

PART 3: RIGHTS AND RESPONSIBILITIES

OCCUPATIONAL HEALTH AND SAFETY PROGRAMS

- | | | |
|------------------------------|------------|--|
| When program required | 3.1 | <p>(1) An occupational health and safety program as outlined in section 3.3 must be initiated and maintained</p> <p>(a) by each employer that has</p> <p>(i) a workforce of 20 or more workers, and</p> <p>(ii) at least one workplace that is determined to be not low risk under section 3.16 (2) (b) to create a moderate or high risk of injury, or</p> <p>(b) by each employer that has a workforce of 50 or more workers.</p> <p>(1.1) If subsection (1) (a) or (b) applies to the employer, the occupational health and safety program applies to the whole of the employer's operations.</p> <p>(2) Despite subsection (1) an occupational health and safety program may be required in any workplace when, in the opinion of an officer, such a program is necessary.</p> <p>[Amended by B.C. Regs. 185/99; 348/2003; 19/2006.]</p> |
| Small operations | 3.2 | <p>In any operation where the workforce is less than that referred to in section 3.1 (1) the employer must</p> <p>(a) initiate and maintain a less formal program based on regular monthly meetings with workers for discussion of health and safety matters,</p> <p>(b) ensure that meetings are directed to matters concerning the correction of unsafe conditions and practices and the maintenance of cooperative interest in the health and safety of the workforce, and</p> <p>(c) maintain a record of the meetings and the matters discussed.</p> |
| Contents of program | 3.3 | <p>The occupational health and safety program must be designed to prevent injuries and occupational diseases, and without limiting the generality of the foregoing, the program must include</p> <p>(a) a statement of the employer's aims and the responsibilities of the employer, supervisors and workers,</p> <p>(b) provision for the regular inspection of premises, equipment, work methods and work practices, at appropriate intervals, to ensure that prompt action is undertaken to correct any hazardous conditions found,</p> <p>(c) appropriate written instructions, available for reference by all workers, to supplement this Occupational Health and Safety Regulation,</p> <p>(d) provision for holding periodic management meetings for the purpose of reviewing health and safety activities and incident trends, and for the determination of necessary courses of action,</p> <p>(e) provision for the prompt investigation of incidents to determine the action necessary to prevent their recurrence,</p> <p>(f) the maintenance of records and statistics, including reports of inspections and incident investigations, with provision for making this information available to the joint committee or worker health and safety representative, as applicable and, upon request, to an officer, the union representing the workers at the workplace or, if there is no union, the workers at the workplace, and</p> |

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- (g) provision by the employer for the instruction and supervision of workers in the safe performance of their work.

[Amended by B.C. Reg. 185/99.]

Incident investigation reports

- 3.4** (1) An employer must ensure that an incident investigation report required by Division 10 of Part 3 of the *Workers Compensation Act* contains

- (a) the place, date and time of the incident,
- (b) the names and job titles of persons injured in the incident,
- (c) the names of witnesses,
- (d) a brief description of the incident,
- (e) a statement of the sequence of events which preceded the incident,
- (f) identification of any unsafe conditions, acts or procedures which contributed in any manner to the incident,
- (g) recommended corrective actions to prevent similar incidents, and
- (h) the names of the persons who investigated the incident.

- (2) Repealed. [B.C. Reg. 185/99.]

[Amended by B.C. Reg. 185/99.]

WORKPLACE INSPECTIONS

General requirement

- 3.5** Every employer must ensure that regular inspections are made of all workplaces, including buildings, structures, grounds, excavations, tools, equipment, machinery and work methods and practices, at intervals that will prevent the development of unsafe working conditions.

[Amended by B.C. Reg. 185/99.]

Inspection of tools and equipment

- 3.6** Repealed. [B.C. Reg. 312/2003.]

Special inspections

- 3.7** A special inspection must be made when required by malfunction or accident.

[Amended by B.C. Reg. 185/99.]

