

WORKERS' COMPENSATION BOARD OF B.C.

PUBLIC HEARING

OCCUPATIONAL HEALTH AND SAFETY REGULATIONS

Richmond, B.C.
May 26, 2008

TRANSCRIPT OF PROCEEDINGS

PANEL:

Roberta Ellis
Anne Burch
Ed Bates

Chair
Vice-Chair
Legal Counsel

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1 --- PROCEEDINGS COMMENCED AT 3:00 P.M.

2 THE CHAIR: First of all, I want to thank
3 you all for attending this public hearing on proposed
4 amendments to the *Occupational Health and Safety*
5 *Regulation*. My first duty is to introduce your panel. I'm
6 Roberta Ellis. I'm chair, and I'm Vice President of the
7 Policy and Research Division. On my left is Anne Burch,
8 vice chair of the panel and Director of Prevention, Policy
9 and Regulation Review. And on my right, Mr. Ed Bates,
10 who's our general counsel and secretary to WorkSafeBC.

11 And I also want to introduce Pattie Kealy.
12 Pattie is our court report today and she'll be taking
13 verbatim notes of this public hearing. The record assists
14 the Board of Directors of WorkSafeBC in their decision-
15 making process and the recorded notes are made public after
16 the Board of Directors make decisions regarding these
17 proposed amendments.

18 The purpose of the public hearing is to
19 provide you with an opportunity to comment on the proposed
20 amendments. And I'm just going to read into the record the
21 section of the Regulations that we're looking at in this
22 public hearing:

23 Part 1, Definitions, and Part 4, General
24 Conditions relating to avalanches.

25 Part 4, General Conditions relating to

1 environmental tobacco smoke.

2 Part 5, Chemical Agents and Biological
3 Agents relating to the designation of substances.

4 Part 14, Cranes and Hoists relating to
5 operator's duties.

6 Part 17, Transportation of Workers relating
7 to seating requirements and seat belts in vehicles used to
8 transport workers.

9 Part 20, Construction, Excavation and
10 Demolition.

11 Part 22, Underground Workings relating to
12 fills, stockpiles and professional certifications.

13 Part 22, relating to the accommodation of
14 tunnel boring and cut and cover excavation methods.

15 And Part 23, Oil and Gas relating to
16 snubbing operations, emergency escape systems, riding
17 hoisting equipment and miscellaneous items.

18 I also just want to note that the proposed
19 amendments to Parts 1 and 4 relating to avalanches and
20 Parts 20 and 22 relating to fills and stockpiles were taken
21 to the 2007 public hearings. Stakeholders asked for more
22 consultation, and I do want to thank all of the
23 stakeholders who took time to work with us on these
24 important issues. The amendments were revised and are being
25 returned to this public hearing.

1 Stakeholders have been advised of the 2008
2 proposed amendments and associated explanatory notes. The
3 proposed changes have been placed on our WorkSafeBC
4 website. They have been sent to over 3,500 stakeholders via
5 E-news, advertised in the *BC Gazette* and 17 newspapers, and
6 we've also contacted representatives of industry
7 associations and interest groups to encourage their
8 response.

9 And if you don't have copies of all of the
10 amendments, Leley Neudorf, who is our admin assistant at
11 the front, has them all available. If you have written
12 material to leave with us, please do so at the sign-in
13 desk. Both oral and written submissions form part of the
14 public hearing record, and the deadline for receipt of any
15 written materials is 4:30 p.m., Friday, June 13th, 2008.

16 The public represents the formal
17 consultation process. Once the hearing process is complete,
18 the written and oral submissions are analyzed, and the
19 Board of Directors is the decision-making body at
20 WorkSafeBC. They will have access to all of the submissions
21 prior to making final decisions. And I do thank you for
22 your interest in these issues and for your willingness to
23 be here today, given your busy schedules.

24 I'm going to call our first presenter, which
25 is Grant McMillan. Mr. McMillan represents the Council of

1 Construction Associations. Thanks very much, Mr. McMillan.

2 PRESENTATION BY MR. GRANT McMILLAN, ON BEHALF OF THE
3 COUNCIL OF CONSTRUCTION ASSOCIATIONS:

4 MR. McMILLAN: Thank you. I have just a brief
5 few comments today.

6 First of all, I wanted to acknowledge that
7 the process itself is a process that we support and we
8 believe it's being done in a fair and balanced way, and it
9 gives workers and employers and their representatives an
10 opportunity to review and comment in a timely fashion but
11 still with enough opportunity to canvass opinion before
12 making submissions.

13 As to the topics themselves, I wanted to
14 speak about the withdrawal of the mobile crane brake, the
15 requirement for the second brake system, just to support
16 the withdrawal that was done on the basis that the existing
17 systems provide as good or better safety and security for
18 the braking system itself. So thank you for listening to
19 concerns about that and making the change.

20 The second thing I wanted to refer to was a
21 suggestion with respect to the transportation of workers
22 proposed amendments. This has to do with the reference
23 within the Regulation to the standard - I believe it's the
24 MOT standard - with respect to WCB or WorkSafeBC, Part 17.
25 Because there is a reference back to exemptions within the

1 MOT standard, it would be helpful if there was some kind of
2 footnote or reference either on the website with the
3 regulation. I know it's in the explanation to the
4 regulation, but when the regulation itself actually appears
5 on the web, the explanation will no longer be there.

6 THE CHAIR: That's right.

7 MR. McMILLAN: So it may be useful to have
8 some kind of reference, which is easy enough to do with a
9 numbering system of footnotes on the website, to enable
10 people to quickly find and refer to the regulation. I found
11 it very helpful when I was doing the review. And without
12 that built-in reference and the button, it might be
13 cumbersome and tiresome for someone trying to find it. So I
14 make that suggestion with respect to the regulation.

15 The other parts of it we're satisfied with,
16 and I wanted to come and congratulate WorkSafe for the work
17 that it's done with respect to this body of revision. And
18 that's the end of my presentation.

19 THE CHAIR: Thanks very much. Thank you,
20 Grant.

21 MR. McMILLAN: Thank you.

22 THE CHAIR: So because some individuals have
23 registered for specific times and may have decided simply
24 to come at their time, what I'm going to do is work through
25 the roster of people who have booked time with us, and if

JEFF LYTH
(Construction Safety Association of British Columbia)

1 you're here, that's great, and if not, I will move on to
2 see if anybody else is there, and always come back to make
3 sure everybody who wants to be heard has been heard.

4 So I just wondered if Mr. Walter Gerlach
5 with the International Association of Machinists and
6 Aerospace workers is here.

7 Jeff Lyth, the ITC Group of Companies? Hi,
8 Jeff. Would you mind coming forward now? Thanks so much.

9 Thanks, Jeff. And I think that it's Leth,
10 L-E-T-H?

11 MR. LYTH: It's L-Y-T-H.

12 THE CHAIR: Okay. Because I wasn't sure of
13 that. L-Y-T-H. I looked at that and I wasn't sure that was
14 spelled properly. And I think you know wanted to talk about
15 Part 14, cranes and hoists, Jeff.

16 PRESENTATION BY MR. JEFF LYTH, ON BEHALF OF THE
17 CONSTRUCTION SAFETY ASSOCIATION OF BRITISH COLUMBIA:

18 MR. LYTH: Yes, really very briefly. I'm here
19 today representing the Construction Safety Association of
20 British Columbia. A number of our board participated in
21 considerable discussions around the changes to Part 14, and
22 I just wanted to attend today and pass on, on behalf of the
23 board, that we are quite satisfied with the changes. And to
24 mirror Grant's comments, the process, I think, was quite
25 effective and very consultative and it was a good

1 experience.

2 THE CHAIR: Thanks very much, Jeff. We
3 appreciate that. Thank you.

4 I don't think Mr. Larry Stoffman is here
5 because I would recognize Larry if he was. Is Irene Cawson
6 here? Kathy Bonitz? Sheila and Lee aren't here.

7 So what I would like to do is just I'll ask
8 if there are any other individuals who are here today who
9 have signed in after this list was formed and wish to be
10 heard. Okay. That being the case, I'm going to adjourn
11 these proceedings very briefly, just for a few minutes, in
12 order to have time for Mr. Walter Gerlach to get here at
13 his assigned time. So we will go off the record for a few
14 minutes and we'll come back on the record when Mr. Gerlach
15 attends. Thank you, ladies and gentlemen.

16 --- PROCEEDINGS RECESSED

17 --- PROCEEDINGS RESUMED

18 THE CHAIR: Good afternoon, everybody. We're
19 going to resume the afternoon session of the public
20 hearing, and I've confirmed with Leley Neudorf that Mr.
21 Walter Gerlach is not present. I'm just double checking.
22 That being the case, I'm going to ask Mr. Larry Stoffman,
23 with the United Food and Commercial Workers, to come
24 forward to speak. Thanks, Larry. And we have a note that
25 you were intending to speak to Part 5, Designation of

LARRY STOFFMAN
(United Food and Commercial Workers Union)

1 Substances, but feel free to speak to anything you want.

2 MR. STOFFMAN: Now, I have to apologize
3 because I just looked at these photocopies and they've left
4 off page 1.

5 THE CHAIR: That's all right. Thank you very
6 much.

7 MR. STOFFMAN: If I could remember what page
8 I said, I would tell you right now.

9 THE CHAIR: There you go.

10 MR. STOFFMAN: Sorry I didn't check that
11 before. I just assumed.

12 THE CHAIR: That's okay.

13 PRESENTATION BY MR. LARRY STOFFMAN, ON BEHALF OF THE UNITED
14 FOOD AND COMMERCIAL WORKERS UNION:

15 MR. STOFFMAN: What I'd like to speak to is
16 Part 5 and is the proposal with respect to reproductive
17 hazards. I identified exactly what that proposal was on
18 page 1, which is missing, but I'm sure you're familiar with
19 it.

20 What we would like to do today is reiterate
21 and expand slightly on what we told you -- was it last
22 fall, when we had a -- what would you call that, a pre --

23 THE CHAIR: Pre-consult.

24 MR. STOFFMAN: Yeah, a pre-consult. There
25 were two actually. There was one which was a meeting of

LARRY STOFFMAN
(United Food and Commercial Workers Union)

1 stakeholders with the Board and their officers, and at that
2 meeting, you will recall, there was a proposal to reference
3 WHMIS-classified controlled products in BC that are
4 classified as reproductive hazards and to reference that in
5 the regulation with respect to the requirements around
6 substitution, et cetera, for reproductive hazards. And the
7 reasoning behind that was that it was, we felt, a fairly
8 simple way of keeping the Board up to date on newly
9 classified substances. As well, it would automatically keep
10 the Board up to date when the international system called
11 the Globally Harmonized System for Classification of
12 Substances was formally implemented in Canada. It's already
13 been agreed to at the federal level and just now there are
14 amendments to the *Controlled Products Regulations* and the
15 *Hazardous Product Act*, which will incorporate this GHS
16 system and which will be in place likely in the next year
17 or so. Rather than wait for that, what is going to happen
18 in Canada is WHMIS is not going to be revoked nor changed.
19 What it will do is our WHMIS regulation would remain the
20 same; the *Controlled Products Regulations* that WHMIS refers
21 to will be amended to make sure they're harmonized with
22 this thing called the Globally Harmonized System.

23 Now, the advantage to that is that, with
24 respect to reproductive hazards and carcinogens - but I'm
25 addressing the change now with respect to reproductives -

LARRY STOFFMAN
(United Food and Commercial Workers Union)

1 it takes advantage of the international resources that are
2 brought to bear by all the member countries of the GHS,
3 which essentially are all the UN countries and OECD
4 countries, that material safety data sheets that are
5 distributed and used in BC workplaces must refer to and use
6 that classification system. We already have a situation now
7 where there's a disconnect between what workers and
8 employers find on these data sheets and what might be
9 referenced in the Board regulation because the ACGIH is not
10 the only reference organization for our *Controlled Products*
11 *Regulations*. In other words, if a substance is classified
12 as a reproductive hazard using OECD guidelines, it would be
13 classified as such and have to be disclosed on the MSDS
14 under the toxic properties section. You would find that
15 likely today, and certainly as we go forward, a vast
16 majority of substances classified as reproductive hazards,
17 male or female or both, would not be listed in the
18 documentation of the ACGIH.

19 Now, this isn't a criticism of the ACGIH per
20 se. What it is is a taking into account of what the ACGIH
21 itself tells us, and that is that they are a private
22 organization with limited resources, limited ability to
23 review substances on an annual basis, and as each year goes
24 by they would fall further behind with respect to
25 especially newly classified substances but also reviewing

LARRY STOFFMAN
(United Food and Commercial Workers Union)

1 substances that hadn't been looked at perhaps for decades
2 where there's new information.

