Ontario Compliance Alert: Part 3: Make 10 Changes to Your Traffic Safety Policy to Comply with New Rules

Proposed MOL regulatory changes in the pipeline will require at least some Ontario employers to modify their current OHS policies. Although the changes are wide-ranging, this series focuses on the 4 key OHS policies that will be the most directly and immediately impacted by the changes:

- Vertical fall protection;
- Scaffolds and elevated platforms;
- Traffic safety; and
- Biological and chemical hazards.

This installment explains how to revise your traffic safety policy to meet the new requirements and includes a Model Policy that you can adapt for your own workplace.

Employers Affected

The proposed rule changes affect not all Ontario employers but those subject to the *OHS Regulation for Industrial Establishments* (Reg. 851). This includes factories, offices and office buildings, retailers, restaurants, warehouses logging operations and foundries.

Employers Not Affected

The changes don’t affect worksites subject to another set of Ontario industry-specific OHS regulations, i.e., construction, oil/gas, mining, farming, teaching, window cleaning and diving operations.

Purpose of Changes

More workplaces are covered by Reg. 851 than any other industry-specific OHS regulations; but despite this, Reg. 851 is fairly antiquated and filled with gaps. The MOL’s objective is to bring Reg. 851 into line with more developed OHS regulations, especially *Construction Projects Regulation* (Reg. 213/91) and *Mines & Mining Plants* (Reg. 854). In addition to fleshing out current requirements for industrial establishments, the idea is to ensure coordination of standards across industries.

The Timeline

The public consultation period on the proposed changes ended on April 6. The MOL now has to finalize the changes and publish them in the *Ontario Gazette*. As of the date of this writing (first week in May), this hasn’t happened yet. But barring unforeseen developments, final regulations will be issued some time in May or June. The key will be the effective date. The 2 possibilities:

- The changes will take effect immediately as of the date of publication in the *Gazette*; or
- The MOL will give employers a grace period to comply which might be in the range of anywhere from 1 to 6 months.

The Traffic Control Changes

Hazards posed to workers by moving vehicles and powered mobile equipment are a major source of work fatalities and serious injuries. While Reg. 851 requires employers to take measures to control traffic hazards, the requirements are far less

developed than the corresponding provision required for construction projects under Reg. 213/91 and for mines and mining plants under Reg. 854. The changes the MOL is proposing are designed to beef up the current traffic safety requirements for industrial sites and bring them into line with the construction and mining rules.

The 10 Policy Changes to Make

If your current traffic control and safety policies are based on minimum requirements under current Reg. 851, you'll need to make major changes to bring them into compliance with the new MOL rules. Here are the 10 changes you'll need to make (based on the MOL's current proposal which is, of course, subject to change):

1. **Revise Terminology & Add 'Powered Mobile Equipment' Definition**

Current Rule: Reg. 851 requires employers to take measures to safeguard workers from 'vehicles, mobile equipment, cranes or similar material handling equipment' but doesn't offer specific definitions of these terms.

New Rule: The new rule cleans up the terminology by referring to hazards posed by 'vehicles' and 'powered mobile equipment.' It defines the latter as self-propelled equipment designed to operate on land in conditions other than a public highway, and to manipulate or move material or provide a work platform for workers

Required Policy Changes: If your traffic safety policy uses the old terminology, you'll need to revise it to incorporate the new 'vehicles' and 'powered mobile equipment' key words and add the definition of 'powered mobile equipment' [Model Policy, Sections 1, 2 and 3].

2. **Add Express Duty to Perform Risk Assessment**

Current Rule: While recognized as a best practice, risk assessment isn't listed as an express duty for industrial sites under Reg. 851.

New Rule: General risk assessment (which would include but not be limited to traffic hazards) would be required at industrial sites where 20 or more workers are regularly employed.

