

## **Overview of proposed amendments to**

### **Part 4: General Conditions**

#### **Section 4.3, Safe machinery and equipment**

Section 4.3 (1) (b) (i) and Section 4.3 (4) (a) require tools, machines and pieces of equipment to be selected, used, operated and modified in accordance with the manufacturer's recommendations and instructions.

Compliance with manufacturer instructions is mandatory to ensure worker health and safety. However, manufacturer recommendations often involve the use of their own products or an authorized dealer, and can be self-serving. The current regulation has the effect of prohibiting the use of after market or competing products which may be safer, cheaper and/or more reliable.

It is proposed that the reference to manufacturer recommendations be removed from both sections. This change will not affect an employer's obligations to ensure replacement parts are appropriate, meet applicable standards and are properly installed.



## PART 4: GENERAL CONDITIONS

### BUILDINGS, STRUCTURES AND EQUIPMENT

#### Safe machinery and equipment

- 4.3** (1) The employer must ensure that each tool, machine and piece of equipment in the workplace is
- (a) capable of safely performing the functions for which it is used, and
  - (b) selected, used and operated in accordance with
    - (i) the manufacturer's ~~recommendations and~~ instructions, if available,
    - (ii) safe work practices, and
    - (iii) the requirements of this Regulation.
- (2) Unless otherwise specified by this Regulation, the installation, inspection, testing, repair and maintenance of a tool, machine or piece of equipment must be carried out
- (a) in accordance with the manufacturer's instructions and any standard the tool, machine or piece of equipment is required to meet, or
  - (b) as specified by a professional engineer.
- (3) A tool, machine or piece of equipment determined to be unsafe for use must be identified in a manner which will ensure it is not inadvertently returned to service until it is made safe for use.
- (4) Unless otherwise specified by this Regulation, any modification of a tool, machine or piece of equipment must be carried out in accordance with
- (a) the manufacturer's ~~recommendations and~~ instructions, if available,
  - (b) safe work practices, and
  - (c) the requirements of this Regulation.

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#### Explanatory Note

Subsection 4.3 (1) (b) (i) states that the employer must select, use and operate tools and machines in accordance with the manufacturer's recommendations and instructions. The manufacturer normally recommends that only replacement parts or accessories made by the manufacturer be used with their product. In such cases the regulation, as currently worded, prohibits the use of after market or competing products which are compatible and safe for use. For example, a hand held circular saw can generally be fitted with a variety of different types of saw blades and other discs from various sources to meet the special needs of a particular task. It is standard practice for the user to obtain such components from a local supplier and often such components are not made by the tool or machine manufacturer. Similarly a manufacturer generally recommends that any service or repair to a product be done only by the manufacturer's authorized or recommended repair facility. Often necessary service or repair work can be done "in-house" or by a local service provider. Practice is not to enforce the requirement that "manufacturer's recommendations" be followed. The provision is "trade restrictive" and does not have any clear health and safety justification.

The current language of subsection 4.3 (4) (a) requires any modification of a tool, machine or piece of equipment to follow the manufacturer's recommendations and instructions. Instructions by the manufacturer are a "must do", however, recommendations from the manufacturer are once again generally self-serving. For example, a recommendation to use only the authorized dealer

**PROPOSED AMENDMENTS FOR PART 4: GENERAL CONDITIONS  
IN THE OCCUPATIONAL HEALTH AND SAFETY REGULATION**

or the manufacturer's parts or services, when other options are readily available and equally safe, is self-serving and restricts trade. The proposed amendment would allow the use of competing products to modify a tool, machine or piece of equipment, provided the modification is carried out in accordance with the manufacturer's instructions, safe work practices and the requirements of the Regulation.

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