3 So what I did in this submission - and
4 again, I apologize for missing page 1 - is just to give you
5 an example on page 2 here. This is the list of reproductive
6 toxins from the State of California Environmental
7 Protection Agency legislative site in this table here. They
8 reference the European Union lists, the US Centers for
9 Disease Control lists, and the Centre for Toxic Substances
10 in the United States. And you can find this easily on the
11 web, on the internet, through their National Library of
12 Medicine.

13 I'm not going to go through each of these,
14 so don't worry. But you'll see from page 2 through 6, 7,
15 keeps going, right to page 10, there is the current list of
16 known reproductive hazardous chemicals, which had been
17 reviewed through the European Union, listed as such,
18 reviewed by a body of experts from the State of California,
19 reviewed through the National Library of Medicine, et
20 cetera. And if an MSDS was compliant with our current
21 *Controlled Products Regulations*, it would be a requirement
22 for them to disclose this information on the MSDS because
23 it would be using what is called professional judgment,
24 which is the policy of the national office for WHMIS.
25 Anyone writing a data sheet would be aware of this list,

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(United Food and Commercial Workers Union)

1 any professional, and it would be incumbent on them to
2 refer to that list on the data sheet. And this is the kind
3 of information workers and employers would be getting
4 today.

5 But if you contrast that with our current
6 WorkSafeBC table, which I have here listed as table 2,
7 without going on a line-by-line comparison, because that's
8 not necessary for our purposes today, it's clear that there
9 are a lot of well known and widely recognized reproductive
10 toxins that would be missing from the ACGIH list. And I've
11 said in here that these include things like cadmium, glycol
12 ethers, benzene, arsenic, even PCBs and polybrominated
13 biphenyls, all of which are on the other list.

14 It's interesting. After this was written, I
15 noticed there was a news release just on Friday about the
16 glycol ethers and reproductive problems amongst painters in
17 Ontario or those who use commercial paints, and they had in
18 that research - and I haven't reviewed that research; I
19 simply heard the national news on it - the glycol ethers
20 are what was implicated there. But that again would be
21 missing from our list, relying on out-of-date ACGIH
22 references.

23 So originally we had proposed, and there was
24 agreement in the meeting certainly between employers,
25 unions and, we thought, Board staff, to not only consider

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(United Food and Commercial Workers Union)

1 this seriously but we expected that it would be put forward
2 as a proposal, that we take the *Controlled Products Regs*,
3 HPA section 53 and 55, and reference them in our
4 regulation as part of the list, the referent list. And I
5 have that on page 14 of this submission.

6 And unchanged what you've done to amend and
7 improve on the current reference to ACGIH in (a), (b), (c)
8 and (d), including the endnotes in the ACGIH
9 documentations, but a point (e), which was to add "or if
10 it's a WHMIS CPR 53 or 55 developmental or reproductive
11 toxin under Subdivision A," et cetera.

12 Now, I've also said in our conclusion that
13 if you felt that this was not clear enough or could lead to
14 confusion, because not all MSDSs are accurate, you could
15 reference other well known lists that are already
16 referenced by, we think, acceptable jurisdictions around
17 the world, including the European Commission list or the
18 California list, and those could be referenced in the
19 regulation. So that you would have -- I mean, it's
20 obviously simpler to have a list of hazardous products or
21 materials rather than a reference to a classification.
22 Certainly from a worker or employer perspective it's simple
23 because then they can look directly to the list. So that
24 would be an alternative. So we look forward to that.

25 And just to end, since we've made this

LARRY STOFFMAN
(United Food and Commercial Workers Union)

1 presentation - this will be the third time - we would
2 really appreciate and look forward to perhaps it being
3 considered.

4 THE CHAIR: Thanks, Mr. Stoffman. And I just
5 do want to clarify for some of the folks who are perhaps
6 here for the first time. WorkSafeBC does commit to fairly
7 extensive pre-consultation. We have a pre-consultation
8 phase where we actually try to bring employers and labour
9 representatives together. We have additional consultation
10 phases before we come to the public hearings, and that was
11 what Mr. Stoffman was referring to.

12 I just want to be really clear, Larry, and I
13 asked this question in Prince George as well. When I look
14 at 5.57, I just do want to be clear. Initially when we
15 brought this out for some consultation and consideration,
16 it was because of a concern that we would lose the
17 protections because of some of the changes that ACGIH had
18 made in their reporting system. So I just want to be
19 absolutely clear that you do agree that the changes in (a),
20 (b), (c) and (d) are acceptable; it's the lack of the final
21 point, (e), that is of major concern? I just want to be
22 clear that you're not concerned with the other changes.

23 MR. STOFFMAN: No. The changes you've made up
24 above are required because of the change in the ACGIH. We
25 understand that.

LARRY STOFFMAN
(United Food and Commercial Workers Union)

1 THE CHAIR: We need to do those, yes.

2 MR. STOFFMAN: But we think we need to be
3 clear that it's not a solution to the problem. It simply
4 freezes in time something that already leaves out a great
5 deal of hazardous products that people are working with and
6 are exposed to and are getting different information, and
7 where it would make it impossible without the additional
8 change for the Board or its officers to apply this
9 regulation to these other reproductive hazards which
10 wouldn't be captured by the ACGIH, and in fact some of them
11 are probably much more widespread and well known than the
12 ones that the ACGIH does capture, such as the examples I
13 gave.

14 THE CHAIR: Thank you. I understand. Thanks
15 very much, and I appreciate that.

16 MR. STOFFMAN: Thank you.

17 THE CHAIR: Thank you very much. I'm just
18 going to check one more time. Is Mr. Walter Gerlach with
19 us? Mr. Gerlach, welcome. Do you want to come forward? We
20 were holding your spot.

21 MR. GERLACH: Thank you.

22 THE CHAIR: You're welcome.

23 MR. GERLACH: Sorry for being late.

24 THE CHAIR: Oh, not at all. It does happen.

25 MR. GERLACH: I totally underestimated the

WALTER GERLACH
(International Association of Machinists and
Aerospace Workers)

1 time it would take to get here from North Vancouver.

2 THE CHAIR: Mr. Gerlach is with the
3 International Association of Machinists and Aerospace
4 Workers, Local 250. And I think also, Mr. Gerlach, you're
5 here to speak to Part 5, Designation of Substances. Is that
6 correct?

7 MR. GERLACH: Yes, I am.

8 THE CHAIR: Thank you.

9 PRESENTATION BY MR. WALTER GERLACH, ON BEHALF OF THE
10 INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE
11 WORKERS:

12 MR. GERLACH: Our normal safety officer is in
13 Toronto this week so I told him I would come and make a
14 presentation on his behalf.

15 My name is Walter Gerlach. I'm a business
16 representative with the International Association of
17 Machinists and Aerospace Workers. I've come today to speak
18 on behalf of our over 8,000 working men and women in the
19 province of British Columbia.

20 We're not in favour of the proposed changes
21 in Part 5 of the Occupational Health and Safety Regulation.
22 We feel the changes fall short of the requirement to
23 protect the working men and women of our province. We work
24 primarily as heavy duty mechanics, welders, millwrights,
25 automotive mechanics, auto body technicians and painters,

WALTER GERLACH
(International Association of Machinists and
Aerospace Workers)

1 in the aviation industry as mechanics and painters, and
2 also in the chroming and anodizing industries. All of these
3 workplaces expose the worker to high levels of chemical
4 toxins that are known to be cancer causing and also cause
5 reproductive side-effects.

6 The rapid advancement in the technology in
7 the automotive and the aviation industries have exposed
8 these workers to increasingly specialized chemicals. A
9 proven system must be in place to ensure these new products
10 are researched to establish their known risks. The ACGIH
11 themselves have admitted that they do not have the
12 resources to establish current listings of all the new and
13 altered chemicals found in the workplace today.

14 Every worker should have the right to
15 protect themselves against sterility, testicular cancers,
16 and abnormalities to unborn children and the risk of damage
17 to the nervous system. The premise has always been that we
18 look to go home just as we came to work. So the reliance on
19 the ACGIH list is placing our workers at risk. Lists
20 provided by ACGIH are out of date and very limited. Workers
21 have a right to know the hazards around them.

22 At the tripartite consultation meeting that
23 was held with labour and employer representatives, the
24 stakeholders agreed that the ACGIH list was not acceptable
25 and the more current WHMIS system needed to be used. The

WALTER GERLACH
(International Association of Machinists and
Aerospace Workers)

1 WHIMIS list provides a greater number of toxins and
2 sensitizers and is frequently updated and is recommended
3 throughout North America, and is also the preferred system
4 in the State of California and in Europe.

5 Furthermore, WHMIS is a familiar and
6 established system in our own workplaces today, in which
7 workers are presently trained to access information, so to
8 add accurate WHMIS threshold limit values would be a
9 natural progression, as we see it.

10 The Machinists Union proposes that the
11 Compensation Board changes its proposed amendments to
12 concur with those of the pre-consultation tripartite
13 agreement that had the employer and labour representatives
14 recommending that the chemical classification under WHMIS
15 be adopted. Workers have a right to a safe workplace. Thank
16 you.

17 THE CHAIR: Thanks very much, sir. And
18 because you did come in a little later, I just do want to
19 remind anybody else in the room that we have asked that if
20 you want to leave any further written submissions, could
21 you please make sure that they get to us by 4:30 p.m. on
22 Friday, June 13th. Just to reassure you that your statement
23 to us is a public record and will be recorded as it was
24 made. But if there is anything else you want to leave with
25 us, sir, that's the deadline.

1 MR. GERLACH: So did you want a copy of that
2 or did you record that?

3 THE CHAIR: It's helpful for us to have a
4 copy of it if you want to leave it. That's up to you.

5 MR. GERLACH: That can be done.

6 THE CHAIR: Thank you very much. That's
7 great.

8 MR. GERLACH: Thank you.

9 THE CHAIR: Thanks, Mr. Gerlach. Ms. Irene
10 Cawson? Ms. Kathy Bonitz and Lani deHek? Do you ladies want
11 to come up together? Good. Kathy Bonitz and Lani - am I
12 saying it properly? - Lani deHek are with the BC Nurses'
13 Union. Thanks very much.

14 PRESENTATION BY MS. KATHY BONITZ AND MS. LANI deHEK, ON
15 BEHALF OF THE BC NURSES' UNION:

16 MS. BONITZ: Thanks very much for the
17 opportunity to present on the proposed change regarding
18 designated substances today.

19 I'm Kathy Bonitz. I'm a registered nurse and
20 I work at the operating room in Burnaby Hospital. I've been
21 working for over 30 years. And I'm also a shop steward
22 there as well and sit on the OH&S Committee.

23 MS. deHEK: And I'm Lani deHek and I'm a
24 registered nurse as well. I'm also on staff with the BC
25 Nurses' Union as an occupational health and safety officer.

1 My regular colleague, Jim Parker, sends his regrets for not
2 being able to be here today.

3 MS. BONITZ: The BC Nurses' Union represents
4 25,000 workers in health care and we're mostly registered
5 nurses, but there are other health care workers as well.
6 Members are exposed to reproductive toxins and sensitizers,
7 and from our current list of substances, we can readily
8 identify carbon monoxide, ethylene oxide, formaldehyde,
9 glutaraldehyde, halothane, latex, methyl methacrylate and
10 nitrous oxide.

11 During my 30 years of nursing I have
12 personally been exposed to anaesthetic gases; cautery
13 smoke, which has about 80 different substances, including
14 biohazard in the smoke; cidex, which is used for
15 sterilizing various equipment; ethylene oxide, which is
16 also used in sterilization; formaldehyde, which we put over
17 specimens to preserve a tissue; latex; methyl methacrylate,
18 which is a bone cement we use in total joint surgery; and
19 nitrous oxide, which various procedures use;
20 (indiscernible) et cetera.

21 I had the misfortune to be diagnosed with
22 metastatic neck cancer in 2004, and since I don't fall
23 under risk categories, such as smoking and drinking, for
24 this particular type of cancer, I began to wonder if some
25 of the substances I had been exposed to over the years had

1 caused or contributed to my cancer. It's only in recent
2 years that awareness of these substances and the ability to
3 protect ourselves from the substances we're exposed to on a
4 daily basis became possible. Smoke evacuators are a recent
5 addition to ORs to suck up the cautery smoke there that
6 comes off the operative field, and we're struggling to get
7 a formalin fume head right now in our OR. A number of other
8 ORs, I believe, have them in Fraser Health. This again
9 evacuates the fumes when you're pouring formalin, which is
10 a known carcinogen, over specimens.