Committee participation

- 3.8** An inspection required by section 3.5 and a major inspection required by section 3.7 must, where feasible, include the participation of members of the joint committee or the worker health and safety representative, as applicable, but

- (a) if there is no committee or worker health and safety representative the employer must designate an employer representative and the union must designate a worker representative, or
- (b) if there is no union the employer must invite the workers to designate one of their number.

[Enacted by B.C. Reg. 185/99.]

CORRECTION OF UNSAFE CONDITIONS

Remedy without delay

- 3.9** Unsafe or harmful conditions found in the course of an inspection must be remedied without delay.

[Amended by B.C. Reg. 185/99.]

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- Reporting unsafe conditions** **3.10** Whenever a person observes what appears to be an unsafe or harmful condition or act the person must report it as soon as possible to a supervisor or to the employer, and the person receiving the report must investigate the reported unsafe condition or act and must ensure that any necessary corrective action is taken without delay.
- [Amended by B.C. Reg. 185/99.]
- Emergency circumstances** **3.11** If emergency action is required to correct a condition which constitutes an immediate threat to workers only those qualified and properly instructed workers necessary to correct the unsafe condition may be exposed to the hazard, and every possible effort must be made to control the hazard while this is being done.
- [Amended by B.C. Reg. 185/99.]
- REFUSAL OF UNSAFE WORK**
- Procedure for refusal** **3.12** (1) A person must not carry out or cause to be carried out any work process or operate or cause to be operated any tool, appliance or equipment if that person has reasonable cause to believe that to do so would create an undue hazard to the health and safety of any person.
- (2) A worker who refuses to carry out a work process or operate a tool, appliance or equipment pursuant to subsection (1) must immediately report the circumstances of the unsafe condition to his or her supervisor or employer.
- (3) A supervisor or employer receiving a report made under subsection (2) must immediately investigate the matter and
- (a) ensure that any unsafe condition is remedied without delay, or
- (b) if in his or her opinion the report is not valid, must so inform the person who made the report.
- (4) If the procedure under subsection (3) does not resolve the matter and the worker continues to refuse to carry out the work process or operate the tool, appliance or equipment, the supervisor or employer must investigate the matter in the presence of the worker who made the report and in the presence of
- (a) a worker member of the joint committee,
- (b) a worker who is selected by a trade union representing the worker, or
- (c) if there is no joint committee or the worker is not represented by a trade union, any other reasonably available worker selected by the worker.
- (5) If the investigation under subsection (4) does not resolve the matter and the worker continues to refuse to carry out the work process or operate the tool, appliance or equipment, both the supervisor, or the employer, and the worker must immediately notify an officer, who must investigate the matter without undue delay and issue whatever orders are deemed necessary.
- [Amended by B.C. Reg. 185/99.]
- No discriminatory action** **3.13** (1) A worker must not be subject to discriminatory action as defined in section 150 of Part 3 of the *Workers Compensation Act* because the worker has acted in compliance with section 3.12 or with an order made by an officer.

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- (2) Temporary assignment to alternative work at no loss in pay to the worker until the matter in section 3.12 is resolved is deemed not to constitute discriminatory action.

[Amended by B.C. Reg. 185/99.]

OCCUPATIONAL FIRST AID

Definitions

3.14 In this section and in sections 3.15 to 3.21:

"first aid"

means

- (a) in cases in which a person will need medical treatment, treatment for the purpose of preserving life and minimizing the consequences of injury until medical treatment is obtained, and
- (b) treatment of minor injuries that would otherwise receive no medical treatment or that do not need medical treatment;

"first aid attendant"

means a person who holds a valid first aid certificate issued by the Board or by a person recognized by the Board and who is designated as a first aid attendant by the employer;

"injured worker"

means a worker who suffers an injury during work;

"injury"

includes an occupational disease or illness;

"medical certificate"

means a report in a form acceptable to the Board from a physician registered under the *Medical Practitioners Act* as to a person's fitness to perform the functions of a first aid attendant.

[Enacted by B.C. Reg. 348/2003.]

First aid attendant qualifications

3.15 The employer must ensure that a person who is designated as a first aid attendant

- (a) is at least 16 years old,
- (b) has successfully completed the first aid training course or first aid examination developed or approved by the Board,
- (c) has a first aid certificate in good standing at the required level issued by the Board or a person recognized by the Board, and
- (d) meets any other requirements determined by the Board for designation as a first aid attendant.

