

1 Department of Labor and Industry

2

3 Adopted Permanent Rules Relating to Workers' Compensation;

4 Safety and Health Committees

5

6 Rules as Adopted

7 5204.0010 APPLICABILITY.

8 Every employer required by Minnesota Statutes, section  
9 176.232, to establish and administer a joint labor-management  
10 safety and health committee shall comply with the requirements  
11 of this part. If the size of the employer's work force  
12 fluctuates, the employer is required to have a safety and health  
13 committee during the periods when more than 25 employees are  
14 employed.

15 5204.0020 LOCATION.

16 If an employer required to establish a safety and health  
17 committee operates at more than one location, the employer shall  
18 establish a safety and health committee at each of its  
19 establishments at which 50 or more employees work. Multiple  
20 buildings in a reasonably close proximity engaged in a common  
21 enterprise such as a college campus may be considered to be a  
22 single establishment. If work is performed at other locations,  
23 one or more centralized safety and health committees  
24 representing the safety and health concerns of these other  
25 locations shall be established. At a site where the employees  
26 of more than one employer work, a multiemployer committee may be  
27 used to satisfy the requirements of this part. If an  
28 industry-wide safety committee has been established pursuant to  
29 a collective bargaining agreement, it will satisfy the  
30 requirements of this part.

31 5204.0030 MEMBERSHIP.

32 Employee representatives on safety and health committees  
33 shall be selected by the employee's collective bargaining agent  
34 if one exists. If more than one union has the right to select

1 employee representatives for a safety and health committee, they  
2 shall collectively select the employee representatives. It is  
3 not necessary that the committee contain enough employee  
4 representatives to enable each union to be represented on the  
5 committee. If there is no collective bargaining agent, the  
6 employee representatives shall be selected by their peers. In  
7 the absence of volunteers, the employer may select the employee  
8 representatives. The number of employee representatives on a  
9 safety and health committee shall equal or exceed the number of  
10 management representatives on the committee. Unless a  
11 collective bargaining agreement provides to the contrary, being  
12 a member of a safety and health committee is considered part of  
13 an employee's job, and time spent performing the duties of a  
14 safety and health committee member shall be considered as time  
15 worked.

16 5204.0040 SAFETY SURVEYS.

17 The safety and health committees for any employer that has  
18 a workers' compensation insurance experience modification factor  
19 of 1.4 or greater or has a workers' compensation premium rate of  
20 \$30 or more per \$100 of payroll assigned to the greatest portion  
21 of the payroll for the employer shall conduct workplace safety  
22 and health surveys at each of the employer's workplaces at least  
23 quarterly. The safety and health committees of all other  
24 employers shall conduct workplace safety and health inspections  
25 as frequently as the committee considers necessary. On the  
26 request of a member of a safety and health committee, the  
27 commissioner of the Department of Labor and Industry shall order  
28 the employer to have surveys conducted more frequently if the  
29 commissioner determines that to do so would result in a  
30 substantially safer workplace. The employer shall keep a record  
31 of all hazards identified by and recommendations made by the  
32 safety and health committee.

33 5204.0050 OTHER DUTIES AND RECORDS.

34 The safety and health committee shall establish a system to  
35 obtain safety-related suggestions, reports of hazards, and other

1 information from all persons involved in the operations of their  
2 workplace. The safety and health committee shall review and  
3 make recommendations about the employer's occupational safety  
4 and health program and occupational safety and health records.  
5 The safety and health committee shall review incidents resulting  
6 in work-related deaths, injuries, and illnesses and make  
7 recommendations to prevent further occurrences. The committee's  
8 review of these incidents may be limited to a review of a report  
9 made by others who have investigated the incident. The employer  
10 shall provide materials and facilities to the safety and health  
11 committee to enable it to perform its duties. All safety and  
12 health committee recommendations or reports made to the employer  
13 shall be kept by the employer for two years and shall be  
14 provided to the commissioner of the Department of Labor and  
15 Industry on the commissioner's request.

16 5204.0060 DISCRIMINATION.

17 An employee who is discharged or otherwise discriminated  
18 against because the employee has reported a safety hazard to the  
19 safety and health committee is subject to the protection  
20 afforded under Minnesota Statutes, section 182.669.

21 5204.0070 ALTERNATIVE FORMS OF COMMITTEE.

22 An employer may comply with this part by establishing a  
23 safety and health committee that is innovative or different in  
24 form or function if the committee satisfies the intent of  
25 Minnesota Statutes, section 176.232. A safety and health  
26 committee that is established under a collective bargaining  
27 agreement is considered to be in compliance with the  
28 requirements of this part and is exempt from the specific  
29 requirements of this part. A safety and health committee that  
30 is established as a part of a workplace accident and injury  
31 reduction program under Minnesota Statutes, section 182.653,  
32 that has substantial employee involvement is considered to be in  
33 compliance with the requirements of this part and is exempt from  
34 the specific requirements of this part.

## 1 5204.0080 INSURER'S DUTIES.

2 An insurer that writes workers' compensation insurance in  
3 Minnesota shall have the capability to provide information on  
4 the operation of safety and health committees and hazard  
5 recognition for the employers it insures. This information must  
6 be provided within a reasonable time in a reasonable manner when  
7 requested by an insured. For purposes of this part, an  
8 administrator under Minnesota Statutes, section 79.251,  
9 subdivision 4, who provides administrative services for policies  
10 or contracts of coverage under the assigned risk plan is  
11 considered an insurance company.

## 12 5204.0090 APPLICATION TO INDEPENDENT CONTRACTORS.

13 For the purposes of this part, an "employee" includes an  
14 independent contractor engaged in construction activities and a  
15 person who has contracted with an independent contractor to  
16 supply construction services.