11 Five of the over 30 RNs I work with
12 currently have been experiencing a reaction to some
13 substance or substances at work. They've been experiencing
14 rashes and itching, and when they're not at work their
15 symptoms abate. I mentioned this at a meeting I was at to
16 see if anybody from other facilities had it, and there was
17 an RN from RCH that said when she immediately started
18 working there she started getting these skin rashes,
19 itching, red, and then she decided to leave the facility.
20 The rashes went away, didn't get them at another facility,
21 and yet when she came back to do casual work, again she got
22 them. So very unfortunate.

23 Not only are our members exposed to
24 reproductive toxins and sensitizers; nurses are also
25 exposed to other serious toxins, including cytotoxic

1 medications. There was an RN at VGH recently who was
2 exposed to Imuran, which is a cytotoxic drug, and
3 subsequently her child had a birth defect as a result of
4 the exposure. Imuran is not listed in Table 1 from the
5 ACGIH designations. It's on the MSDS list of WHMIS with
6 reproductive effects, genetic toxicity and sensitization.
7 This example proves the ACGIH listing is not adequate and
8 WHMIS information will pick up substances that are not
9 reproductive toxins and sensitizers that the ACGIH listing
10 does not.

11 MS. deHEK: It is critically important to
12 know what one is being exposed to and the hazard of the
13 substances such as Kathy had identified. The effects of
14 reproductive toxins and sensitizers can be devastating. It
15 may be that you are unable to have children. It may mean
16 having a child born with a birth defect or the
17 sensitization can result in severe disability.

18 Regulatory change is needed due to the ACGIH
19 no longer publishing designations in the TLV Handbook.
20 ACGIH is making this change, we understand, because they
21 don't have the resources to reliably review reproductive
22 toxins and sensitizers. The proposal is to use
23 documentation, the TLVs, to list reproductive toxins and
24 sensitizers. That documentation would not capture
25 substances that have reproductive or sensitization effects

1 where it is not the sole reason for the TLV. This will mean
2 that it is likely many reproductive toxins and sensitizers
3 will not be properly designated.

4 BCNU representatives were a part of the
5 consultation process for the stakeholders, and at the
6 stakeholder meeting on October 5th, 2007, the employer and
7 worker representatives unanimously recommended adding WHMIS
8 designation to the OH&S Regulation under item (e).
9 WorkSafeBC staff at that meeting also agreed this was an
10 appropriate solution.

11 The WHMIS designation was not put in the
12 proposal by the Policy and Review Division that was brought
13 to the public consultation meeting in January in Richmond.
14 Presenters, including the employer and worker
15 representatives, unanimously endorsed adding WHMIS
16 designations to the regulation. It is very concerning that
17 the Policy and Review Division did not put forward the
18 inclusion of the WHMIS designations.

19 The explanatory note says WorkSafeBC is
20 currently considering mechanisms used in other
21 jurisdictions, including WHMIS. Well, we say it should not
22 be considering but should be doing.

23 There is no valid reason that we can find
24 not to include WHMIS designation. The previous system for
25 exposure limits and designations under the *Occupational*

1 *Health and Safety Regulation* was to use the lowest limits
2 from five selected jurisdictions for which there was
3 scientific evidence to support the limit.

4 The ability to set limits and designations
5 based on five jurisdictions demonstrates that there would
6 not be any significant difficulty in adding one
7 jurisdiction of WHMIS to the single source of ACGIH for the
8 designation of sensitizers and reproductive toxins.

9 The current proposal to use only ACGIH
10 information is like putting a dirty band aid on the wound
11 created by the decision to rely on a single jurisdiction
12 for exposure limits and designations. It has the potential
13 to do more harm.

14 The reference to the additional source of
15 WHMIS for designation of sensitizers and reproductive
16 toxins as noted above should be included in the amendment
17 to Part 5. To do any less would be irresponsible in
18 creating a high risk that workers will be exposed to
19 sensitizers and reproductive toxins that are not
20 appropriately designated. It is one example that we've
21 given you of the VGH nurse and the child that she bore with
22 a birth defect, and we think it alone is enough to
23 demonstrate the importance of maintaining the most accurate
24 list possible, and to do otherwise would put workers at
25 risk unnecessarily.

1 MS. BONITZ: Thanks very much for the
2 opportunity to present, and if you have any questions we --

3 THE CHAIR: No. Thank you very much for being
4 here today. It's just, I think, you've already reaffirmed
5 the question I had asked Mr. Stoffman, which is it's not
6 that there is an objection to maintaining the existing
7 protection, which is what the intent of the regulation was.
8 It's to add the WHMIS material to the designation of a
9 reproductive sensitizer or a toxin, and I understand that.
10 Thank you very much.

11 MS. BONITZ: Thank you.

12 THE CHAIR: I'm just checking to see if Ms.
13 Irene Cawson has appeared. No? In that case I'm going to
14 ask Ms. Sheila Moir to come forward. Ms. Moir represents
15 the BC Federation of Labour. And I think, Sheila, you're
16 going to comment on all of the proposed regulations?

17 MS. MOIR: Actually I'm not. I'm not going to
18 comment on Part 4, General Conditions referring to
19 avalanche.

20 THE CHAIR: Okay.

21 MS. MOIR: And the reason we're doing that is
22 because we have relied upon the BCGEU and we'll be
23 supporting their submission. And I'm also not going to be
24 responding on Part 20 at the moment. We're continuing our
25 consultation on that, but it will be part of our written

1 submission.

2 THE CHAIR: Thank you.

3 PRESENTATION BY MS. SHEILA MOIR, ON BEHALF OF THE BC
4 FEDERATION OF LABOUR:

5 MS. MOIR: My name is Sheila Moir and I'm the
6 Health and Safety Director for the BC Federation of Labour.
7 The BC Federation of Labour represents 500,000 union
8 members who work in every sector of the BC economy and in
9 every geographical area of the province. This submission
10 represents the view of the Federation and its affiliates on
11 the proposed amendments to the *Health and Safety*
12 *Regulations* that are before the public hearings for 2008.

13 The recommendations were formulated through
14 consultation and discussion with our Health and Safety
15 Committee at the BC Federation of Labour. Many of our
16 affiliates will also be making both oral and written
17 submissions which will articulate the specific ways in
18 which the proposed amendments would affect their
19 memberships, and you've already heard of some of those
20 today.

21 The Federation welcomes the opportunity to
22 participate in the public hearing process. We think that
23 it's a very important process and allows us an opportunity
24 to give feedback about how we feel about the regulations.

25 The Federation believes that regulatory

1 change is an opportunity for the WCB to improve protections
2 for the workers of BC. We have some concerns in a number of
3 the proposed amendments for 2008 where improvements to
4 worker health and safety have not been fully accomplished.

5 The first regulation that I'm going to talk
6 about is Part 4, Environmental Tobacco Smoke. The
7 Federation is pleased that the proposed amendments attempt
8 to improve the regulation to ban smoking in most
9 workplaces, but we have grave concerns about the exemptions
10 that have been allowed under the *Tobacco Control Regulation*
11 and have been placed in Part 4.

12 Section 4.81, controlling exposure, section
13 (b). The Federation is in agreement with the amendment,
14 which allows for outdoor smoking areas that is a minimum of
15 three metres away from a doorway, window or air intake of
16 an indoor workplace. The Federation would have liked to
17 have seen section 4.22(3) of the *Tobacco Control Regulation*
18 implement the six-metre law which both the cities of
19 Vancouver and Victoria have put into their bylaws.
20 Unfortunately, the superior bylaws will have to be passed
21 in each jurisdiction.

22 Recommendation is that the WCB Board of
23 Directors implements this proposed amendment.

24 Section 4.81(c). This amendment is based on
25 section 4.23(2)(a) and (b) of the *Tobacco Control*

1 *Regulation*, which provides for exemptions to section
2 23(1)(a) of the *Tobacco Control Act*. These exemptions are
3 for persons in care or residents of a community care
4 facility, assisted living residence or a hospital, may
5 smoke in a designated room and persons who are guests in a
6 hotel room are also exempted. An employer must prohibit
7 workers from working in an indoor area where smoking is
8 allowed except as permitted under section 4.82 of the
9 *Health and Safety Regulation*.

10 This amendment provides for certain
11 exemptions to the prohibition of workers working in a
12 designated smoking room unless the worker must enter to
13 respond to an emergency endangering life, health or
14 property, to investigate illegal activity, and if the
15 tobacco smoke has been effectively removed.

16 This places the onus on the worker to refuse
17 to go into a designated smoking area when asked to do so by
18 a supervisor, and most workers are unlikely to do that
19 refusal. The Federation does agree (*sic*) with these
20 exemptions, which do not adequately provide protection from
21 second-hand smoke for health care workers, hotel workers
22 and first responders.

23 How can the WCB say that most workers will
24 be provided with proper protection against environmental
25 tobacco smoke but workers who work in community care,

1 assisted living facilities, hospitals and hotels are not
2 afforded the same protection? This is discriminatory.

3 The studies and research have been done.
4 According to the World Health Organization's 2007 Policy
5 Recommendations publication on *Protection from Exposure to*
6 *Second-hand Tobacco Smoke*, a clear scientific consensus on
7 second-hand tobacco smoke exposure's dangerous health
8 effects has developed based on accumulated evidence and
9 copious new data, which show that second-hand tobacco smoke
10 causes serious and fatal diseases in adults and children.
11 Second-hand smoke contains thousands of known chemicals,
12 many of which are known to be carcinogenic and otherwise
13 toxic.

14 The World Health Organization recommended
15 that the only effective strategy to reduce exposure to
16 second-hand smoke to levels (*sic*) in indoor environments
17 and to provide acceptable levels of protection is by
18 implementing a 100 percent smoke-free environment. There is
19 no safe level of exposure to second-hand smoke.

20 Section 4.82(c), the tobacco smoke has been
21 effectively removed. Ventilation in smoking areas, whether
22 separately ventilated from non-smoking areas or not, do not
23 reduce exposure to a safe level of risk. The designated
24 smoking area with increased ventilation and air filtration
25 has been promoted by the tobacco industry and many

1 jurisdictions have accepted the concept in certain specific
2 settings. The ventilation rates required just to remove the
3 odour of second-hand smoke alone would have to be much
4 higher than common standards. The removal of odour is not a
5 guarantee that the level of toxins has been reduced.
6 Ventilation will not remove the toxic particles which will
7 adhere to food, furniture, skin and other surfaces.

8 The World Health Organization recommends
9 that legislation must require all indoor workplaces and
10 public places to be 100 percent smoke free. Laws should
11 ensure universal and equal protection for all.

12 In 2006, the United States Surgeon General's
13 Report concluded:

14 Establishing smoke-free workplaces is
15 the only effective way to ensure that
16 second-hand smoke exposure does not
17 occur in the workplace. Exposure of
18 non-smokers to second-hand smoke cannot
19 be controlled by air cleaning or
20 mechanical air exchange.

21 The Federation believes that the *BC Tobacco*
22 *Control Act* and the *Health and Safety Environmental Tobacco*
23 *Smoke Regulation*, by allowing exemptions to the 100 percent
24 ban, have not gone far enough to protect certain workers
25 from second-hand smoke.

1 The recommendation is that WCB Board of
2 Directors not implement the proposed amendments to sections
3 4.81(c) and sections 4.82(1) (a), (b) and (c).

4 Section 4.82(2). This amendment says the
5 requirement for an indoor room where smoking is permitted
6 must be provided with a separate, non-circulating exhaust
7 ventilation system which meets the standards for a smoking
8 lounge specified in *ASHRAE Standard 62-1989, Ventilation*
9 *for Acceptable Indoor Air Quality*.

10 So just what does this standard mean? ASHRAE
11 stands for the American Society of Heating, Refrigerating
12 and Air Conditioning Engineers Inc. Interestingly, the 1989
13 standard, which is the standard the WCB is relying upon, is
14 no longer current. Standard 62 was always somewhat
15 controversial, and in 1997 the board of directors of ASHRAE
16 determined that this proposal had to be converted to
17 continuous maintenance, which meant that it would be
18 regularly updated. A committee was assigned to do this
19 updating and two new versions were published, Standard 62-
20 1999 and Standard 62-2001.

21 In Standard 62-1999, addendum 62(e), the
22 note was removed to the table of minimum outdoor air
23 requirements, stating that these rates accommodated a
24 moderate amount of smoking. Since the 1989 publication of
25 the standard, numerous public health and governmental

1 authorities declared environmental tobacco smoke or second-
2 hand smoke to be a significant health risk. In recognition
3 of this, the committee removed this note because of the
4 inconsistency between the stated purpose of the standard to
5 minimize the potential for adverse health effects and the
6 presence of environmental tobacco smoke or second-hand
7 smoke.

