](#)

## **5.5 WorkSafeNB Inspection Report**

WorkSafe NB Compliance Officers perform routine inspections of New Brunswick worksites in order to ensure compliance with Occupational Health and Safety legislation. Their Powers and Duties are fully detailed in Sections 28 -36 of the Occupational Health and Safety Act (Chapter O-0.2). The Officer will document these visits in one of three ways:

1. Where the Officer has determined there to be no infractions, an Inspection Report with no contraventions will be filled out, with a copy given to the employee representative and the employer representative.
2. Where the Officer has determined there to be a condition which is not immediately threatening to the employees, but which must be corrected within a defined period of time, the Officer will leave a Compliance Order with the employee representative and the employer representative.
3. Where the Officer has determined there to be a situation which is immediately threatening to life or health, the Officer will issue a Stop Work Order indicating that all work must cease until the conditions are rectified.

### **5.5.1 NB Power Response – Inspection Report – No Contraventions**

Upon receipt of an Inspection Report with no contraventions, the employer, employee, or contractor shall, within 24 hours, send a copy of the report to local management, JHSC and Total Health and Safety. A copy of the Inspection Report shall be posted in a prominent location at the workplace.

### **5.5.2 NB Power Response – Non-Compliance Order**

Upon receipt of a Non-Compliance Order, employer, employee, contractor shall immediately notify local management and provide them with a copy of the order or report at the earliest possible time. Local management shall notify their local Safety Representative and provide a copy of the order to the applicable Plant Manager / Regional Manager / Director level position as well as the local JHSC. A copy of the Non-Compliance Order shall be posted in a prominent location at the workplace. The employee or contractor shall also initiate an NB Power Incident Reporting Form (Form 145) with a copy of the order attached to the form, to document the event.

---

The Plant Manager, Regional Manager, or Director shall immediately notify Total Health and Safety and shall forward an electronic copy of the Order to Total Health and Safety.

Operational Management in consultation with Total Health and Safety shall advise on the appropriate course of action to ensure the intent of the Order is fulfilled in advance of the required time. This may include the involvement of Legal or other groups within NB Power in the case of serious events or if it is felt there are any extenuating implications.

Upon completion of the response, and any required associated activities, Operational Management will ensure that the Compliance Officer is duly notified and facilitate any follow-up requirements of the Officer.

#### **5.5.3 NB Power Response – Stop Work Order**

Upon receipt of a Stop Work Order, the employer, employee or contractor shall immediately cease work, and where possible immediately rectify the situation to the satisfaction of the Compliance Officer. Where this is not possible, the employer, employee or contractor shall cease work, ensuring that the worksite is left in a safe condition, report to his/her supervisor and await further instructions. Further notifications (local management, JHSC, Total H&S), as well as the initiation of a Health & Safety Report Form 145.

Operational Management in consultation with Total Health and Safety and the Legal Department will formulate and expedite the appropriate course of action. Operational Management will send documentation of the response to the Compliance Officer and will facilitate any follow-up requirements as necessary.

#### **5.5.4 Documentation**

All Orders received by Total Health and Safety shall be kept for a period of one year. On a quarterly basis, a report summarizing the Orders received shall be created for review by the Operational Vice-Presidents. To ensure completeness, an audit against WorkSafe NB's data base will be performed on a regular basis, and any discrepancies rectified as required. This information is also reported to NB Power's Board of Directors.

### **5.6 Deviations from Legislation**

In New Brunswick, the Occupational Health and Safety (OHS) Act recognizes that not all specific instances and new work processes can be addressed in legislation. The Act has a provision that allows an employer to apply to WorkSafeNB for permission to safely deviate from the existing requirements. Applications for deviations, and the authority to review those applications, are made under subsection 3(3) of the Act. That subsection reads:

- (3) *Where an employer applies, in writing, for an authorization to deviate from any provision of the regulations, the Chief Compliance Officer may give permission in writing for that deviation under such terms and conditions as he shall consider advisable.*
- (a) in accordance with the standards, if any, prescribed by regulation for granting such deviations, or*
  - (b) where no standards for granting deviations are prescribed by regulation, if he is satisfied that the deviation affords protection for the health and safety of employees equal to or greater than the protection prescribed by regulation.*
-

All deviation requests from legislation must be brought forward to the Total Health and Safety Department via Form 646. A Hazard Assessment and controls required to support a deviation must be submitted to a member of Total Health and Safety. A Manager of Total Health and Safety will review all deviation requests, based on the information submitted to support the deviation. If the Total Health and Safety Department agrees with the request, they will work with the department requesting the deviation and the local WorkSafeNB officer and make a written application to the Chief Compliance Officer. The application should contain an explanation on how the employer proposes to afford equal or greater protection to the health and safety of its employees.