[Enacted by B.C. Reg. 348/2003.]

Basic requirements

3.16 (1) The employer must provide for each workplace such equipment, supplies, facilities, first aid attendants and services as are adequate and appropriate for

- (a) promptly rendering first aid to workers if they suffer an injury at work, and
- (b) transporting injured workers to medical treatment.

(1.1) The type and quantity of equipment, supplies, facilities, first aid attendants and services referred to in subsection (1) must be no less than is required by Schedule 3-A.

(1.2) The quality, maintenance and use of equipment, facilities and methods of transportation referred to in this section must be acceptable to the Board.

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- (2) For the purpose of complying with subsection (1), the employer must conduct an assessment of the circumstances of the workplace, including
 - (a) the number of workers who may require first aid at any time,
 - (b) the nature and extent of the risks and hazards in the workplace, including whether or not the workplace as a whole creates a low, **moderate or high** risk of injury,
 - (c) the types of injuries likely to occur,
 - (d) any barriers to first aid being provided to an injured worker, and
 - (e) the time that may be required to obtain transportation and to transport an injured worker to medical treatment.
- (3) The employer must review the assessment under subsection (2)
 - (a) within 12 months after the previous assessment or review, and
 - (b) whenever a significant change affecting the assessment occurs in the employer's operations.
- (4) First aid equipment, supplies and facilities must be kept clean, dry and ready for use, and be readily accessible at any time a worker works in the workplace.

[Enacted by B.C. Reg. 348/2003.]

**First aid
procedures**

3.17

- (1) The employer must keep up-to-date written procedures for providing first aid at the worksite including
 - (a) the equipment, supplies, facilities, first aid attendants and services available,
 - (b) the location of, and how to call for, first aid,
 - (c) how the first aid attendant is to respond to a call for first aid,
 - (d) the authority of the first aid attendant over the treatment of injured workers and the responsibility of the employer to report injuries to the Board,
 - (e) who is to call for transportation for the injured worker, and the method of transportation and calling, and
 - (f) prearranged routes in and out of the workplace and to medical treatment.
- (2) The employer must post the procedures conspicuously in suitable locations throughout the workplace or, if posting is not practicable, the employer must adopt other measures to ensure that the information is effectively communicated to workers.
- (3) The first aid attendant and all other persons authorized to call for transportation for injured workers must be trained in the procedures.

[Enacted by B.C. Reg. 348/2003.]

Air transportation 3.17.1

If air transportation is the primary or only method for transporting an injured worker, the following requirements must be met:

- (a) **before the start of operations in a workplace, arrangements must be made with an air service to ensure that an appropriate aircraft is reasonably available to the workplace during those operations,**
- (b) **the arrangements in paragraph (a) must include procedures for**
 - (i) **the employer to determine the availability of appropriate aircraft before the start of each work day, and**
 - (ii) **the air service to notify the employer if an appropriate aircraft ceases to be available, and**

