

103 CMR: DEPARTMENT OF CORRECTION

103 CMR 455.00: CORRECTIONAL INDUSTRIES

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455.01: Purpose

The purpose of 103 CMR 455.00 is to establish department procedures regarding Correctional Industries.

455.02: Authorization

103 CMR 455.00 is issued pursuant to M.G.L. c. 124, 1(c) and (q) and c. 127, §§ 48(A) and 51. 103 CMR 455.00 is not intended to confer any procedural or substantive rights or any private cause of action not otherwise granted by state or federal law.

455.03: Cancellation

103 CMR 455.00 cancels all previous department policy statements, bulletins, directives, orders, notices, rules or regulations regarding Correctional Industries which are inconsistent with 103 CMR 455.00.

455.04: Applicability

103 CMR 455.00 applies to all Department of Correction employees in general and specifically to employees at correctional institutions which have an industries program.

455.05: Access to Regulations

103 CMR 455.00 will be maintained within the central policy file of the department and will be accessible to all department employees. A copy of 103 CMR 455.00 shall be maintained in Superintendent's Policy File, in the office of the industries supervisor of those institutions that have an industries program, and in each inmate library.

455.06: Definitions

Assignment Officer: A correctional officer given the responsibility of supervising an institutional work program.

Assistant Deputy Commissioner: The Assistant Deputy Commissioner for the Bridgewater Complex.

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Classification Board: A committee of institutional or departmental employees which makes recommendations to the Superintendent concerning an inmate's program participation or placement within the Department of Correction.

Commissioner: The Commissioner of Correction.

Correctional Industry: An activity existing in a correctional system which uses inmate labor to produce goods and/or services for sale. The price of all articles and materials-supplied by the prison to the Commonwealth, counties, cities and towns shall conform as nearly as feasible to reflect current pricing paid by the State and Municipalities for similar goods manufactured outside of the prison.

Department: The Department of Correction.

Director of Industries: The person who is responsible for the operation and direction of all Correctional Industries, and who reports directly to the Assistant Deputy Commissioner.

Directory of Occupational Titles: A document published by the U.S. Department of Labor which classifies all job descriptions by number.

Industries Supervisor: The Industries staff person who is appointed by the Commissioner on the recommendation of the Assistant Deputy Commissioner to oversee and manage the industries operation of a particular institution.

Operating Unit: One distinct operation of industries activity which may be operated as a cost center or separate accounting entity. It may take the form of a manufacturing operation such as furniture making or a service activity such as warehousing.

Superintendent: The Chief Administrative Officer of a Correctional Institution.

455.07: General Policy

The Industries Division operates as a part of the Department of Correction. The primary mission of Industries as with the Department of Correction is the safety of the public. Institutional security is the primary objective within which all industries activities and programs are carried out. While profitability and the creation of inmate employment are goals of the program, they must never be allowed to supersede security as the primary objective.

The Department of Correction will, within the framework of security, attempt to create industries programs which include, but are not limited to the following:

- (1) A maximization of inmate work opportunities within our institutions consistent with cost efficiency and security;
- (2) A work environment which mirrors that found in comparable outside industry;
- (3) Use of current technology wherever possible;
- (4) High standards of production as measured by quantity and quality;
- (5) Opportunities for a wide range of skill development;
- (6) Linkage between job performance and rewards for participants;
- (7) Development of programs that are self-sustaining and economical for the taxpayer.

455.08: Inmate Access to Industries Programs

Each Superintendent who has an industries program in the institution, in conjunction with the Industries Supervisor, shall develop a method of inmate assignments to the industries program which shall include, but not be limited to:

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- (1) Compulsory job assignments within the limits of the industries programs needs;
- (2) Work force requirements to fill job vacancies;
- (3) Procedures for posting job assignment vacancies;
- (4) Prior to being hired for an initial industries position, an inmate shall be screened by a Classification Board. The screening process shall include the following:
  - (a) Determination of suitability and eligibility for a skilled or unskilled industries position in accordance with 103 CMR 455.09: *Job Listings*.
  - (b) Once such determination regarding suitability and eligibility is made, an industries position referral form shall be completed by the Classification Board Counselor and forwarded to the Assignment Officer or designee.
  - (c) The Assignment Officer or designee shall forward the referral form to the Industries Supervisor (or designee) for the purpose of interviewing the inmate.
  - (d) Once the Industry Supervisor has made a decision regarding the referred inmate's hiring, he shall complete and return the Industries Referral Form to the Assignment Officer who will then forward the form to the designated classification staff member for placement in the inmate's six part folder.
- (5) Subsequent job assignments within the industries division will not require a classification hearing but will be at the discretion of the Industry Supervisor.
- (6) It shall be the responsibility of the designated classification staff member to monitor and appropriately channel incoming industry referrals and to generate industry referrals both internally and for other institution industry programs as well. If all other factors permit, they will seek transfer of the inmate to the institution with an industry requiring that skill.