The WorkSafeNB Chief Compliance Officer will review the specifics of the application and either grant or deny the request.

The Chief Compliance Officer may require additional information as determined necessary for the specific application.

The time for processing an application depends on many variables and the complexity of the operation. As such, the employer should submit an application for deviation as early as possible with all necessary information (including necessary engineering drawings) to avoid delays.

Deviations granted from WorkSafeNB have a maximum 10-year expiry date. Deviations must be assigned to an accountable individual both in Total Health and safety as well as the department requesting the deviation. The deviation must be reviewed annually for any changes to applicable legislation or NB Power standards, practices, procedures or work methods that may affect the approved deviation.

#### **5.7 Deviations from Total Health and Safety Management Program**

Where a Supervisor or Manager applies, in writing via Form 645, for an authorization to deviate from any provision of the Health and Safety Management System, the Director of Total Health and Safety may give permission in writing for that deviation under such terms and conditions as he shall consider advisable.

A hazard assessment and controls required to support a deviation must be submitted to a member of Total Health and Safety.

If the Manager of Total Health and Safety is satisfied that the deviation affords protection for the health and safety of employees equal to or greater than the protection prescribed by the H&S Standards or Corporate Safety Manual the deviation will be granted in writing.

#### **5.8 Administrative Penalties (WorkSafeNB)**

Administrative penalties is a new tool to motivate workplace parties to focus on safety. An administrative penalty is a monetary amount that may be imposed on an employer, supervisor, employee or other workplace party for failing to comply with the *OHS Act* or regulations.

Anyone who has responsibilities to comply with the requirements of the Act and the regulations (employer, contractor, sub-contractor, contracting employer, supplier, supervisor, owner or employee) may receive an administrative penalty.

Administrative penalties may be imposed when a workplace party is in violation of sections of legislation identified by WorkSafeNB as high risk. These selected sections do not

---

represent a complete list of all high-risk situations present in workplaces; however, these have a history of causing a serious injury when a workplace is not in compliance. The sections will be reviewed on a regular basis from WorkSafeNB and are subject to change. (Review Appendix D for more information)

**Legislation identified as high risk are divided into 5 main categories:**

1. Fall protection;
2. Excavation and trenching;
3. Machine safety;
4. Chain saw, brush saw or clearing saw operation; and
5. Working with materials containing asbestos

When a health and safety officer issues an order for a violation subject to an administrative penalty, the affected workplace party will be verbally informed. If confirmed, a **Notice of an Administrative Penalty** will be delivered by registered mail within 28 days of the order. There may be situations where in-person delivery may be necessary.

Failure to pay an administrative penalty is a debt owed to WorkSafeNB and may be filed in the Court of King's Bench of New Brunswick and may be enforced by judgement by the court. The judgement may also include reasonable additional costs and charges resulting from the filing, entering and recording of certificate in the court system.

*Note: NB Power will not pay violations such as seatbelt or speeding fines, this is no different. If administrative penalties are given, it is because there is a violation of the legislation and the HSMS.*

**APPENDICES**

APPENDIX A - WorkSafeNB Inspection Notification Process

APPENDIX B – Form 646 – Deviation from Legislation

APPENDIX C – Form 645 – Deviation from Health and Safety Management System

APPENDIX D – List of High Risk to Health or Life Sections (Administrative Penalties)