8 In 2001, the committee reviewed the addendum
9 62(g), the separation of smoking and non-smoking rooms. In
10 2005, ASHRAE published a position document on environmental
11 tobacco smoke in which they concluded that after
12 considering the international experience of using various
13 strategies to reduce environmental tobacco smoke, including
14 separation of smokers from non-smokers, ventilation, air
15 cleaning, filtration and smoking bans, that only a smoking
16 ban will effectively eliminate the health risk associated
17 with indoor exposure.

18 They went on to say:

19 No other engineering approaches,
20 including current and advanced dilution
21 ventilations or air cleaning
22 technologies, have demonstrated or
23 should be relied upon to control health
24 risks from environmental tobacco smoke
25 exposure in spaces where smoking

1 occurs.

2 Because ASHRAE's mission is to act for the benefit of the
3 public, it encourages the elimination of smoking in the
4 indoor environment as the optimal way to minimize
5 environmental tobacco smoke exposure.

6 Section 4.82(2)(b), (c) and (d). The
7 Federation does not agree that any of these proposed
8 amendments will effectively remove tobacco smoke from
9 smoking rooms and provide adequate protection for workers
10 in the exempted workplaces.

11 Our recommendation is that the Board of
12 Directors not implement proposed amendments in section
13 4.82(1)(a), (b) and (c), and (2)(a), (b), (c) and (d).
14 These amendments do not provide adequate protection for
15 workers in exempted workplaces.

16 And that concludes the presentation on Part
17 4. Should I just move on to Part 5? Okay.

18 Part 5, Chemical and Biological Substances
19 related to designated substances.

20 So you've already heard two presentations
21 from the BCNU and also from UFCW 1518, and the Federation
22 would concur with those presentations. So we are not in
23 agreement with the proposed amendment to this section of
24 Part 5, which will allow the continued use of the ACGIH
25 list as the only source available to workers and employers

1 in BC as a recognized reference for the designation of
2 chemicals as reproductive toxins and sensitizers. This
3 amendment is flawed because the ACGIH will no longer
4 reference reproductive toxins and sensitizers in their list
5 unless they are the basis for the threshold limit value.
6 The ACGIH has warned that they do not have the resources
7 available to maintain the currency of the list when it
8 comes to these designations.

9 This continued reliance upon the ACGIH list
10 of designations, a source of information that's limited,
11 outdated and provides inadequate protection for workers, is
12 unacceptable. This issue really speaks to the original
13 concerns that the Federation had about the WCB adopting the
14 ACGIH list of threshold limit values. The concerns were
15 that this was a relatively unknown group, not from Canada,
16 and what their quality of work would be. Their inability to
17 maintain current information and regular updates to these
18 designations proves that the Federation's concerns were
19 well founded.

20 As previously mentioned, the Federation
21 represents workers from all sectors of the economy, so this
22 amendment will affect thousands of our members. It is
23 estimated that 15 to 20 percent of the workforce in BC
24 could be affected by reproductive toxins. Workers in many
25 sectors are affected by both reproductive toxins and

1 sensitizers. They work in health care, service stations,
2 construction, painting, forestry, auto body work and
3 plastics. Reproductive toxins affect the reproductive
4 ability of men and women. Exposures to these chemicals can
5 result in sterility, testicular damage, foetal
6 abnormalities, miscarriages and cancers of the reproductive
7 organs.

8 These exposures particularly affect young
9 workers of reproductive age, an estimated 20 percent of the
10 workforce of BC. Workers will not be aware that their
11 health has been compromised until they discover that they
12 are unable to conceive or they have a child with birth
13 defects. The effects are multigenerational.

14 Sensitizers are chemicals which may not
15 cause immediate health effects, but after repeated
16 exposures, workers will develop allergic reactions. The
17 range of hypersensitivity is broad and includes skin
18 rashes, occupational asthma, lung diseases and compromised
19 immune systems, to name a few. They usually have a life-
20 long effect and have the potential to be fatal. Some of
21 these chemicals are found in wood dust, solders, latex,
22 cleaning products and paints, to name a few.

23 The effects of these designated substances
24 is so serious that the WCB must provide workers with the
25 strongest regulatory requirements in order to fulfil their

1 obligation to ensure safe and healthy workplaces. Part 5
2 guarantees workers the right to be protected against these
3 substances.

4 In the pre-consultation meeting, the labour
5 and employer stakeholders were prepared to extend this
6 greater protection by jointly agreeing on a recommendation
7 to revise section 5.57(1) by adding (e), to say:
8 "Classified under WHMIS CPR 53 or 55 as a developmental or
9 reproductive toxin, subdivision A of Division 2 of Class
10 D - Poisonous and Infectious Material." As has already been
11 stated, Workplace Hazardous Materials Information System,
12 or WHMIS, is the recognized system in Canada. It
13 establishes the legal requirements for the identification
14 of hazardous substances in workplaces. Due to the
15 requirements of the material safety data sheets, the WHMIS
16 list must be kept up to date. Employers are required to
17 update their MSDS every three years and suppliers must
18 provide every new product with an MSDS. The WHMIS list is a
19 much more reliable source of information on reproductive
20 toxins and sensitizers.

21 Adopting the WHMIS list of reproductive
22 toxins and sensitizers will provide consistency and avoid
23 confusion at workplaces when employers and workers notice a
24 discrepancy between the ACGIH list designation and the
25 required WHMIS MSDS references.

1 In the explanatory note, the WCB states that
2 the proposed amendment is an interim measure until such
3 time it is appropriate to consider other identification
4 systems that address workplace exposure to reproductive
5 toxins and sensitizers. As Larry mentioned, we have made
6 this recommendation twice now, and we feel that there was
7 sufficient time to do that further research, and we look
8 forward to this WHMIS classification being added to the
9 list.

10 And again, I want to clarify that we don't
11 want to exclude the ACGIH but add the WHMIS.

12 THE CHAIR: Thank you.

13 MS. MOIR: I'm probably going to lose my
14 voice.

15 THE CHAIR: You should take a lot of sips of
16 water.

17 MS. MOIR: I'm trying. So the next regulation
18 that I want to speak to is Part 14, Cranes and Hoists.

19 The review of Part 14, Cranes and Hoists,
20 arises out of the recommendation of the coroner's inquiry
21 into the death of Daniel McCrickard in 2005. The worker was
22 fatally injured when he was struck by the overhaul ball of
23 a mobile crane. The ball lowered unexpectedly and hit the
24 worker when the brake on the hoist drum for the load line
25 did not engage when set by the operator before the operator

1 left the controls to attend to other duties. The coroner's
2 inquiry made a recommendation in regards to the operator's
3 duties and the matter of supervision, namely saying that
4 the Health and Safety Regulation, Part 14:

5 ...be amended by requiring that all
6 critical lifts (defined in such a way
7 so as to include all situations in
8 which persons on the ground may be at
9 risk of being struck by a suspended
10 load, or any particular of the mobile
11 crane) be made under the direction of a
12 qualified supervisor who is not
13 operating the crane, or otherwise
14 involved in the operation of another
15 piece of equipment.

16 Section 14.37.1. The Federation and our
17 affiliates strongly object to the proposed amendment to
18 this section as it does not follow the recommendation made
19 by the coroner's inquiry in requiring that critical lifts
20 are done under the direction of a qualified supervisor.
21 That broadening the definition of a critical lift is not
22 practicable to implement is not sufficient reason to water
23 down the inquiry recommendation. The safety of workers is
24 paramount.

25 The amendment places the full responsibility

1 for critical lifts directly on the operator. Crew
2 inexperience appears to have been a factor in the fatality
3 in 2005. The presence of a qualified super in this
4 situation may have avoided the death of a worker.

5 A crane operator is not a professional
6 engineer and may not be properly qualified to determine
7 that the external components of a lift have been
8 appropriately engineered to be lifted safely. The operator
9 must depend on others to make the lift safe. The operator
10 often may not be involved in all the planning processes for
11 the lift. The importance of proper supervision is certainly
12 recognized. In the proposed training for crane operators it
13 is now a requirement.

14 The BC Association for Crane Safety has set
15 out the levels of training that will be required. For a
16 Level One operator, which means a person new to crane
17 operations who has not successfully challenged the core
18 theory, must operate only under direct hand-on supervision.

19 The explanatory note suggests that the
20 introduction of the role of a supervisor into the lift will
21 take away from the operator's responsibility to own the
22 lift or to understand all the parameters of the lift and
23 the role of each person involved in the lift. The
24 Federation disagrees with this assumption. A qualified
25 supervisor offers support to the operator and takes on the

1 responsibility to ensure that the lift is done safely. To
2 give full responsibility to the operator does not comply
3 with the *Workers Compensation Act*, Division 3, section 115
4 and 117, responsibilities of the employer and supervisor.

5 The Federation recommends that WCB amends
6 this section in compliance with the Coroner's Service
7 Judgment of Inquiry recommendation that all critical lifts
8 be made under the direction of a qualified supervisor.

9 Both labour and employer representatives at
10 the pre-consultation meeting were supportive of this
11 recommendation. The Federation believes that this
12 recommendation is critical in order to prevent serious
13 injuries or fatalities in the operation of cranes. Perhaps
14 the presence of a qualified supervisor would have prevented
15 the tragic death of a young worker on the RAV Line.

16 Now, we've also taken into consideration the
17 new definition of critical lifts in 14.42.1, and we may be
18 persuaded that as in the requirement for a supervisor to be
19 present when tandem lifts are done, that we may be okay
20 with, in section 14.42.1, that also those critical lifts be
21 done under the direction of a qualified supervisor. So that
22 kind of -- you've defined what critical lifts are. It's not
23 quite what the coroner's inquest made recommendations on,
24 but I think it would be adequate for us.

25 And in section 14.63.1, which has been

1 withdrawn and the Federation concurs with that.

2 Part 17, which is Transportation of Workers.
3 On March 7, 2008, was the first anniversary of the tragic
4 vehicle accident that claimed the lives of farm workers
5 Sukhwinder Kaur Punia, Sarabjit Kaur Sidhu and Amarjit Kaur
6 Bal. These deaths followed the death of Mohinder Sunar in
7 2003 in a similar accident. The coroner's inquest and
8 review by the WCB in the 2003 fatality made a number of
9 recommendations which were never implemented. The seat
10 design and configuration along with a lack of seat belt
11 requirements were contributing factors to the number and
12 the extent of fatalities and injuries.

13 In March 2007, the BC Federation of Labour
14 and the Canadian Farm Workers Union, along with the
15 families who lost loved ones in the accident, presented 29
16 recommendations to government. One of those recommendations
17 was a call for the solicitor general to change the *Motor*
18 *Vehicle Act* to require all motor vehicles used in the
19 transportation of workers to have proper seats and seat
20 belts for every passenger.

21 In May 2007, the *Motor Vehicle Act* and the
22 *Motor Vehicle Act Regulation* were changed to address the
23 requirement for seats and seat belts.

24 In general, the Federation agrees with the
25 WCB's proposed changes to Regulation 17, which strengthen

1 requirements for worker transportation vehicles by
2 harmonizing the regulation with the *Motor Vehicle Act* and
3 the *Motor Vehicle Act Regulation*.

4 In section 17.1.1, in definitions, the
5 Federation agrees with the definitions which have been
6 added to provide clarity.

7 Section 17.1.2. The Federation agrees with
8 the general responsibilities that worker transportation
9 vehicles must be designed, maintained and operated in a
10 safe manner.

11 Section 17.1.3. The Federation is pleased
12 with the proposed amendment for vehicles that are operated
13 off a highway. These worker transportation vehicles will be
14 required to have seating arrangements in accordance with
15 Division 39 of the *Motor Vehicle Act Regulation* and seat
16 belt assemblies in accordance with section 220 of the *Motor*
17 *Vehicle Act*.

18 In the Federation's consultation submission
19 of January 31st, 2008, we expressed concerns in regards to
20 the proposed amendment to have seat belts in designated
21 seats in vehicles used off public highways only if there
22 was a significant hazard of rollover upset. In discussions
23 with the United Steel Workers, it was clear that their
24 members travelling in worker transportation vehicles are
25 just as likely to have accidents that involve collisions as

1 those involving rollovers. Thus there is a need to have
2 seat belts in designated seats. These non-public roads are
3 often poorly maintained, narrow, and in winter icy and
4 snowy. The recent death of a 25-year-old tree planter when
5 the vehicle she was travelling in to work on a logging road
6 lost control and rolled, indicates the need for stronger
7 regulation to protect these vulnerable workers, and we
8 believe this amendment will provide that protection.

9 The recommendation is that WCB Board of
10 Directors approve sections 17.1.1, 17.1.2 and 17.1.3.

11 17.2, employer's responsibilities. The
12 Federation is in agreement with this proposed amendment
13 which places the responsibility to ensure that there is an
14 assessment of road conditions, weather and traffic
15 conditions and that inspection has been conducted before
16 the work shift begins on the vehicle. It also requires that
17 any defect which may affect the safety of workers is
18 corrected before the vehicle is used.