455.09: Job Listings

- (1) A listing of the necessary number of jobs by title and rating shall be established for each institutional shop. All listings shall be approved by the institution Superintendent and the Department's Director of Industries.
- (2) All industrial jobs shall be rated and listed in accordance with the Director of Occupational titles.
- (3) Job availability shall be communicated through the Institutional Assignment Officer.
- (4) The Prison Industries Skilled Labor Position Booklet shall be made available to all classification board members. This booklet identifies available industry positions at participating institutions in accordance with position listings defined in the Directory of Occupational Titles.

455.10: Inmate Compensation

- (1) In accordance with M.G.L. c. 127, § 48A, the Commissioner is authorized subject to appropriation from the General Fund...to establish a system of compensation for inmates of the correctional institutions of the Commonwealth who perform good and satisfactory work...the Commissioner may establish a graduated scale of compensation to be paid inmates in accordance with their skill and industry, and the Commissioner shall establish, and may at any time amend or annul rules and regulations for carrying out the purposes of 103 CMR 455.10.
- (2) Hourly wages for inmates shall be determined by the percentage of the work force and degree of skill observed by and demonstrated to the Shop Instructor or Shop Manager who reports directly to the Industries Supervisor.

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- (3) Full time employees are those who work all day, morning and afternoon in the Industrial Shops for no less than 30 hours a week. Part time employees are those employees who work every morning (approx. 70 hours a month) or every afternoon (approx. 50 hours a month). Where necessary and practical, evening work hours may be established and counted toward full time. Generally, only inmates working full time in Industries will be eligible for top pay grades. Inmates who are working part time will receive lower pay unless they are highly skilled and it is to Industries advantage to employ them part time at the top pay grades.
- (4) Inmates working full time schedules will be entitled to compensation at time and a half for those hours worked in excess of their normal full time work day.
- (5) Wage increases shall not be allowed for any period during which industrial good time is disallowed. An increase based upon actual employment may be withheld for violation of institution/shop rules, shop security, safety rules, or operational procedures.
- (6) Payment will be made for those holidays that are granted to civilian staff provided that the inmate has worked the day prior to and immediately following a holiday.
- (7) Industrial good time will be given in accordance with 103 CMR 411.00 to inmates who perform satisfactory and diligent work at the rate of 2.5 days per month. If an inmate is participating in the program and they are coming up for discharge, release or transfer on or after the 15th of the month, they will be granted 2.5 days credit for full month participation.
- (8) No good time is earned if an inmate worked less than 15 days during the month.
- (9) Good time credits are normally to be awarded for satisfactory and diligent work on the basis of a full calendar month participation.

455.11: Shop Rules and Operational Procedures (Industries)

Each Superintendent, in cooperation with the Industries Supervisor shall develop rules and operational procedures for each Industries Shop. 103 CMR 455.00 and operational procedures shall be reviewed by the Director of Industries to insure commonality between institutions of the same security level. Each inmate shall read the Shop Rules and Operational Procedures then sign, indicating he has read and understood them.

These Shop Rules and Operational Procedures shall include, but not be limited to:

- (1) Inmates should not be out of work unless it is absolutely mandatory (*i.e.*, medical appointments). Institutions should strive to schedule all other appointments around work schedules (*i.e.*, haircuts, canteen, classification hearings, *etc.*). Call out time for personal affairs (*i.e.*, visits) requires previous authorization from the shop supervisors.
- (2) No inmate employees may be idle in the shop area. All inmates will be given ample work to remain productive for the entire time they are in the shop area. Any activity not related to work (games, exercising, *etc.*) shall not be allowed. Each inmate will be required to work at a job and every effort will be made to assign jobs in accordance with the inmate's ability to perform the job. If there is insufficient work in the assigned work area, the inmate may be required to work in another area. An inmate may be required to work in another shop on a temporary basis.
- (3) Working hours are to be established by the Director of Industries and the Superintendent for each industries location. Working hours will be no less than six hours per day (approx. hours to be 8:00 A.M. to 11:30 A.M. and 1:00 P.M. to 3:30 P.M.) unless otherwise determined by the Director of Industries and approved by the Institution Superintendent at the industries location.
- (4) Full time employees will work both morning and afternoon. If an inmate is hired on a part time basis, he will work either every morning or every afternoon during the work week unless otherwise approved by the Director of Industries.

455.11: continued

(5) Each inmate who is employed by industries will punch his own timecard at the beginning and end of each work period. After punching in, he will give the timecard to the instructor for whom he works. A Shop Manager or Instructor will supervise and monitor inmate use of the time clock by reviewing each timecard. When no time clock is available, such as outside the institution work crews in renovation and construction, the inmate will be logged in and out on a log sheet by their instructor.