---



**DOCUMENT APPROVAL/REVISION RECORD**

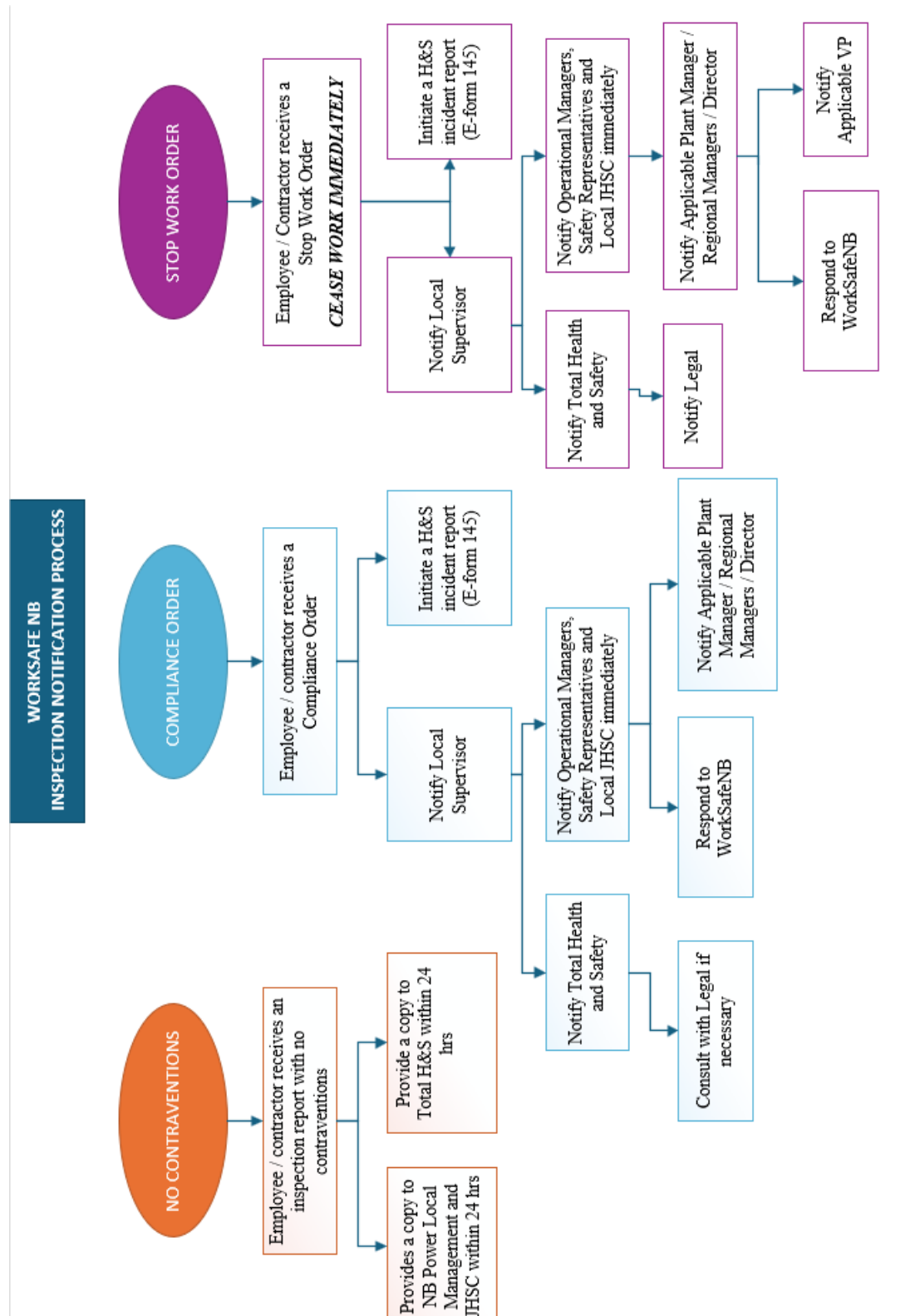
Revision #	Date yyyy/mm/d	Revision Summary	Author	Reviewed By	Approved By
New	2019-12-13	New Standard	Nancy Allen	Steven Pond Sarah Riche	Robin Condon
01	2025-10-17	Added references throughout the standard to new forms. Form 646 and 645 located in appendix A/ B.  Added 6.4 WSNB Interpretation and 6.8 Administrative penalties	Nancy Legere	H&S Team	Roland Roy



Director of Total  
Health & Safety

## Appendix A

### WorkSafeNB Inspection Notification Process



## Appendix B – Form 646 – Deviation from Legislation



Form # 646  
Revised: 2021.05

**Deviation Request from Legislation  
(OHS Act / Regulations)**

Date: \_\_\_\_\_

Employee requesting deviation: \_\_\_\_\_

Contact information: \_\_\_\_\_

Work Location: \_\_\_\_\_

Supervisor: \_\_\_\_\_

**1. What Legislation are you requesting a deviation from?**

Title: \_\_\_\_\_

Number \_\_\_\_\_

**2. Section of the Legislation?**

Section \_\_\_\_\_

**3. What is the reason for the deviation? (why you cannot comply with current Legislation)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**4. What Safety factors are you putting in place to ensure safety of your employees?**

\_\_\_\_\_  
\_\_\_\_\_

**5. List reference documents you will be attaching to this deviation request, such as drawings, engineering information, etc.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Send to Hercules Georgiadis [hgeorgiadis@nbpower.com](mailto:hgeorgiadis@nbpower.com)

Your request will be reviewed by the Total Health and Safety Team and will contact you on the decision.