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- (c) **a system must be provided to enable the pilot of the aircraft and the first aid attendant attending to an injured worker to communicate at all times when the aircraft is in transit to the location of the injured worker and during transport of the injured worker to medical treatment.**
- Communication and availability** **3.18** (1) The employer must provide an effective means for
- (a) communication between the first aid attendant and the workers served, and
 - (b) the first aid attendant to call for assistance.
- (2) The employer must not assign, and the first aid attendant must not undertake, employment activities that will interfere with the attendant's ability to receive and respond to a request for first aid.
- [Enacted by B.C. Reg. 348/2003.]
- First aid records** **3.19** (1) The employer must maintain at the workplace, in a form acceptable to the Board, a record of all injuries and exposures to contaminants covered by this Regulation that are reported or treated.
- (2) First aid records must be kept for at least 3 years.
- (3) First aid records are to be kept confidential and may not be disclosed except as permitted by this Regulation or otherwise permitted by law.
- (4) First aid records must be available for inspection by an officer of the Board.
- (5) Workers may request or authorize access to their first aid records for any treatment or report about themselves.
- [Enacted by B.C. Reg. 348/2003.]
- Multiple employer workplaces** **3.20** If workers of 2 or more employers are working at a workplace at the same time, the prime contractor must
- (a) conduct an assessment of the circumstances of the workplace under section 3.16(2) in relation to all the workers in the workplace, and
 - (b) do everything that is reasonably practicable to establish and maintain the first aid equipment, supplies, facilities, first aid attendants and services **required under section 3.16** in accordance with the results of the assessment.
- [Enacted by B.C. Reg. 348/2003.]
- First aid attendant responsibilities** **3.21** (1) The first aid attendant must
- (a) promptly provide injured workers with a level of care within the scope of the attendant's training and this Part,
 - (b) objectively record observed or reported signs and symptoms of injuries and exposures to contaminants covered by this Regulation, and
 - (c) refer for medical treatment workers with injuries considered by the first aid attendant as being serious or beyond the scope of the attendant's training.
- (2) A first aid attendant must be physically and mentally capable of safely and effectively performing the required duties, and the Board may at any time require the attendant to provide a medical certificate.

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- (3) The first aid attendant is responsible, and has full authority, for all first aid treatment of an injured worker until responsibility for treatment is accepted
 - (a) at a place of medical treatment,
 - (b) by an ambulance service acceptable to the Board, or
 - (c) by a person with higher or equivalent first aid certification.
- (4) The first aid attendant does not have authority to overrule a worker's decision to seek medical treatment or the worker's choice of medical treatment.

[Enacted by B.C. Reg. 348/2003.]

DRAFT

Schedule 3-A

Minimum Levels of First Aid

In this Schedule,

“hospital” means a hospital within the meaning of the *Hospital Act* or a diagnostic and treatment centre where the hospital or centre has

- (a) an emergency department or resuscitation area, and
- (b) a physician on duty or immediately available on call;

“ambulance service” means an ambulance service acceptable to the Board.

Tables 1 to 6 have different levels of first aid service that are based on how long it takes to transport an injured person to a hospital and the number of workers per shift.

In circumstances in which Tables 1 to 6 require a Level 2 first aid certificate, a Level 3 first aid certificate is required and an Emergency Transportation Vehicle (“ETV”) must be provided, if

- (a) there is on the access route to the workplace an obstruction, barrier, rough terrain or other similar circumstances likely to delay the arrival of an ambulance service for more than 20 minutes after it was dispatched, or
- (b) there are areas in the workplace which an ambulance service cannot safely access, and for which workers at the workplace are required by this Regulation to be trained, equipped and capable of effecting rescue.

Table 1: This table applies to a workplace that an employer determines under section 3.16 (2) (b) of the Regulation creates a low risk of injury and that is more than 20 minutes surface travel time away from a hospital.

| <u>Item</u> | <u>Column 1</u> Number of workers per shift | <u>Column 2</u> Supplies, equipment, and facility | <u>Column 3</u> Level of first aid certificate for attendant | <u>Column 4</u> Transportation |
|-------------|--|--|---|-----------------------------------|
| 1 | 1 | <ul style="list-style-type: none"> • Personal first aid kit | | |
| 2 | 2-5 | <ul style="list-style-type: none"> • Basic first aid kit | | |
| 3 | 6-30 | <ul style="list-style-type: none"> • Level 1 first aid kit | Level 1 | |
| 4 | 31-50 | <ul style="list-style-type: none"> • Level 1 first aid kit • ETV equipment | Level 1 with Transportation Endorsement | |
| 5 | 51-75 | <ul style="list-style-type: none"> • Level 3 first aid kit • Dressing station • ETV equipment | Level 3 | |
| 6 | 76 or more | <ul style="list-style-type: none"> • Level 3 first aid kit • First aid room • ETV equipment | Level 3 | ETV |

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Table 2: This table applies to a workplace that an employer determines under section 3.16 (2) (b) of the Regulation creates a low risk of injury and that is 20 minutes or less surface travel time away from a hospital.