(6) If an inmate is laid off due to lack of available work in the shop and through no fault of his own, he may be hired back at the same pay grade held at time of layoff when an opening exists. If the pay grade previously held by the inmate worker is not open, he will be given the next lowest pay grade available and will have seniority for the next opening, provided he has maintained the qualifications for the higher pay grade.

(7) Inmates may be removed from their work assignment for security reasons. Nothing in 103 CMR 455.00 shall be construed as limiting the ability of correction personnel to remove an inmate from their work assignment.

(8) Any inmate worker may be fired by his work supervisor or the Industries Supervisor for:

- (a) Poor quality/low output of work;
- (b) Disruption of work area;
- (c) Poor attendance;
- (d) Laziness or any activity not related to work (*i.e.* games, exercise);
- (e) Leaving the work area or being out of place without authorization;
- (f) Violation of institution/shop rules, shop security or safety rules and/or operational procedures. (See 103 CMR 455.12(4) ).

(9) Only actual working time will be paid for by Industries. Time away from work for canteen, medication, dentist or doctor's appointments, counseling, school avocation, programs, disciplinary boards, court hearings, visits and other non-industries related absences will not be paid. Inmates removed from work for any reason by the institution will not be paid during their time away from work.

(10) General safety procedures for all shops shall be adhered to.

455.12: Performance Evaluation and Non-Conformance with Shop Rules and Occupational Procedures

(1) Workers will be reviewed as required by institutional procedures.

(2) There shall be no time requirement for inmate advancement in pay grade. Advancement shall be based on an individual's performance which shall be evaluated by the following criteria:

- (a) Consistency in maintaining production quotas;
- (b) Consistency in maintaining quality workmanship;
- (c) Consistency in maintaining a good work attitude;
- (d) Consistency in maintaining good working relationships with supervisors and fellow workers;
- (e) Consistency in observing safety, sanitation and hazardous material handling rules;
- (f) Compliance with security regulations regarding inmate movement and tool control;
- (g) Availability of a higher paying slot.

(3) In a case of disruptive action(s) by an inmate employee such as fighting, use of abusive or threatening language, or refusal to obey a direct order, security will be notified and the inmate will be removed from the industries area immediately. A disciplinary report shall be filed in all cases with copies to the Disciplinary Officer and Industries Supervisor.

(4) Each institution shall have written procedures for informing inmates when their performance, work pace, productive output and/or quality are not up to standards. These shall be progressive, starting with recorded verbal warnings (held in a file for one year), written warnings setting forth what is required and when it is to be accomplished. If these are not met, then a written termination stating the standards not met will be given to the inmate.

455.12: continued

(5) Results of disciplinary board hearings will not affect a termination decision by an industries staff member if the reason for the termination involved violations of 103 CMR 455.11(8).

455.13: Compensation for Work Related Inmate Injuries

(1) The first three working days of time lost due to work related injuries will be paid at the full regular rate including longevity where applicable.

(2) Time after the first three working days will be paid at 50% of the regular rate including longevity pay. Overtime pay is not considered part of the regular rate.

(3) Injuries sustained by inmate workers, willfully or with intent to injure others, or injury suffered in any activities not directly related to their work assignments will not be eligible for compensation under 103 CMR 455.13(1) and (2).

(4) A medical report of disability, cause of disability and length of recuperation must be provided to Industries Supervisor prior to compensation for work related injuries.

455.14: Industries Staff (Institution)

(1) Each Superintendent with an industries operation within the institution shall develop in concert with the Industries Supervisor, policies and procedures for maintaining tight security. These policies and procedures shall deal with all security areas necessary which shall include but not be limited to the following:

- (a) Inmate control (counts, hourly counts, pat searches, time card control);
- (b) Tool control (use of machine tools and equipment, portable hand tools);
- (c) Material control (consumables, raw materials, finished goods, hazardous/flammables);
- (d) Shipping and receiving truck control (type of shipments, responsibilities for inspection);
- (e) Relations between industries staff and institution security staff (clear definition of who performs what functions).

(2) Each Superintendent with an industries operation within the institution shall develop in concert with the Industries Supervisor, an organizational chart for the industries program which delineates the structure of authority, responsibility and accountability within the institution. Each industries operation may include an Industries Supervisor, Shop Manager (Instructor III), Assistant Shop Manager (Instructor II), Shop Instructors (Instructor I), Assistant to the Supervisor, clerical and storekeeper positions.

(3) The organizational chart shall depict the line relationships.

(4) Each Industries Supervisor is directed by the Director of Industries regarding operations and budgetary matters, but is administratively responsible to the institution Superintendent with respect to institutional procedures.