Required Policy Changes: Hopefully, risk assessment is already part of your traffic safety policy. If not, you'll need to add it and specify that risk assessment must be in writing and furnished to the joint health and safety committee (JHSC) or health and safety representative (HSR) for the site'or if there is no JHSC or HSR, communicated to the workers and made available to any worker who requests it [Model Policy, Section 6].

3.Expand List of Required Traffic Safeguards

Current Rule: Section 20 of Reg. 851 requires employers to use 'barriers, signs or other safeguards' where 'vehicle or pedestrian traffic' may endanger a worker.

New Rule: The new Section 20 would require protection for not only workers but also pedestrians and operators exposed to hazards from vehicle and powered mobile equipment traffic. It would also expand the list of measures that employers must consider in controlling traffic hazards.

Required Policy Changes: Incorporate the new safeguards required by Section 20 into your own policy, including, where appropriate, use of:

- Designated walkways to separate pedestrian traffic from areas where vehicles or powered mobile equipment operate;
- Clearly visible warning signs;
- Traffic signals;
- Back-up alarms on equipment;

- Speed limits;
- Restriction of pedestrian access to certain areas;
- Measures to enhance the visibility of equipment; and/or
- Measures to enhance the visibility of workers.

[Model Policy, Section 7].

4. **Add Section Requiring Written Traffic Management Program**

Current Rule: While Reg. 854 requires employers to implement a written traffic management program at mining sites and Reg. 213/91 requires a traffic protection plan at construction projects, there's no equivalent requirement for industrial sites under Reg. 851.

New Rule: Employers would be required to develop and implement a written traffic management program listing measures and procedures to:

- Ensure full and proper visibility of motor vehicle and powered mobile equipment operators to minimize the risk of collisions; and
- Protect workers and pedestrians who may be endangered by moving vehicles or powered mobile equipment.

Required Policy Changes: If you're subject to Reg. 854 or Reg. 213/91, you should already have a provision in your policy requiring a written traffic management program or traffic protection plan, respectively, to control traffic hazards at the site that you can carry over to your industrial site policy. If not, you'll need to add a new provision. In addition to the visibility, worker and pedestrian protections noted above, make sure your policy states that you'll:

- Develop the program in consultation with the joint health and safety committee (JHSC) or health and safety representative (HSR) for the worksite, if any;
- Keep a copy of the program 'readily available' at the worksite; and

- Review the program as often as necessary to ensure that it’s up to date and effective and no less than once a year.

[Model Policy, Sec. 8].

5. **Revise Conditions Requiring Use of Signalers**

Current Rule: Reg. 851 requires use of a signaler to direct the operator in moving a vehicle, mobile equipment, crane or similar material handling equipment in 3 situations:

- The operator doesn’t have a full view of the intended path of travel of the vehicle/crane/equipment or its load;
- The vehicle/crane/equipment is operated near a live power line and there’s a risk of contact; and
- Logs are loaded on or unloaded from the vehicle/crane/equipment.

New Rule: Although signalers would still be required in the above situations, the new regulation would expand the requirements for mandatory signaler use.

Required Policy Changes: Revise the part of your policy indicating when use of a signaler is mandatory to incorporate these new requirements. Specifically, list the 2 situations when a signaler is required to assist the operator of powered mobile equipment or a vehicle or trailer designed and primarily used to move or transport material:

Situation 1: The operator or any other person could be endangered by the powered mobile equipment, vehicle, trailer or its load, including but not limited to the risk that the powered mobile equipment, vehicle, trailer or its load, or any part thereof, will contact an overhead power line; **and, either:**

- The operator’s view of the intended path of travel of the powered mobile equipment, or the vehicle or trailer

is obstructed; **or**
- The operator's view of the intended path of travel of the load is obstructed.

Situation 2: The operator of a crane or hoist doesn't have a clear and unobstructed view of the boom, jib, load line, load hook and load throughout the whole range of the hoisting operation [Model Policy, Section 9.1.].

