

2010/03/17-06

THE WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA
RESOLUTION OF THE BOARD OF DIRECTORS

**Re: The Occupational Health and Safety Regulation
Occupational Exposure Limits**

WHEREAS:

Pursuant to section 225 of the *Workers' Compensation Act* ("Act"), the Workers' Compensation Board ("Board") may make regulations it considers necessary or advisable in relation to occupational health and safety and occupational environment;

AND WHEREAS:

Pursuant to section 5.48 of the Occupational Health and Safety Regulation ("Regulation"), except as otherwise determined by the Board, an employer must ensure that no worker is exposed to a substance that exceeds the ceiling limit, short-term exposure limit, or 8-hour TWA limit prescribed by the American Conference of Governmental Industrial Hygienists ("ACGIH") publication entitled "Threshold Limit Values and Biological Exposure Indices" ("Publication") dated 2002, as amended from time to time;

AND WHEREAS:

The BOD has created, pursuant to section 5.48 of the Regulation, a Table of Occupational Exposure Limits ("OELs") for Excluded Substances which substitute for ACGIH Threshold Limit Values ("TLVs");

AND WHEREAS:

The ACGIH Publication is amended from time to time, thereby creating revised TLVs applicable to employers pursuant to section 5.48 of the Regulation without notice to or consultation with stakeholders;

AND WHEREAS:

The adoption of the new or revised ACGIH TLVs, pursuant to sections 5.1 and 5.48 of the OHSR, results in implementation issues including the practicability of implementation (i.e. can employers comply with the new limits) and/or the technical feasibility of implementation (i.e. does a validated sampling method exist to measure the new TLV);

AND WHEREAS:

Pursuant to section 82 of the *Act*, the BOD must set and revise as necessary the policies of the Board, including policies respecting compensation, assessment, rehabilitation and occupational health and safety and may establish committees and give direction to those committees;

AND WHEREAS:

Pursuant to the Terms of Reference of the Occupational Review Committee of the BOD, a public hearing is required prior to the BOD negating, pursuant to section 5.48 of the Regulation, the adoption of an ACGIH TLV, thereby creating undue delay in negating impracticable ACGIH TLVs and substituting TLVs determined by the Board.

THE BOARD OF DIRECTORS RESOLVES THAT:

1. Pursuant to section 5.48 of the Regulation, the BOD determines that henceforth the ACGIH TLV publication amendments will not be adopted until such time as the BOD has had ample opportunity to review the amendments, consult stakeholders and determine which amendments should be adopted and which should not.
2. The substances for which the ACGIH has changed the limits will be placed on the Table of OELs for Excluded Substances without adopting the new or revised ACGIH TLVs as BC OELs and maintaining the existing limits.
3. As soon as is practicable, amendments to the ACGIH TLV publication will be reviewed by the OEL Review Committee and stakeholders will be consulted prior to recommendations being made to the BOD concerning the new or revised TLVs.

4. The Terms of Reference of the OEL Review Committee are amended to remove the necessity of a public hearing being held before the BOD can exercise its mandate, pursuant to section 5.48 of the Regulation, to not adopt a ACGIH TLV and to direct the OEL Review Committee to consider when developing recommendations on amended ACGIH TLVs whether a sampling method exists to measure exposure at the new or revised limit as per Attachment 1.
5. As soon as is practicable after receipt of recommendations from the OEL Review Committee on the new or revised ACGIH TLVs, the BOD will determine which of the new or revised TLVs are acceptable as prescribed by the publication and which are to remain on the Table of OELs for Excluded Substances.

DATED at Richmond, British Columbia, March 17, 2010.

By the Workers' Compensation Board

**DR. ROSLYN KUNIN, CM, ICD.D
CHAIR, BOARD OF DIRECTOR**

OCCUPATIONAL EXPOSURE LIMIT REVIEW COMMITTEE TERMS OF REFERENCE

1. **PURPOSE**

The role of the Occupational Exposure Limit Review Committee (“Committee”) is to provide an ongoing review of occupational exposure limits provided for in policy and proposed new Threshold Limit Values (“TLVs”) as identified by the American Conference of Governmental Industrial Hygienists (“ACGIH”).

2. **STRUCTURE**

The Committee shall be a standing committee of the Policy and Research Division (“PRD”) and shall be chaired by the Vice-President or his/her designate (“Chair”).

The Committee shall be comprised of up to 8 members, including the Chair. The PRD appoints the Committee members on an annual basis. Meetings of the Committee shall be at the call of the Chair.

Minutes shall be kept of all meetings of the Committee and, after being signed by the Chair, shall be retained by the PRD.

3. **RESPONSIBILITIES**

The Committee shall provide advice on the need for new or modified exposure limits. Specifically the Committee shall:

- Review, on an annual basis, proposed new TLVs as identified by the ACGIH to determine whether they are appropriate for adoption in BC.
- Review those occupational exposure limits that have been adopted through WCB policy as exceptions to the ACGIH TLVs to determine whether they continue to be appropriate or whether they should be removed or amended.
- As required due to the risk to worker health and safety, develop an occupational exposure limit where a hazardous chemical substance is not currently regulated (i.e., there is no ACGIH TLV or exposure limit in policy).
- For excluded substances provided for in policy, ensure corresponding designations, provided for in section 5.57 of the Occupational Health and Safety Regulation (“OHSR”), are current.

When developing recommendations on new TLVs or excluded exposure limits provided for in policy, the Committee shall consider the following factors:

- current scientific knowledge regarding the health effects of exposure;
- ~~ability of the WCB to enforce the TLV or exposure limit;~~
sampling method to measure exposure at the new or revised limit;
- ability of affected industries to achieve the TLV or exposure limit; and,
- the working population who may be at risk.

Where considered appropriate and necessary, the Committee may refer a chemical substance under consideration to an external expert or experts for an independent review of the health effects information and/or the economic implications associated with implementation.

For each chemical substance under review, the Committee shall, whenever possible, collect and consider the following information:

- physical properties of the substance;
- where the substance is used (i.e., type of industry);
- an estimate of how many workers in the province are exposed to the substance;
- exposure limits referenced in other relevant jurisdictions and academic agencies;
- reported human health effects;
- measurement techniques and practicality,
- any other relevant information.

As a guiding principle, recommendations made by the Committee to the BOD shall be based on sound scientific and medical knowledge.

4. PRIORITY RANKING

Proposed new ACGIH TLVs and the occupational exposure limits provided for in policy shall be reviewed according to their merit. In order to establish priority in a given year, the Committee shall consider the following factors:

- prevalence of exposure (including level of use, number of workers exposed, and existing controls);
- severity of potential adverse health effects;
- availability of new health information;
- substances identified by the WCB and/or stakeholders as being problematic;
- substances with lower exposure limits referenced in other relevant jurisdictions.

5. **CONSULTATION**

The Committee may consult with stakeholders in the community, experts in the field of occupational hygiene, and any other persons whom the Committee considers could assist in carrying out its mandate.

The proposed recommendations of the Committee shall be subject to a consultation process prior to being presented to the BOD for decision.

The PRD shall report to the BOD on the results of the consultation. The Committee shall review and consider the results of the stakeholder consultation prior to finalizing its recommendations for consideration by the BOD.

~~If a decision is made by the BOD to make an exception for a substance of concern, a public hearing shall be facilitated to determine whether the exception should be maintained.~~

6. **ACCOUNTABILITY**

The Chair of the Committee will:

- provide an annual report to the BOD of the activities and accomplishments of the Committee over the previous year, and,
- provide periodic reports to the BOD regarding updates on the Committee's plans and activities, as required.