(5) Under the direction of the Industries Supervisor, a Shop Manager's duties include, but are not limited to:

- (a) Management of a particular shop and instructor(s) who work in that shop. This includes estimating cost of jobs, planning production, ordering material and monitoring costs;
- (b) Submission of shop reports and inspections in compliance with quality control standards;
- (c) Maintenance of all inmate shop time records, including computing work hours and signed approval of time cards;
- (d) Ensuring that inmate time card records are approved and forwarded to the accounting office for processing of payment;
- (e) Monitoring a quality control plan in a shop environment, which is directed toward inmate employee education of the products being manufactured;
- (f) Monitoring of security, safety and inmate control procedures including hourly inmate counts, tool and hazardous material control and regular surveillance of all inmate activity in their shop.

455.14: continued

(6) Shop Instructors work under the direction of a Shop Manager and provide first line supervision for inmate employees.

455.15: Industries Catalog

(1) It is the policy of Correctional Industries that a copy of the Industries Catalog be made available to outside agencies on an as needed basis.

(2) In order to comply with state law, all state, county and municipal agencies must purchase available items and materials from Correctional Industries provided that specifications and time schedules for delivery can be met. However, it is not the responsibility of Correctional Industries to be the enforcing agency.

(3) The Industries Catalog shall provide instructions for ordering from the catalog price list and a listing of products and services.

455.16: Fiscal Operation and Control Procedures

(1) Cost Accounting Systems - General.

(a) All costs in Correctional Industries associated with manufacturing operations shall be properly accumulated to facilitate planning, pricing, product or service profitability, work force performance and decision making.

(b) The four major elements comprising the cost of a Correctional Industry product are:

1. Material
2. Labor
3. Manufacturing Overhead
4. Marketing/Administrative Expenses/Reserves

(2) Accounts Receivable (A/R). The accounts receivable function will be kept in prison industries central office. Upon notification by an industries program that a product has been shipped or a service completed for a customer, correctional industries will bill the customer.

(3) Overdue Accounts Receivable. Overdue accounts are reviewed monthly and aged for appropriate follow up.

(4) Monthly Reports. All shop supervisors shall submit financial information as required to complete monthly financial reports.

(5) Inventories. All correctional industries organizational units will keep a perpetual inventory of raw materials, work in process and finished goods. The value of raw materials, work in process and finished goods. The value of raw materials shall be calculated using the "Average Cost Method" of inventory valuation system. The value of work in process and finished goods will be valued according to the job production ticket and selling price respectively. It is the responsibility of the Industries Supervisor at each institution to make sure raw material requisitions and timecard information are provided to the Assistant to the Supervisor by his Industrial Instructor III's so that accurate job production costs on the job lot tickets can be accumulated.

(6) Job Order Cost System. The Job Order Cost System allows management to compare budgeted to actual costs on each job which passes through production. It is particularly useful where products are made to customer's specifications and the identity of the individual job is maintained or standard products are made in batches and not on a continuous basis.

(7) Process Cost Accounting System. A process cost accounting system is an accounting procedure which is used when production is a continuous process and in which individual job identity is lost. In the Process Cost Accounting System, budgeted costs are set up the same as in the Job Order Cost Accounting System, however, comparisons between budgeted and actual costs are made only at the end of an accounting period in a process cost system rather when an order or batch is completed as in the Job Order System.

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(8) General Fund Appropriation. Correctional Industries receives an annual appropriation for salaries, some support costs, as well as material costs to manufacture license plates for the Registry of Motor Vehicles.

(9) Restricted Revenue. Restricted revenue funds become available from the sale of industries products and services. These funds are accumulated in a central account under the control of the Comptroller's Bureau.

455.17: Responsible Staff

(1) The Department's Director of Industries, under the supervision of the Assistant Deputy Commissioner shall be responsible for the monitoring and implementation of 103 CMR 455.00 throughout the department.

(2) Each Superintendent who has an industries program in his/her institution, in concert with the Industries Supervisor, shall be responsible for the implementation of 103 CMR 455.00 and for the development of any and all institution procedural and operational guidelines necessary to interpretation and implementation of 103 CMR 455.00. All such guides are subject to written approval by the Commissioner or designee.

455.18: Review Date

103 CMR 455.00 shall be reviewed annually from the effective date by the Commissioner or designee. The party or parties conducting the review shall develop a memorandum to the Commissioner with a copy to the Central Office File indicating that the review has been completed. Recommendations for revisions, additions or deletions shall be included.

455.19: Severability Clause

If any article, section, subsection, clause or phrase of 103 CMR 455.00 is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Commissioner or otherwise inoperative, such decision shall not effect the validity of any other article, section, subsection, sentence, clause or phrase of 103 CMR 455.00.

REGULATORY AUTHORITY

103 CMR 455.00: M.G.L. c. 124, 1(c) and (q); c. 127, §§ 48(a) and 51.

(PAGES 155 AND 156 ARE RESERVED FOR FUTURE USE.)