19 This amendment reinforces Division 3 of the
20 *Workers Compensation Act* and speaks to the responsibility
21 of the employer to ensure workers are safe.

22 Recommendation is that the WCB Board of
23 Directors implements this proposed amendment.

24 Section 17.2.1, (1) and (2). The Federation
25 is in agreement with these proposed amendments to ensure

1 that the operator of a worker transportation vehicle must
2 conduct an inspection of the vehicle prior to first use on
3 the work shift. It also requires that the operator must
4 comply with the provisions of section 17.1.3 and in
5 addition ensure that all workers being transported are in
6 their seats and wearing their seat belts.

7 The Federation is concerned that the
8 requirement for operators responsible for vehicle
9 inspections must be properly trained in how to conduct
10 proper vehicle inspection is not part of the proposed
11 amendment. There is great risk that an untrained operator
12 may not conduct an effective inspection of the vehicle and
13 an unnoticed defect results in an accident while the
14 vehicle is being operated.

15 The Federation believes that the amendments
16 must ensure that the employer provides training in vehicle
17 inspections to the operator. The WCB Board of Directors
18 implements the proposed amendments in section 17.2.1, (1)
19 and (2), and adds section (3), "the employer must ensure
20 that the operator of a worker transportation vehicle is
21 properly trained to conduct a proper vehicle inspection."

22 Section 17.2.2, (1) and (2). The Federation
23 agrees with these amendments which require worker
24 transportation vehicles must be operated by a driver who is
25 properly licensed in accordance with the requirements of

1 the *Motor Vehicle Act* and the *Industrial Road Act* and the
2 requirements for procedures of closing and latching doors
3 while the vehicle is moving and for ensuring that the
4 parking brake is engaged when the vehicle is left
5 unattended and that the vehicles are properly blocked and
6 chocked if required.

7 The recommendation is that the Board of
8 Directors implements these proposed amendments.

9 Section 17.2.3, provision for seat belts.
10 This is a very confusing amendment and would benefit from a
11 plain language rewrite.

12 Recommendation, that the WCB Board of
13 Directors revises this amendment to read as follows:

14 (1) Seat belts must be provided in a
15 worker transportation vehicle for each
16 designated seat in accordance with
17 section 220 of the *Motor Vehicle Act*.
18 And the exceptions of Divisions 32 and
19 39 of the *Motor Vehicle Act Regulation*
20 applies to the operation of a worker
21 transportation vehicle both on and off
22 a highway.

23 Section 17.5.1, gross vehicle weight rating.
24 The Federation agrees with this amendment, which is
25 intended to prevent worker transportation vehicles from

1 being overloaded. It is an extremely important amendment in
2 light of the WCB's unwillingness to consider the concerns
3 arising from the use of 15-passenger vans as worker
4 transportation vehicles.

5 The United States Department of Transport
6 produced a report in 2004 which analyzed the crashes
7 involving 15-passenger vans. The study found that these
8 vans were 2.2 times more likely to roll over when they were
9 overloaded as when they were loaded to or below their
10 capacity.

11 Recommendation is that the WCB Board of
12 Directors implements the proposed amendment.

13 Section 17.13, seating capacity. The
14 Federation is in agreement with this amendment and
15 recommends that the Board of Directors implement this
16 amendment.

17 THE CHAIR: Done with motor vehicles?

18 MS. MOIR: Mm-hmm, done. The next one is Part
19 22, Underground Workings.

20 The proposed amendments to Part 22,
21 Underground Workings, are intended to address the fact that
22 the WCB has received 40 variance requests from employers
23 who are involved in using a tunnel boring machine, or TBM,
24 and cut and cover excavation techniques. The WCB in the
25 explanatory notes expresses concern for the increased

1 workload that has resulted from the increased variance
2 requests, both for the WCB and for employers.

3 The Federation is concerned that the
4 workload issue, rather than the WCB's vision of workers and
5 workplaces safe and secure from injury, illness and
6 disease, from the 2000 Annual Report, being one of the
7 reasons for proposing amendments to water down the safety
8 requirements for the dangerous business of underground
9 workings.

10 The regulation was originally written based
11 on the drill and blast excavation technique, which is
12 considered a high risk method, and the WCB contends that
13 some of the requirements are not applicable to the tunnel
14 boring method and cut and cover methods because they are
15 considered to be limited hazard underground workings. The
16 hazards of tunnel boring machines and cut and cover
17 projects are not less hazardous than a drill and blast;
18 they are different.

19 In our research of the underground working
20 regulations in other jurisdictions, including other
21 provinces, the United States and European countries, we
22 were unable to find any regulatory exceptions to the tunnel
23 boring and cut and cover techniques. For example, in the
24 *Tunnelling Practice Code* of 2007 for Queensland, Australia,
25 section 4.4 speaks to the requirements for plant or

1 machinery used in tunnelling.

2 Related risks. Recognizing that the presence
3 of the huge TBMs creates another set of hazards for
4 workers, many regulations acknowledge that these techniques
5 have inherent hazards and recognize these in the regulatory
6 requirements.

7 Section 22.57.1, definition. The Federation
8 does not agree that the definition of limited hazard
9 underground working as a non-gassy underground working
10 should include (a) being excavated using tunnel boring
11 methods that install any liner or other required support
12 structures progressively with the tunnel boring machine.

13 This definition implies that the presence of
14 gas in underground working is the only hazard that tunnel
15 workers must contend with. In speaking to these workers,
16 one of the worst hazards is water and water seepage.
17 Recently there has been an incident in Ontario in the North
18 York-Durham County sewer and water tunnel boring project
19 where there was a huge water break at the head of the TBM
20 and the machine is now completely covered with slurry. This
21 incident occurred very close to the end of the tunnel, and
22 fortunately workers were able to escape without serious
23 injury.

24 The other condition which presents great
25 hazards to workers is the changing geology. In a single

1 tunnel project, there can be a number of different rock
2 types which will require different support systems. The
3 North Vancouver Seymour-Capilano Filtration Project tunnel
4 was halted when the TBM ran into rock that was unstable,
5 causing fracturing and breaking out. Falling rock injured a
6 number of workers. The changing rock formations and water
7 hazards are not always predicted in the engineering
8 surveys, so workers can run into some nasty surprises that
9 put them at great risk.

10 In Ireland the Dublin Port tunnel, which is
11 4.5 kilometres in length, of which 2.6 kilometres is tunnel
12 boring tunnel and 1.9 is cut and cover, was considered a
13 mine shaft and treated as such for safety requirements
14 until the tunnel boring machine broke through the other
15 end. It was not considered a low hazard project.

16 Both the tunnel bore and cut and cover
17 techniques require the installation of support structures
18 to secure the roof, walls and floors of the tunnel. In a
19 cut and cover excavation, the roof of the tunnel is
20 engineered. In this type of excavation, a tunnel is dug
21 from the surface, and shoring is installed preventing the
22 walls from sliding in, while either a precast or cast-in-
23 place concrete segments are installed.

24 In a tunnel bore excavation, the walls and
25 roof rely upon the nature of the ground and may be

1 supported by rock bolts, wire mesh or shotcrete. Workers
2 are at risk while the supports are being installed of loose
3 ground hazards.

4 In some parts of the tunnel in a tunnel
5 bore, as the TBM cuts through the ground, the machine will
6 simultaneously install a lining that is made of concrete
7 segments which completely line the tunnels. Although this
8 may provide workers with a greater measure of protection
9 from falling rock, substrate hazards, gases, radiation,
10 collapse, and natural conditions at the line part of the
11 tunnel, it provides no protection for workers at the head
12 of the machine.

13 Tunnel bore machines are electrical
14 machines, and this increases the likelihood of electrical
15 fires in the tunnel, which is also an added risk.

16 The Federation believes strongly that the
17 primary aim of the proposed amendments to Part 22 must
18 protect underground workers. The geological survey, natural
19 conditions and the construction process must all be taken
20 into account to provide the maximum protection for workers.
21 Perhaps there are tunnel bore projects which could be
22 considered limited hazard underground workings, but that
23 has not been the experience in BC or other jurisdictions.

24 THE CHAIR: Sheila, could I just stop you for
25 a second. I want to make sure that there's some clarity

1 around our variance process, and it gives you a chance to
2 draw breath.

3 MS. MOIR: Yeah, thank you.

4 THE CHAIR: Just to be clear, I would very
5 much not like to leave on the record that the issue is
6 simply workload. I think that would be a little unfair to
7 our hard-working staff.

8 Generally speaking, a variance can't be
9 accepted unless it provides a level of safety that is as
10 great as the regulation or higher. So perhaps the language
11 in the explanatory note, I would agree, is not particularly
12 well put.

13 MS. MOIR: No.

14 THE CHAIR: As I read it, I can see that it's
15 left an unfavourable impression. Generally speaking, when
16 the staff who are looking at whether or not a variance is
17 acceptable, they're saying that they are granting variances
18 regularly where the proposal is at the same level or higher
19 than the regulation. And just to be fair to our staff, who
20 take this very seriously, I just wanted to clarify that.

21 MS. MOIR: Okay, thanks. The Federation
22 believes strongly that the primary aim of the proposed
23 amendments to Part 22 must be to protect underground
24 workers. The geological survey, natural conditions and the
25 construction process must all be taken into account to

1 provide the maximum protection for workers. Perhaps there
2 are tunnel bore projects which could be considered limited
3 hazard, but this has not been the experience in BC or other
4 jurisdictions.

5 There are a number of large tunnel bore
6 projects coming to BC in the near future, the Broadway and
7 Evergreen lines of the SkyTrain and the Run of the River
8 projects. This growth of such projects because of the
9 efficiency of tunnel bore machines requires greater
10 investigation by the WCB into the hazards that are
11 associated.

12 The Federation does not support the proposed
13 amendment to define a limited hazard underground working
14 means a non-gassy underground working being excavated using
15 tunnel boring methods that install any liner or other
16 required support progressively with the tunnel boring
17 machine.

18 The Federation agrees that the cut and cover
19 technique be considered a limited hazard underground
20 working where the back is engineered and ventilation is
21 provided according to the current regulation requirements.
22 And we also do not support amendment (c).

23 Section 22.57.2, hours of work. The
24 Federation does not support the proposed amendment to allow
25 the employer to extend the hours of work up to 10 hours in

1 any 24 hours without the prior written permission of the
2 WCB provided the reduced exposure limits established by
3 section 5.50 are not exceeded.

4 THE CHAIR: I'm going to make a suggestion,
5 Sheila, just because I'm aware that time is marching on.
6 You could just reference the section without reading it.

7 MS. MOIR: Okay.

8 THE CHAIR: You don't have to read it if it's
9 the section we've proposed.

10 MS. MOIR: Okay. Okay. So actually maybe I
11 can just go quickly through and say which ones we agree
12 with and don't.

13 THE CHAIR: Yes, that would make sense.

14 MR. MOIR: So the hours of work we do not
15 agree with.

16 Self-rescuers, we also believe that they
17 need to be carried by workers in all situations of
18 tunnelling.

19 Alternative air flow. So for all tunnel
20 excavations are currently required reversibility of air
21 flow, and we do not agree with that exception either, or
22 exemption.

23 Radioactivity. Now, this one here, we've
24 talked a lot to people who actually do this work, and one
25 of the recommendations that they want to discuss more with

1 the WCB is to look at the responsibilities of a position
2 which is called the safety miner. These people apparently
3 traditionally monitor gas and radiation levels in the
4 mines.

5 So the recommendation there is that the WCB
6 do some further consultations with stakeholders in this
7 business to sort of have a look at that position.

8 Cap lamps. We also along with self-rescuers,
9 we agree that they should not be exempted.

10 And refuge stations. So for example, we
11 agree with this proposed amendment for cut and cover
12 excavations but not for the tunnel boring because we've
13 taken those ones out.

14 Rescue workers. This is a really important
15 one. We don't support this section, which will no longer
16 require the employer to in a limited hazard underground
17 working to have mine rescue capability.

18 And there really is in the explanatory notes
19 again a reference to the use of public services, so for
20 example, municipal fire departments, local ambulance
21 services to be available to provide rescue services. We
22 really believe that the employer must be responsible for
23 providing those services. And also, you know, when you talk
24 about ambulance services, they're not rescue people. They
25 look after people who have been injured once they have been

1 extricated and brought to the surface. And also there's an
2 issue when we rely on public service agencies about the
3 possibility of response time.

4 Self-contained breathing apparatus. We agree
5 with this amendment for cut and cover as long as it's
6 indicated in the regulation that they are rated for the 30
7 minutes. We certainly don't agree in the tunnel bore
8 projects.