| Item | Column 1 Number of workers per shift | Column 2 Supplies, equipment, and facility | Column 3 Level of first aid certificate for attendant | Column 4 Transportation |
|-------------|---|---|--|------------------------------------|
| 1 | 1 | | | |
| 2 | 2-10 | <ul style="list-style-type: none"> • Basic first aid kit | | |
| 3 | 11-50 | <ul style="list-style-type: none"> • Level 1 first aid kit | Level 1 | |
| 4 | 51-100 | <ul style="list-style-type: none"> • Level 2 first aid kit • Dressing station | Level 2 | |
| 5 | 101 or more | <ul style="list-style-type: none"> • Level 2 first aid kit • First aid room | Level 2 | |

Table 3: This table applies to a workplace that an employer determines under section 3.16 (2) (b) of the Regulation creates a moderate risk of injury and that is more than 20 minutes surface travel time away from a hospital.

| Item | Column 1 Number of workers per shift | Column 2 Supplies, equipment, and facility | Column 3 Level of first aid certificate for attendant | Column 4 Transportation |
|-------------|---|---|--|------------------------------------|
| 1 | 1 | <ul style="list-style-type: none"> • Personal first aid kit | | |
| 2 | 2-5 | <ul style="list-style-type: none"> • Level 1 first aid kit | Level 1 | |
| 3 | 6-15 | <ul style="list-style-type: none"> • Level 1 first aid kit • ETV equipment | Level 1 with Transportation Endorsement | |
| 4 | 16-50 | <ul style="list-style-type: none"> • Level 3 first aid kit • Dressing station • ETV equipment | Level 3 | ETV |
| 5 | 51-100 | <ul style="list-style-type: none"> • Level 3 first aid kit • First aid room • ETV equipment | Level 3 | ETV |
| 6 | 101-300 | <ul style="list-style-type: none"> • Level 3 first aid kit • First aid room • Industrial ambulance equipment | Level 3 | Industrial ambulance |
| 7 | 301 or more | <ul style="list-style-type: none"> • Level 3 first aid kit • First aid room • Industrial ambulance equipment | 2 Level 3 | Industrial ambulance |

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Table 4: This table applies to a workplace that an employer determines under section 3.16 (2) (b) of the Regulation creates a moderate risk of injury and that is 20 minutes or less surface travel time away from a hospital.

| <u>Item</u> | <u>Column 1</u> Number of workers per shift | <u>Column 2</u> Supplies, equipment, and facility | <u>Column 3</u> Level of first aid certificate for attendant | <u>Column 4</u> Transportation |
|-------------|--|---|---|-----------------------------------|
| 1 | 1 | <ul style="list-style-type: none"> • Personal first aid kit | | |
| 2 | 2-5 | <ul style="list-style-type: none"> • Basic first aid kit | | |
| 3 | 6-25 | <ul style="list-style-type: none"> • Level 1 first aid kit | Level 1 | |
| 4 | 26-75 | <ul style="list-style-type: none"> • Level 2 first aid kit • Dressing station | Level 2 | |
| 5 | 76 or more | <ul style="list-style-type: none"> • Level 2 first aid kit • First aid room | Level 2 | |

Table 5: This table applies to a workplace that an employer determines under section 3.16 (2) (b) of the Regulation creates a high risk of injury and that is more than 20 minutes surface travel time away from a hospital.

| <u>Item</u> | <u>Column 1</u> Number of workers per shift | <u>Column 2</u> Supplies, equipment, and facility | <u>Column 3</u> Level of first aid certificate for attendant | <u>Column 4</u> Transportation |
|-------------|--|---|---|-----------------------------------|
| 1 | 1 | <ul style="list-style-type: none"> • Personal first aid kit | | |
| 2 | 2-5 | <ul style="list-style-type: none"> • Level 1 first aid kit | Level 1 | |
| 3 | 6-10 | <ul style="list-style-type: none"> • Level 1 first aid kit • ETV equipment | Level 1 with Transportation Endorsement | ETV |
| 4 | 11-30 | <ul style="list-style-type: none"> • Level 3 first aid kit • Dressing station • ETV equipment | Level 3 | ETV |
| 5 | 31-50 | <ul style="list-style-type: none"> • Level 3 first aid kit • First aid room • ETV equipment | Level 3 | ETV |
| 6 | 51-200 | <ul style="list-style-type: none"> • Level 3 first aid kit • First aid room • Industrial ambulance equipment | Level 3 | Industrial ambulance |
| 7 | 201 or more | <ul style="list-style-type: none"> • Level 3 first aid kit • First aid room • Industrial ambulance equipment | 2 Level 3 | Industrial ambulance |