6. **Add New Safety Requirements for Signalers**

Current Rule: Signalers must be competent to perform their duties and stationed safely so that they aren't hit or run over by the vehicles and mobile equipment they're directing, i.e.:

- In full view of the operator;
- With a full view of the intended path of travel of the vehicle, mobile equipment, crane or similar material handling equipment and its load; and
- Clear of that intended path of travel.

New Rule: While retaining the current competency and positioning rules, the new regulations would require employers to implement additional measures and procedures to protect signalers while they're carrying out their functions.

Required Policy Changes: In addition to requiring competency and safe positioning, make sure your policy requires that signalers:

- Perform no other work while acting as signalers so they can dedicate 100% attention to their signaler responsibilities;
- Wear the required high visibility safety apparel; and
- Watch the part of the vehicle, trailer, powered mobile equipment, crane or its load whose path of travel the operator cannot see.

[Model Policy, Sections 9.2. & 9.5.].

7. **Add New Safety Requirements for Signalers & Operators**

Current Rule: The traffic hazard provisions of Reg. 851 focus on signalers rather than operators of vehicles and powered equipment.

New Rule: The MOL would bring operators into the picture by requiring employers to create written safety procedures for both signalers and operators.

Required Policy Changes: You'll need to revise your policy to account for the new joint signaler-operator safety requirements by indicating that you'll create the required procedures and ensure that signalers and operators:

- Follow the procedures;
- Discuss the procedures with each other before starting the work;
- Communicate via either telecommunication systems, or prearranged visual signals, provided that visual signals are clearly visible to the operator.

[Model Policy, Sections 9.3. & 9.4.].

8. **Add High Visibility Safety Apparel Requirements for Signalers**

Current Rule: Reg. 851 doesn't include safety apparel requirements for signalers at industrial sites.

New Rule: Signalers would be required to wear high visibility safety apparel that meets the same basic criteria currently required for mine workers under Reg. 854 and for construction workers under Reg 213/91.

Required Policy Changes: To ensure compliance with the new rules, add new language to your policy requiring signalers to wear high visibility safety apparel that:

- Is appropriate to protect them against the hazards to

which they're exposed while performing signaling duties;
- Meets the design requirements for Class 1 or 2 set out in CSA Z96-15, *High-visibility safety apparel*;
- Contrasts with the background environment in the workplace; and
- Includes bands of retro-reflective or combined-performance retro-reflective material of at least 50 mm wide encircling each arm and leg when performing signalng duties between sunset and sunrise.

In addition, state that high visibility safety apparel and all retro-reflective or combined-performance retro-reflective materials must be maintained in good condition so that they provide adequate visual identification of the worker [Model Policy, Section 9.6.].

9. **Add Training Requirements for Signalers**

Current Rule: Signalers must be 'competent,' meaning:

- Qualified because of knowledge, training and experience;
- Familiar with the OHS Act and applicable regulations; and
- Have knowledge of any potential or actual health or safety danger in the workplace.

New Rule: The revised regulations spell out what the current version only infers, i.e., that signalers must receive appropriate training and instruction to perform their signaling duties before being allowed to carry them out.

Required Policy Changes: Make sure your policy provides for the necessary training and instruction. Best practices dictate requiring that workers not only receive but be required to demonstrate proficiency in their training before being deployed as signalers [Model Policy, Section 10.1.].

10. **Add Training Requirements for Operators**

Current Rule: Workers must receive thorough training before

being allowed to operate vehicles and powered equipment.

New Rule: The revised regulations would require operator training and instruction to include implementation of the safe work procedures for carrying out operations requiring the use of signalers. There's also a subtle but significant difference between signaler and operator training requirements:

- Signaler: Employer must ensure such training and instruction has been provided;
- Operator: Employer must provide the training and instruction to individuals who are directly employed or work for the company (as opposed to a constructor, contractor or subcontractor hired to work for the company).

Required Policy Changes: Make sure these operator training and instruction rules are part of your own policy [Model Policy, Section 10.2.].