Send all documents you refer to in this request.

Appendix C – Form 645 – Deviation from Health and Safety  
Management System



**Deviation Form Health and Safety  
Management System**

**Date:**

Contractor / Organization requesting deviation:

Contractors NB Power Contact:

NB Power Employee requesting deviation:

Contact information:

Work Location:

What health and safety standard or process are you requesting a deviation from?

Title:

Number:

Section of Standard and process?

Section:

What is the reason for the deviation? (why you cannot comply with current rules)

What Safety factors are you putting in place to ensure safety of your employees?

List reference documents you will be attaching to this deviation request, such as drawings, engineering information, etc.

Send to Eva Tumwine [ETumwine@nbpower.com](mailto:ETumwine@nbpower.com)

Your request will be reviewed by the Total Health and Safety Team and will contact you on the decision.

Send all documents you refer to in this request.

## Appendix D - List of High Risk to Health or Life Sections (Administrative Penalties)

### High Risk to Health or Life

Administrative penalties may be imposed when a workplace party is in violation of sections of legislation identified by WorkSafeNB as high risk. These selected sections do not represent a complete list of all high-risk situations present in workplaces; however, these have a history of causing a serious injury when a workplace is not in compliance. The sections will be reviewed on a regular basis and are subject to change.

Legislation identified as high risk are divided into 5 main categories:

- Fall protection;
- Excavation and trenching;
- Machine safety;
- Chain saw, brush saw or clearing saw operation; and
- Working with materials containing asbestos.

When a health and safety officer issues an order for a violation in contravention of a section in the tables below, an administrative penalty may be imposed. The tables below include a brief description of the high-risk sections. For more information on the sections, refer to the [regulation](#) in question.

**Table 1: Fall protection as outlined in Regulation 91-191 - General Regulation.**

High Risk Section Description	Regulation 91-191 Section numbers
No fall protection system in place or employee is not using fall protection system when required	49(1), 49(2), 49(3), 49(4) & 49(5)
Vertical life line is not in good working order or is not being use properly	49.4(1) & (2)
Horizontal life line has not been installed properly, has not been installed by a competent person or is not in good working order	49.5(2), 49.6 & 49.7(1)
Safety net does not meet safety requirements	49.8(1) & 49.8(2)
Guardrail for fall protection is being used when the slope is too steep	50(2)
Control zone is being used when the slope is too steep or for scaffolds	50(4)
Guardrail has been removed for work to be done and no additional precautions have been put in place	100(1)
Employee removed guardrail and did not replace it before leaving the area	100(2)
Travel restraint does not meet safety requirements	105(8)
Fall arrest system is not being used when it is required	106
A scaffold, over 3 metres in height, has no guardrail that meets the requirements of section 97.	131(1)(d)

**Table 2: Excavation and trenching as outlined in Regulation 91-191 - General Regulation**

High Risk Section Description	Regulation 91-191 Section numbers
Inadequate safety precautions in place when employees are working in proximity to utility or piping	180(1), 180(2) & 180(3)
Inadequate shoring, bracing or caging of walls	181(1), 181(2), 181(3) & 181(4)
Employee enters an excavation or trench without adequate safety measures in place	182(1), 182(2) & 182(3)
Materials or fence are placed too close to edge of excavation or trench	183(1) & 183(2)

**Table 3: Machine safety as outlined in Regulation 91-191 - General Regulation**

High Risk Section Description	Regulation 91-191 Section numbers
Inadequate lockout safety measures in place	239(1), 239(2), 239(3), 239(4), 239(5) & 239(6)
Inadequate safety measures in place when removing safeguards	243(1), 243(2) & 243(3)

**Table 4: Chain saw, brush saw or clearing saw operation as outlined in Regulation 91-191 - General Regulation**

High Risk Section Description	Regulation 91-191 Section numbers
Inadequate foot protection, leg protection and/or other protective equipment when operating a chain saw	346(a), 346(b) & 347
Employee who operates a chain saw, brush saw or clearing saw does not have a pressure bandage or does not keep it close at hand	351(2)(c) & 352(g)

**Table 5: Working with materials containing asbestos as outlined in Regulation 92-106 – Code of Practice for Working with Materials Containing Asbestos**

High Risk Section Description	Regulation 92-106 Section numbers
Employer has not adopted the code of practice entitled “A Code of Practice for Working with Materials Containing Asbestos” despite having employees who work with materials containing asbestos	3
<u>Employer</u> is not following the code of practice for materials containing asbestos.	4
<u>Employees</u> are not following the code of practice for materials containing asbestos.	5