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Table 6: This table applies to a workplace that an employer determines under section 3.16 (2) (b) of the Regulation creates a high risk of injury and that is 20 minutes or less surface travel time away from a hospital.

| Item | Column 1 Number of workers per shift | Column 2 Supplies, equipment, and facility | Column 3 Level of first aid certificate for attendant | Column 4 Transportation |
|-------------|---|---|--|------------------------------------|
| 1 | 1 | <ul style="list-style-type: none"> • Personal first aid kit | | |
| 2 | 2-15 | <ul style="list-style-type: none"> • Level 1 first aid kit | Level 1 | |
| 3 | 16-30 | <ul style="list-style-type: none"> • Level 2 first aid kit • Dressing station | Level 2 | |
| 4 | 31-300 | <ul style="list-style-type: none"> • Level 2 first aid kit • First aid room | Level 2 | |
| 5 | 301 or more | <ul style="list-style-type: none"> • Level 2 first aid kit • First aid room | 2 Level 2 | |

Explanatory Notes:

Section 3.1

This section creates an obligation for certain employers to have a formal occupational health and safety program. One of the specified criteria is that at least one of the employer's workplaces has been determined to be "not low risk" as a result of the assessment of the workplace required for determining the appropriate levels of first aid services under section 3.16. Section 3.16 currently distinguishes between "low risk" and other workplaces. The proposed amendments to section 3.16 refer to three risk categories, namely "high", "moderate" and "low". These three categories are not new. They existed in the former regulation and remain in the current guidelines. There have been no changes to these categories. The aim of the amendment to section 3.1 is to bring it into line with the proposed changes to section 3.16. In practice, this should make no difference to an employer's obligation to have an occupational health and safety program.

Section 3.16

Section 3.16 requires the employer to determine the appropriate level of first aid services based on an assessment of the workplace that requires a determination of whether the workplace is low risk or not. The proposed amendments still require the employer to conduct a risk assessment of the workplace, but specify a minimum level of first aid service to be provided depending on whether the workplace is determined to be high, moderate or low risk and the distance of the workplace from a hospital. It does this by incorporating six tables. The tables are currently contained in an OHS Guideline and are very similar to tables included in the version of the *Occupational Health and Safety Regulation* prior to the current version. This proposed reinstatement of minimum requirements is intended to address the coroner's jury recommendation to that effect in the inquest into the death of Mr. Ted Gramlich.

The tables refer to various types of equipment, facilities and transportation. It is proposed to include in section 3.16 a provision requiring these items to meet a standard acceptable to the Board.

Section 3.17.1

This is new section to address the following two recommendations of the coroner's jury in the inquest into the death of Mr. Ted Gramlich:

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1. Incorporate into regulation the requirement to verify that air transportation is available at the start of each work day, when workers are located in remote areas; and
2. Incorporate into regulation a requirement that two pieces of communication equipment which allow for direct communication between the pilot and the first aid attendant be available on air transport vehicles.

The term "remote" while not specifically defined in the current Regulations has traditionally been defined as "a workplace which is located 2 hours or more surface travel time away from a hospital." The requirements in Section 3.17.1 are intended to apply whenever air transport is used, which typically occurs in remote areas, but may occur in other similar circumstances.

Section 3.20

This is a minor amendment to the obligation imposed on prime contractors at multiple employer workplaces to bring it into line with the changed wording of section 3.16.

OHS Guideline

Because the proposed changes to the regulation mean that material is being moved from the existing OHS Guideline to the regulation, it is necessary to make certain consequential changes to the Guideline.