

**AMENDED PART 4 OF THE
OCCUPATIONAL HEALTH AND SAFETY REGULATION
RE: ENVIRONMENTAL TOBACCO SMOKE PROVISIONS**

Effective Date: May 1, 2002

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| Controlling exposure | 4.81 | <p>The employer must control the exposure of workers at any workplace to environmental tobacco smoke by</p> <ul style="list-style-type: none">(a) prohibiting smoking in the workplace, or(b) restricting smoking to designated smoking areas or by other equally effective means. |
| Designated areas | 4.82 | <p>(1) A designated smoking area provided under section 4.81(b) must be clearly identified to the workforce by signs or other effective means and be a</p> <ul style="list-style-type: none">(a) safe outdoor location, or(b) room structurally separated from other work or break areas. <p>(2) If necessary to prevent tobacco smoke from entering a workplace, the designated smoking room must be provided with a separate, non-recirculating exhaust ventilation system which:</p> <ul style="list-style-type: none">(a) meets the requirements for a smoking lounge specified in <i>ASHRAE Standard 62-1989, Ventilation for Acceptable Indoor Air Quality</i> or other standard acceptable to the board,(b) is designed in accordance with expected occupancy rates,(c) maintains adequate air flows from non-smoking to smoking areas, and(d) discharges directly to the outdoors. <p>(3) An employer must ensure that a worker does not work in an indoor area where smoking is permitted except if</p> <ul style="list-style-type: none">(a) the worker must enter the indoor area to respond to an emergency endangering life, health or property,(b) the worker must enter the indoor area to investigate for illegal activity,(c) the workplace is a public entertainment facility, as defined in section 4.83 (1), that conforms to the requirements of section 4.83 and the entry conforms with section 4.83 (8), or(d) the tobacco smoke has been effectively removed. |

Public
entertainment
facilities

4.83 (1) In this section:

“**public entertainment facility**” includes a bar, bingo hall, bowling alley, cocktail lounge, restaurant, gambling casino, nightclub or pub;

“**CFM/person**” means cubic feet per minute per person.

(2) In a public entertainment facility, areas that are used by the public are exempt from the requirements of section 4.81 if the employer provides a separate place for smoking in accordance with the requirements of this section.

(3) A separate place for smoking provided under subsection (2) must:

(a) for a public entertainment facility other than a bingo hall, not have a floor space that exceeds 45% of the total floor area that is used by the public,

(b) for a bingo hall, not have a floor space that exceeds 65% of the total floor area that is used by the public,

(c) for a public entertainment facility licensed for the service of liquor,

(i) not have a floor space that exceeds 45% of the total floor area licensed for the service of liquor,

(ii) not have more than 2 indoor areas in the one facility, and

(iii) have each indoor area not exceed 80 square metres in size,

(d) be clearly identified by signs or other effective means, and

(e) be a safe outdoor location or a designated room structurally separated from other areas.

(4) A designated room under subsection (3) must be ventilated by

(a) a non-recirculating exhaust ventilation system,

(b) an air cleaning system, or

(c) a combination of a non-recirculating exhaust ventilation system and an air cleaning system

that meets the following requirements:

(d) the flow of air is from non-smoking areas to the designated room;

(e) the air flows in the designated room at a minimum ventilation rate of 35 CFM/person;

(f) the air only discharges in a manner that does not recirculate or transfer it from a designated room to non-smoking areas.

(5) If an air cleaning system is used for the purposes of this section, the employer must ensure that the air cleaning system, at a minimum, meets a standard of 95% operating efficiency at 0.3 micro metre particle size.

(6) For the purposes of this section, a non-recirculating exhaust ventilation system or an air cleaning system must have an inspection and maintenance record that complies with the requirements of this Regulation.

(7) A workstation must not be located in a designated room to which this section applies.

(8) For the purposes of this section, no worker must be required to enter a designated room unless section 4.82 (3) (a) or (b) applies or

(a) the entries are on an intermittent basis to perform the worker's functions,

(b) for the worker's work period in a 24 hour day, the total of all times that worker spends in the designated room to perform the worker's functions do not exceed 20% of that work period, and

(c) the employer allows the worker to choose

(i) never, except as required under section 4.82 (3) (a) or (b), to enter the designated room to perform the worker's functions, or

(ii) for the worker's work period in a 24 hour day, to enter the designated room to perform the worker's functions for a total of all times spent there that is less than 20% of that work period.

(9) For a public entertainment facility licensed for the service of liquor, the employer must ensure that the indoor area is adequately inspected to monitor compliance with the *Liquor Control and Licensing Act* and regulations under that Act.

(10) An employer must not take discriminatory action as defined in section 150 of Part 3 of the Workers Compensation Act against a worker who chooses under subsection (8) (c)

(a) never to enter a designated room to perform the worker's functions, or

(b) for the worker's work period in a 24 hour day, to enter a designated room to perform the worker's functions for a total of all times spent there that is less than 20% of that work period.

(11) This section applies despite any other section of this Regulation.