9 So in conclusion, we would strongly urge the
10 WCB to carry out a further round of consultation with the
11 stakeholders in underground workings, including workers, to
12 review the information about the experience of these
13 workplaces.

14 Part 23, which is oil and gas. We're pretty
15 much in agreement with this, with all the tech changes. So
16 all the parts, 23.1, 18, 22, 30, 51 and 64.1, that we agree
17 to those because they recognize technological improvements.
18 But we do have a concern, as we mentioned in our submission
19 in January, about the continuing ability for employers to
20 rely upon the T-bar system or the Geronimo.

21 THE CHAIR: The Geronimo, yes.

22 MS. MOIR: Because we've talked to Enform and
23 also to your own officers in the field, in the oil and gas
24 fields, and they've confirmed a couple of things, that many
25 employers are already moved away from the T-bar. And so

1 really we think that there should be a phase-out period for
2 the T-bar systems.

3 That's it.

4 THE CHAIR: Thank you. Thank you, Sheila. I
5 just want to check that indeed I have not missed Ms. Irene
6 Cawson. Can I just double check to see if Ms. Cawson is
7 here? Okay. And Mr. Lee Loftus?

8 So what I am going to do, the hour being ten
9 to 5:00, is I am going to adjourn our proceedings. I'll go
10 off the record but the panel is going to be here till five
11 o'clock just in case Ms. Cawson or Mr. Loftus are able to
12 be here.

13 MS. MOIR: Lee's not coming. He had a crisis,
14 people being fired or something.

15 THE CHAIR: Oh, thank you, Sheila. But we
16 will actually wait in any case just in case Ms. Cawson
17 comes, and we'll adjourn at five o'clock.

18 --- PROCEEDINGS ADJOURNED AT 5:00 P.M.

19 --- PROCEEDINGS RESUMED AT 7:00 P.M.

20 THE CHAIR: First of all, I'd like to
21 introduce the panel who are hearing the proposed amendments
22 to the *Occupational Health and Safety Regulation*. My name
23 is Roberta Ellis. I'm chair and Vice President of the
24 Policy and Research Division. On my left is Anne Burch, our
25 vice chair and Director of Prevention, Policy and Regulation

1 Review. And on my right, Mr. Ed Bates, who is general
2 counsel and secretary to WorkSafeBC.

3 I also want to introduce Pattie Kealy.
4 Pattie is our court report today and she's taking verbatim
5 notes of the public hearing. This is the record that
6 assists the Board of Directors of WorkSafeBC in their
7 decision-making process and the recorded notes are made
8 public after the Board of Directors make decisions
9 regarding these proposed amendments.

10 The purpose of the hearing is to provide you
11 with an opportunity to comment. And I'm going to read into
12 the record the parts of the Regulation that are being
13 reviewed:

14 Part 1, Definitions, and Part 4, General
15 Conditions relating to avalanches.

16 Part 4, General Conditions relating to
17 environmental tobacco smoke.

18 Part 5, Chemical Agents and Biological
19 Agents relating to the designation of substances.

20 Part 14, Cranes and Hoists relating to the
21 operator's duties.

22 Part 17, Transportation of Workers relating
23 to seating requirements and seat belts in vehicles used to
24 transport workers.

25 Part 20, Construction, Excavation and

1 Demolition.

2 Part 22, Underground Workings relating to
3 fills, stockpiles and professional certifications.

4 Part 22, Underground Workings relating to
5 the accommodation of tunnel boring and cut and cover
6 methods of excavation.

7 And Part 23, Oil and Gas. These relate to
8 snubbing operations, emergency escape systems, riding
9 hoisting equipment and miscellaneous items.

10 I do want to note that the proposed
11 amendments to Parts 1 and 4 relating to avalanches and
12 Parts 20 and 22 relating to fills and stockpiles were taken
13 to the 2007 public hearings. Stakeholders had asked for
14 more consultation, and I want to thank any of you who took
15 time to work with us on these issues. The amendments were
16 revised and are being returned to this hearing.

17 Stakeholders have been advised of the 2008
18 proposed amendments and the notes, and the changes have
19 been placed on our website, sent to over 3,500 stakeholders
20 via E-news, advertised in the *BC Gazette* and 17 newspapers,
21 and we've also contacted representatives of industry
22 associations and interest groups to encourage their
23 response. And there are copies of everything available at
24 the front.

25 If you do have written material to leave

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1 with us, you can leave it with us or at the sign-out desk.
2 And I'm just reminding everybody that the deadline for
3 receiving written materials is 4:30 p.m. on Friday, June
4 13th, 2008.

5 These hearings represent the formal
6 consultation process. Once we're complete, the written and
7 oral submissions will be analyzed. The Board of Directors
8 is the decision-making body at WorkSafeBC, and they have
9 access to all of the submissions prior to making their
10 final decision.

11 So I thank you for your time and for your
12 interest and that you're here this evening. I am going to
13 begin by asking Mike Clarke, who represents the BC
14 Government and Service Employees' Union. Mike, I think
15 there are a number of parts that you're going to speak to.

16 MR. CLARKE: There are.

17 THE CHAIR: Okay. Welcome.

18 MR. CLARKE: Thank you so much. I will
19 apologize in advance because I may have to talk like an
20 auctioneer to get through it, but I'll do my best.

21 THE CHAIR: That's okay. Don't worry about
22 it.

23 PRESENTATION BY MR. MIKE CLARKE, ON BEHALF OF THE BC
24 GOVERNMENT AND SERVICE EMPLOYEES' UNION:

25 MR. CLARKE: I represent the BC Government

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1 and Service Employees' Union, the BCGEU. We represent
2 60,000 workers in a broad range of occupations throughout
3 British Columbia. Our members work in the provincial
4 government, Crown corporations, colleges, private and
5 publicly funded health care, social services, home support
6 agencies, child care centres, legal services and highway
7 maintenance workers.

8 The union's focus in these hearings centres
9 around Part 1, Definitions; Part 4, General Conditions
10 relating to avalanches; Part 4, General Conditions relating
11 to environmental tobacco smoke; Part 5, Chemical Agents and
12 Biological Agents relating to designation of substances;
13 and Part 17, Transportation of Workers relating to seating
14 requirements and seat belts in vehicles used to transport
15 workers.

16 Under the *Tobacco Smoke Regulation* and
17 *Control Regulation*, the Workers' Compensation Board has
18 proposed changes to the *Environmental Tobacco Smoke*
19 *Regulation* which are intended to ensure there is compliance
20 with the tobacco control regulations which came into effect
21 on March 31st, 2008.

22 The BCGEU supports the intent of the
23 proposed changes, which would ensure that workers are not
24 exposed to environmental tobacco smoke. Section 4.82
25 states:

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1 An employer must ensure that a worker
2 does not work in an indoor area where
3 smoking is permitted under section
4 4.23(2) (a) and (b) of the *Tobacco*
5 *Control Regulation* unless:

6 (a) a worker must enter the area to
7 respond to an emergency endangering
8 life, health or property;

9 (b) a worker must enter the area to
10 investigate for illegal activity, or

11 (c) the tobacco smoke has been
12 effectively removed.

13 In sections (a) and (b), exposure is
14 contemplated and no measures are
15 required to reduce exposure of workers
16 in these types of circumstances.

17 The issues that we have as an organization is what does
18 "effectively removed" mean?

19 We have approximately 20,000 workers who
20 provide various health and social services and include home
21 support and programs for adults with developmental
22 disabilities in settings that would be exempt from
23 coverage. Section 4.23 of the *Tobacco Regulation*, which
24 establishes an exemption from smoking bans, includes
25 persons who are in care or a resident:

1 (a) a person in care or a resident
2 within the meaning of the *Community*
3 *Care and Assisted Living Act*, or

4 (b) a patient of

5 (1) a hospital providing extended
6 care within the meaning of
7 paragraph (C) of the definition of
8 "hospital" in a section of the
9 *Hospital Act*, or

10 (11) a private hospital within the
11 meaning of Part 2 of that Act.

12 (2) The following persons are exempt from
13 section 2.3(1)(a) of the Act:

14 (a) a person in care or resident who
15 smokes tobacco, or hold lighted tobacco
16 in a room designated for tobacco use
17 within a community care facility,
18 assisted living or hospital.

19 Section 4.2(1) paragraph (2) states, "If a workplace is
20 located in a private dwelling, section 2.3 of the Act
21 applied during any periods in which a person performs
22 services in return for compensation."

23 What the *Tobacco Regulation* and the *Workers'*
24 *Compensation Act Regulation* do not quantify is what
25 "effectively removed" means under the *Workers' Compensation*

1 *Regulation.* The *Tobacco Regulation* simply states that while
2 a person is smoking a worker does not have to enter the
3 area but implies that as soon as the person is no longer
4 smoking a cigarette, work can commence. The union submits
5 that this regulation treats workers in community health and
6 social services differently than other workers because it
7 allows and enables exposures to cancer-causing agents to
8 transpire.

9 When the University of Kentucky researchers
10 S. Shick and S. Glantz' toxicology experiments with fresh
11 sidestream smoke, they found sidestream smoke more toxic
12 than mainstream smoke. This study also found that fresh
13 sidestream smoke and condensates from the cigarette showed
14 that sidestream condensate is two to six times more
15 tumourigenic per gram than mainstream condensate.

16 By inhalation, whole fresh sidestream smoke
17 is two to six times more toxic per gram than mainstream
18 smoke, depending on the end point. This gas/vapour phase of
19 sidestream smoke is responsible for the majority of the
20 sensory irritation and damage to the respiratory tract
21 epithelium. Fresh sidestream smoke can cause damage to the
22 respiratory epithelium at low levels, and damage to the
23 respiratory epithelium increases with longer exposures.

24 The number, variety and results of the
25 fundamental toxicology experiments done by Philip Morris

1 are without parallel in the open scientific literature.
2 These studies were neither published nor revealed to the
3 government in rule-making hearings by the US Occupational
4 Safety and Health Administration or in risk assessments by
5 the US EPA or the California EPA. The unpublished research
6 on sidestream smoke condensates and freshly general
7 cigarette sidestream smoke that Philip Morris did supports
8 the adoption of smoke-free policies in workplaces for
9 public places as the only practical way to protect the
10 public from the known risks of lung cancer and other
11 diseases associated with cigarette sidestream smoke.

12 We would request that the regulation be
13 amended to include a provision that enables the client, the
14 worker and the employer to understand what "effective
15 removal" of tobacco smoke includes. Research suggests that
16 the same chemicals which are known carcinogens, teratogens
17 and toxins may remain not only in the air through stale
18 cigarette odour but on upholstery and clothes; can also be
19 swallowed, inhaled or absorbed through the skin of non-
20 smokers.

21 Smoke residue may linger for hours, days or
22 longer depending on the type of ventilation and the level
23 of contamination. Nicotine isn't the only dangerous
24 chemical found in second-hand smoke. Polycyclic aromatic
25 hydrocarbons -- there's a word --

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1 THE CHAIR: And well done, I say.

2 MR. CLARKE: -- reach their highest
3 concentrations in sidestream smoke, and have huge effect on
4 non-smokers. Researchers have shown that where you can
5 smell cigarette smoke there still is an exposure. While
6 fresh air can certainly decrease levels of exposure, this
7 alone is not sufficient to eliminate exposure.

8 It is our understanding that Hepa filters
9 can reduce 99 percent of particles from the air. George
10 Matt, a professor at San Diego University, in an article
11 published in *USA Today* states, "Adults also may be exposed
12 to significant smoke residue if they rent cars, hotel rooms
13 or apartments that have soaked up years of smoke." The
14 BCGEU also represents workers who work in hotels as
15 cleaners, and they will experience the same exposures.

16 The other problem is that it is unclear who
17 enforces the divergent requirements. In the case of the
18 *Tobacco Control Act* it is stipulated that enforcement will
19 be conducted by an officer designated under section 3 of
20 the *Tobacco Act*, while the *Workers Compensation Act* and
21 Regulations are enforced by the Workers' Compensation
22 Board. The issue is if there is no infraction of the
23 *Tobacco Act*, can the Workers' Compensation Board
24 inspectorate penalize non-compliance under the Act?

25 Under the avalanches and the new regulation,

1 while the BCGEU supports the amendments proposed by the
2 Workers' Compensation Board of BC, the union has concerns
3 related to safety of those workers entering avalanche
4 areas. Every year in North America 40 people die as a
5 result of avalanches. BCGEU avalanche technicians have been
6 killed over the last seven years.

7 Avalanches are highly unpredictable and most
8 avalanche victims die of suffocation from heavy packed
9 snow. The union is concerned about our members who have to
10 work in or travel through avalanche areas. These include
11 biologists, forestry workers, highways workers,
12 conservation officers, park assistants, and deputy
13 sheriffs.

14 Employers do not always consider whether a
15 worker is going into an avalanche area and so do not
16 consider a risk of avalanche when assigning work. There are
17 some preventive measures that would assist workers who may
18 have to work in these adverse conditions, whether the
19 avalanche risk is considered high or low. Personal
20 protection equipment should include essential gear such as
21 portable shovels, probes and receivers.

22 The union certainly understands that
23 education and training are covered in the regulations, but
24 we would request that this requirement be re-emphasized in
25 this particular section. Workers should be trained on the

1 type of conditions that can increase avalanche risk such as
2 wind, terrain, snow pack and weather conditions. These type
3 of conditions can change in a matter of hours. Most
4 avalanches occur between 30 and 45 degrees Fahrenheit
5 (*sic*), but can occur on any slope given the right
6 conditions.

7 The BGEU recommends that where a worker is
8 working or travelling through an avalanche area that they
9 do not work alone.

10 The other determinations and requirements
11 should include that workers are not only trained in how to
12 use the equipment but have the requisite knowledge and
13 understanding of the risks associated with weather
14 conditions and the indicators of risk for an avalanche.
15 Employers should not be permitted to send workers into
16 areas where there is a risk of an avalanche without
17 training and preparing them.

18 Under chemical and biological substances,
19 the BCGEU supports the BC Federation of Labour's
20 recommendations on this section. However, we have the
21 following specific response to Part 5.

22 Part 5, Chemical and Biological Substances
23 and amendments to Part 1 definitions relating to designated
24 substances. The explanatory note attached to the proposed
25 Part 5 amendment states that the American Conference of

1 Governmental Industrial Hygienists, the ACGIH, is no longer
2 identifying the reproductive or sensitization effects of
3 substances in their annual publication of the threshold
4 limit values, the TLV booklet. If these effects are not the
5 basis for establishing the threshold limit values, then a
6 process needs to be developed to establish exposure limits
7 to substances that should be considered safe for most
8 workers. Designated substances such as reproductive toxins
9 and sensitizers should not be considered to have any safe
10 levels.

11 The proposed amendment continues to rely
12 solely on the ACGIH list of reproductive toxins and
13 sensitizers and is inappropriate and does not provide
14 workers with adequate protection. The ACGIH admits that
15 their list of designated substances is out of date and they
16 are not prepared to put the resources into keeping the list
17 more current.

18 Continued reliance upon the ACGIH list of
19 designations, a source of information which is limited and
20 provides minimal protection, is unacceptable, in our view.
21 It is estimated that 15 to 20 percent of the workforce in
22 BC could be affected by reproductive toxins. These workers
23 come from a wide cross-section of workplaces, and those who
24 are young and of reproductive age will be at the greatest
25 risk.

1 In the pre-consultative meeting, labour and
2 employer representatives were prepared to extend greater
3 protection to these workers by agreeing on a recommendation
4 to add to section 5.57, item (e) that reads: "classified
5 under WHMIS CPR 53 or 55 as a developmental or reproductive
6 toxin subdivision A or Division 2 of Class D - Poisonous
7 and Infectious Material."

8 Workplace Hazard Management Information
9 System, WHMIS, is the recognized system in Canada and
10 establishes the legal requirements for the identification
11 of hazardous substances. Due to the requirements of the
12 Manufacturer's Safety Data Sheets, the MSDS, the WHMIS list
13 must be kept up to date. Therefore the WHMIS system is a
14 much more reliable source of information on reproductive
15 toxins and sensitizers.

16 Adopting the WHMIS list of reproductive
17 toxins and sensitizers will provide consistency and avoid
18 confusion at workplaces when employers and workers notice
19 the discrepancy between the ACGIH list and the required
20 WHMIS MSDS references.

21 This, we think, is an opportunity for the
22 WCB to implement an amendment which will be satisfactory to
23 both labour and employer stakeholders.

24 In the oral hearings of January 22, 2008,
25 the Chair of the hearings made a commitment to take this

1 joint agreement into consideration when reviewing the
2 proposed amendments, and we would suggest you do that.

3 Under Part 17, Transportation of Workers,
4 the BCGEU supports the proposed changes pursuant to section
5 17 of the Regulation, specifically regarding seat belts and
6 inspections of vehicles.

7 Section 17.2 includes responsibilities for
8 employers, and section 17.2.1 incorporates responsibilities
9 for workers. In 17.2.1, the operator of a worker
10 transportation vehicle must ensure that the worker
11 transportation vehicle has been inspected before use on a
12 work shift. In section 17.2, the employer must ensure that
13 an inspection has occurred prior to first use of a vehicle
14 on a shift.

15 The issue here is that the language implies
16 that if the inspection has not been completed by the
17 employer, the worker would be placed in an adversarial
18 position with respect to the employer. The BCGEU view is
19 that most agricultural workers are not in a position to
20 enforce what the regulation contemplates.

21 The BCGEU recommends that section 17.2.1 be
22 amended to state that a copy of the inspection by the
23 employer be made available to the workers along with any
24 corrections that have been made prior to the vehicle being
25 assigned. The proposed change pursuant to section 17.2.1

1 should deleted, in our view.

2 The BCGEU recommends that the regulation
3 specify and list what should be included in an inspection,
4 for example, appropriate tires for road conditions;
5 stability of vehicle with respect to passenger overloading;
6 seat belts in working order; et cetera. Section 17.2
7 requires the employer to ensure that reasonable measures
8 are taken to evaluate weather, road conditions and traffic
9 conditions to ensure the safe transit of workers. Section
10 17.2 does not define what reasonable measures are.

11 The union believes that not only should the
12 employer be responsible for evaluating the weather, road
13 and traffic conditions but should also make the decision on
14 whether the transport should occur in adverse conditions.

15 Section 17.2.1 also requires additional
16 responsibilities for the operator to ensure that all
17 passengers are wearing the seat belts properly adjusted and
18 securely fastened. Drivers that are assigned to transport
19 workers should be trained and knowledgeable regarding what
20 the operator's requirements are and have the requisite
21 skills and knowledge to ensure that workers being
22 transported are safe.

23 It may create problems if 17.11(3), which
24 provides a ban on smoking in a worker transportation
25 vehicle, is deleted as proposed. The removal of this

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1 particular section, in our view, is problematic as workers
2 might be transported at the same time as clients, and the
3 new environmental tobacco smoke regulation provisions which
4 would cover this situation have not yet been enacted. It is
5 unclear if transportation would be considered working, as
6 in some cases work does not commence until the transport is
7 complete.

8 In conclusion, while the BCGEU generally
9 supports the proposed changes, the union recommends that
10 the Workers' Compensation Board carefully consider all the
11 issues that we have raised in our submission.

12 Thank you very much for giving us the
13 opportunity to present.

14 THE CHAIR: Thanks so much. I just wanted to
15 ask a quick question, and it's maybe more to tap into your
16 own experience. Sometimes the operator of a worker
17 transportation vehicle may have an employer; sometimes they
18 are independents. They're running their own -- I just
19 wondered in your experience, what have you observed there?
20 Are most of these transportation operators operating
21 independently or do they have employers? I'm just curious.

22 MR. CLARKE: Well, I would think most of them
23 have employers. But there are some independents as well. I
24 guess the focus in their case would be to ensure that they
25 follow the proper pre-trip inspections et cetera. But the

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1 question then comes up is where do they go if they have a
2 problem with their vehicle?

3 THE CHAIR: Yes.

4 MR. CLARKE: You know, if the brakes or the
5 tires or something is not --

6 THE CHAIR: Yeah. I only ask because some of
7 these requirements were existing requirements and they've
8 been divided between employers and operators. I was just
9 really curious to get a sense of what you're seeing out
10 there.

11 MR. CLARKE: Yeah.

12 THE CHAIR: Anyway, thanks very much, Mike.
13 And thank you for being here this evening.

14 MR. CLARKE: Shall I leave a copy with --

15 THE CHAIR: That would be wonderful if you
16 wouldn't mind. If you could give it to Anne that would be
17 great, and we'll make sure that our court reporter gets it
18 as well. Thanks very much.

19 Can I just see if Mr. Sean Griffin is here?
20 Sean, there you are. Sorry, I didn't catch you there.

21 Sean Griffin represents the Labour
22 Environmental Alliance Society. And Sean, I believe you
23 wanted to speak to Part 5.

24 MR. GRIFFIN: That's correct. And the
25 organization I represent is now called Toxic Free Canada.

1 It was formerly known as the Labour Environmental Alliance.

2 THE CHAIR: Thank you. Toxic Free Canada.

3 PRESENTATION BY MR. SEAN GRIFFIN, ON BEHALF TOXIC FREE
4 CANADA:

5 MR. GRIFFIN: Over the past ten years we've
6 been involved in numerous projects in the workplace from an
7 environmental and health standpoint working with joint
8 occupational health and safety committees in reviewing
9 chemicals used in the workplace and identifying those that
10 may be toxic according to WHMIS or other authoritative
11 agencies. And we've worked in a number of worksites, from
12 school districts to hospitals, care centres, office
13 complexes, food processing plants and retail stores and we
14 also worked with the former Property Management Branch of
15 the BC Buildings Corporation in developing their cleaning
16 chemical content standard.

17 And our work has primarily been focused on
18 cleaning products, which typically have been a significant
19 source of hazardous ingredients. We recently completed a
20 WorkSafe research project under the Innovations at Work
21 program that involved three school districts and two major
22 hotel properties that resulted in substantial changes to
23 the products that they were using, and the project was
24 focused on using the substitution provisions of Part 5.57.
25 And in particular, much of our successful product

1 substitution has come about as a result of that provision,
2 in which we used both the former hazardous chemical
3 designations that were in the previous exposure table and
4 now under the ACGIH table of exposure limits.

5 We're particularly concerned about proposed
6 changes to the OH&S regulation that we see no new reference
7 list for reproductive and developmental toxins provided, as
8 the American Conference of Government Industrial Hygienists
9 reduces still further its what we consider inadequate
10 provisions.

11 As we understand it, the ACGIH will no
12 longer specifically be identifying reproductive toxins or
13 sensitizers in their annual publication if those endpoints
14 are not the basis for establishing the threshold limit
15 value.

16 We understand that the ACGIH will still
17 provide information on those in its documentation section,
18 but I don't think that information will be readily
19 accessible to workers and it certainly won't be accessible
20 on the WorkSafeBC website as it is now.

21 And I think to continue to rely on the ACGIH
22 list of reproductive toxins and sensitizers as WorkSafeBC
23 proposes will not provide workers with the protection they
24 need, especially pregnant women in the workplace. Even the
25 ACGIH itself acknowledges that its list of designated

1 substances is out of date and the organization doesn't have
2 the resources to update it.

3 In the course of our work, we have reviewed
4 literally hundreds of material safety data sheets covering
5 products used in our project workplaces. At least four
6 reproductive toxins show up regularly among the hazardous
7 ingredients in products that we've seen in the past period
8 of time:

- 9 - Dibutyl Phtalate, which is still widely used in floor
10 finishing products
- 11 - N-methyl-2 pyrrolidone, which is used in floor
12 strippers, graffiti wipes and many other products
- 13 - Triforine, a fungicide which is used on school and
14 parks properties
- 15 - And toluene, a solvent used in a wide variety of
16 thinners, cleaners and paints

17 All of those ingredients are listed as reproductive toxins
18 by the Office for Environmental Health Hazard Assessment
19 under California's Proposition 65. Yet only one of them,
20 dibutyl phthalate, is current listed as an R-designated
21 substance by ACGIH.

22 When WorkSafeBC went from its own exposure
23 table to the ACGIH table, the R designation that had been
24 attached to toluene was lost, and the result has been that
25 many vulnerable workers of reproductive age have been

1 exposed to a substance that is not treated as a
2 reproductive toxin in the workplace. And we have examples
3 from our own workplace work where pregnant workers have
4 been exposed to toluene because it wasn't identified as an
5 R substance by ACGIH.

6 In many cases, we have been able to go into
7 the workplace and educate OH&S committees about
8 reproductive toxins and point them to authoritative lists
9 such as Proposition 65 and have been able to assist them in
10 making product substitution. But they don't have the
11 regulatory protection they deserve, and that protection may
12 be reduced still further if ACGIH drops some of its
13 designations and they are not replaced.

14 In the case of carcinogens and reproductive
15 toxins, we don't believe that threshold limit values
16 provide adequate protection. They are notoriously difficult
17 to assess and enforce, and few OH&S committees even know
18 how to access monitoring equipment. In our experience, even
19 workers that are routinely exposed on a daily basis to
20 substances such as toluene and N-methyl-2 pyrrolidone,
21 there is no monitoring of threshold limit values. Workers
22 need the protection of updated designations that will both
23 alert them to the danger and provide a regulatory means of
24 carrying out product substitution where appropriate.

25 In our view, the quickest way to achieve

1 that would be to amend Part 5.57 to make the authoritative
2 Proposition 65 list of reproductive and developmental
3 toxins the reference list for designation of reproductive
4 toxins. The list is updated annually, it's based on an
5 expert assessment of current science, and it's considered
6 the most complete list of reproductive toxins on the
7 continent.

8 Perhaps a more made-in-Canada alternative
9 would be to incorporate the WHMIS classification of
10 reproductive toxins in that section. We understand that was
11 actually proposed in the tripartite consultation leading to
12 the latest amendments and consensus was reached that it was
13 the appropriate action. A new section (e) would then be
14 added that would read: "Classified under WHMIS Controlled
15 Products Regulations 53 or 55 as a developmental or
16 reproductive toxin."

17 ACGIH designations would be retained where
18 they currently exist, but the additional classifications
19 would be added to provide protection where there are gaps
20 in ACGIH coverage or where future gaps may emerge.

21 There is additional reason, I think, to
22 include one or the other of those designations. The
23 Globally Harmonized System of Hazard Classification will
24 soon be introduced in Canada, and already the ACGIH
25 designations are far behind the GHS classifications and

1 will continue to fall behind because of the ACGIH's
2 admitted inability to provide regular updating. In
3 contrast, the WHMIS classifications already conform to GHS
4 classifications, and California's Proposition 65 list also
5 conforms.

6 So we would urge WorkSafeBC to implement a
7 change immediately that would include either the
8 Proposition 65 list or the WHMIS classifications for
9 reproductive toxins. That would ensure that vulnerable
10 workers are protected and that groups like ours can be
11 effective in helping to create a safer, healthier
12 workplace.

13 Thank you for the opportunity to present.

14 THE CHAIR: Thank you, Sean. Since we do have
15 a little bit of time, I just wanted to ask another quick
16 question --

17 MR. GRIFFIN: Sure.

18 THE CHAIR: -- as I've been mulling this. So
19 WHMIS are federal regulations. It's a federal regulation
20 that all the provinces adopt. So it's already the law of
21 the country essentially because it is a federal regulation.
22 What changes by having it referenced in this regulation?
23 Because it's already the law of the country.

24 MR. GRIFFIN: Well, I think like the example
25 of material safety data sheets, the law of the country is

1 to provide all the information.

2 THE CHAIR: Yes.

3 MR. GRIFFIN: We know from our experience
4 that is probably not the case in 15 to 20 percent of the
5 cases.

6 THE CHAIR: Right.

7 MR. GRIFFIN: And that if there isn't
8 regulatory oversight of that process that it often doesn't
9 happen in the workplace. And by having a reference list,
10 you would ensure that that is the standard that is set in
11 the workplace on a regulatory basis, not simply on a
12 reference list that may or may not be used appropriately.

13 THE CHAIR: Okay. Just to sort of push that a
14 little further. So is it the lack of teeth in the federal
15 system that is underpinning the reason for having WHMIS
16 written into the provincial regulation?

17 MR. GRIFFIN: Well, it's the lack of not so
18 much teeth but the lack of any regulatory enforcement of a
19 certain standard because it simply hasn't been done. And I
20 would cite you as an example, when toluene was dropped from
21 the exposure table and didn't show up in the ACGIH table,
22 we actually had one workplace where they'd removed toluene
23 on the basis of the exposure table --

24 THE CHAIR: From the MSDSs?

25 MR. GRIFFIN: No, they'd removed it from the

1 worksite.

2 THE CHAIR: I see.

3 MR. GRIFFIN: And then when the exposure
4 table disappeared and was replaced by the ACGIH table, the
5 employer simply said, "It's not a designated reproductive
6 toxin any more. We can now use it." So there we had a prime
7 example of where it wasn't used as a reference any more so
8 therefore it was considered carte blanche to bring it back
9 into the workplace.

10 THE CHAIR: Okay, thank you. That's very
11 helpful. I hope you didn't mind me following up on that.

12 MR. GRIFFIN: Okay.

13 THE CHAIR: Thanks very much. Is Mr. Rob Rohn
14 here? Yes, Rob. Mr. Rohn represents Heli-Cat Canada, and
15 you're here to speak to Parts 1 and 4, avalanches, Mr.
16 Rohn.

17 MR. ROHN: That is correct. Good evening.

18 THE CHAIR: Good evening.

19 PRESENTATION BY MR. ROB ROHN, ON BEHALF OF HELI-CAT CANADA:

20 MR. ROHN: Heli-Cat Canada is an industry
21 organization representing about 40 heli-skiing and cat-
22 skiing operators in BC. As such, we represent employers.
23 However, it's worth noting that many owner-operators of
24 these relatively small operations also fulfil an employee
25 role as guides, chief hands around the lodge and so on.

1 Heli-Cat Canada was pleased to be part of a
2 stakeholder group including the Canadian Avalanche
3 Association and many other organizations that worked
4 together with WorkSafeBC to develop a regulation that would
5 effectively address worker safety in avalanche terrain. We
6 feel that the proposed section 4.1.2 does that, so we
7 generally agree with it.

8 We do have a number of comments, largely
9 regarding the implementation of the proposed regulation. We
10 contend that in virtually every mechanized backcountry
11 skiing operation an assumption can be made that every day
12 and on most ski runs we will encounter terrain that under
13 certain conditions has a potential for avalanches.
14 Therefore an avalanche risk assessment, as defined in the
15 proposed amendment, is either not required or will at most
16 be a general statement acknowledging this fact. We know
17 that our workers will be operating in terrain that has the
18 potential for avalanches.

19 Thus we believe that in our sector the
20 emphasis must be on the avalanche plan that will detail how
21 the risk to workers of avalanches should be managed.

22 Mechanized backcountry skiing has a 44-year
23 history in British Columbia. Over that time the industry
24 has developed and continually refined operating procedures
25 that are the state of the art, not just in Canada but

1 worldwide. We have learned many lessons over that time and
2 have evolved our operating procedures in response.

3 Key areas covered by the Heli-Cat Canada
4 operating guidelines include:

- 5 - Qualification of guides
- 6 - Required safety training for guides, other employees
7 and guests
- 8 - Safety and emergency equipment
- 9 - Helicopter and snowcat safety protocols
- 10 - Emergency and rescue protocols
- 11 - Flight and operations monitoring requirements
- 12 - Mapping and aerial photographs of terrain
- 13 - Observation and recording of weather, snowpack and
14 avalanche occurrences
- 15 - Selection of appropriate ski terrain given the day's
16 weather, snow stability and avalanche hazard at twice-
17 daily guides' meetings
- 18 - Field management of avalanche, glacier, cornice,
19 cliff, forest and other hazards

20 All members of Heli-Cat Canada agree to
21 comply with these operating guidelines as a condition of
22 membership in our association. Compliance is verified
23 through operations reviews by outside experts in the field.
24 New members have probationary status until they pass a
25 review. Ongoing periodic reviews ensure compliance by

1 established members. Continued or deliberate non-compliance
2 or refusal to be reviewed can result in a loss of
3 membership.

4 Heli-Cat Canada anticipates that a template
5 for the avalanche safety plans of our members will be
6 developed based on our operating guidelines. These can then
7 be adapted as required for each individual operation and
8 reviewed as required. We anticipate that the development of
9 these templates and the individual avalanche safety plans
10 will require some time, so we ask for a one-year
11 implementation period.

12 The standards committee of Heli-Cat Canada
13 periodically reviews and updates our operating guidelines.
14 It is anticipated that these reviews would then trigger an
15 update of the template for the avalanche safety plans of
16 all our members. Often these reviews result in minor
17 changes. An example would be when we determined a number of
18 years ago that an AED should be carried on board each
19 helicopter and snowcat or reporting requirements were
20 changed.

21 In this regard, we have some concern with
22 point 7 of the proposed amendment that states:

23 A review required under subsection (6)
24 must have any passive measures reviewed
25 by a qualified registered professional

1 and any active avalanche safety program
2 reviewed by a qualified avalanche
3 planner, and following the review, the
4 avalanche safety plan must be amended
5 as necessary by the person or persons
6 who conducted the review.

7 A literal interpretation of this point would
8 suggest that every member of Heli-Cat Canada would have to
9 hire a qualified avalanche planner if they don't have one
10 on staff to make these minor changes to their plan. We
11 assume, however, that a common sense approach will be
12 permitted and that within reason each operator could amend
13 their plans themselves, especially when they are following
14 a recommendation from the standards committee of Heli-Cat
15 Canada. Most, if not all, of the members of the standards
16 committee have the experience and qualifications to meet
17 the requirements of a qualified avalanche planner.

18 Bearing in mind that these periodic
19 amendments will be made on an ongoing basis, we feel that
20 the three-year period triggering a formal review of each
21 operator's avalanche safety plan by a qualified avalanche
22 planner is excessive, resulting in unnecessary expense for
23 operators who do not have a qualified avalanche planner on
24 staff and must hire a consultant. We feel that a five-year
25 review period for established operations is sufficient and

1 that it could be accomplished through our existing
2 operations review process. The external experts who conduct
3 these reviews will undoubtedly be qualified avalanche
4 professionals and could check that each operator's
5 avalanche safety plan meets current industry standards as
6 part of that review.

7 A couple of other miscellaneous points. A
8 literal interpretation of point 7 quoted above would
9 suggest that any required passive measures - and these
10 include engineered structures such as snow sheds, mounds,
11 deflection barriers, the design of roads and the location
12 of structures and worksites - would have to be reviewed by
13 a qualified registered professional every three years. This
14 would seem to be unnecessary. And while this is the domain
15 of the qualified registered professionals, we question
16 whether this is common practice for engineered structures
17 in general and whether it was really the intent of this
18 section. Perhaps the wording needs to be clarified.

19 Finally, at the stakeholders' meeting held
20 in Kelowna in January, there was some discussion whether
21 study plots would require an avalanche risk assessment by a
22 qualified registered professional. And we caution that this
23 terminology applies to a wide variety of locations or
24 installations where snow or meteorological measurements are
25 made. Some involve fixed instrumentation and are visited

1 two or more times daily. It's conceivable that these could
2 require the involvement of a qualified registered
3 professional. However, the term "study plot" also refers to
4 remote locations where basic measurements are taken
5 whenever we are visiting or operating in that area, and a
6 period of several weeks could go by between the times that
7 we get there. So these locations clearly are part of a
8 wilderness operation and would be the domain of a qualified
9 avalanche professional.

10 In closing, we would like to thank
11 WorkSafeBC and George Matheson for the effort made to
12 ensure the proposed amendments are workable for all
13 stakeholders and for the opportunity to appear here this
14 evening. Thank you.

15 THE CHAIR: Thanks very much, Mr. Rohn. And
16 do you want to leave your material with us?

17 MR. ROHN: You bet.

18 THE CHAIR: That would be great. And we can
19 make sure it's part of the record. Thank you very much.

20 Mr. Clair Israelson. Mr. Israelson
21 represents the Canadian Avalanche Association and is also
22 going to speak to the same parts. Thanks, Mr. Israelson.

23 PRESENTATION BY MR. CLAIR ISRAELSON, ON BEHALF OF THE
24 CANADIAN AVALANCHE ASSOCIATION:

25 MR. ISRAELSON: Thank you for the opportunity

1 to be here. I'd like to state that the CAA is representing
2 workers in these matters and that the following comments on
3 behalf of the CAA are strictly related to the provisions
4 around avalanches. And when I say CAA, I mean the Canadian
5 Avalanche Association, just to sort of get that off the
6 plate.

7 A bit of background. The CAA is a not-for-
8 profit, non-government organization that represents the
9 people and the collective expertise of the Canadian
10 avalanche community. We've been incorporated since 1981. We
11 are neither a union nor an employers' organization. We
12 simply represent the people who are out there doing the
13 work.

14 The CAA has over 800 members. Our members
15 are employed as ski patrollers and mountain guides,
16 provincial and federal avalanche technicians, wardens,
17 rangers, engineers and geoscientists, foresters and other
18 registered professionals, researchers, consultants and
19 people in other occupations that are not listed here.

20 In our constitution, the first two purposes
21 that the CAA exists to serve are as follows. One is to
22 represent persons who are professionally engaged in
23 avalanche-related activities in Canada, and secondly, to
24 establish and maintain high standards of professional
25 competence and ethics for persons engaged in avalanche-

1 related activities. And so by being here we believe that
2 our work pursuant to this proposed regulation is congruent
3 with the CAA's purposes and that we are uniquely positioned
4 to offer knowledgeable comment on all aspects of this
5 proposed regulation.

6 I want to state again that worker safety has
7 been an important issue for the CAA for many years. As we
8 stated at these sessions a year ago, we fully support a
9 well crafted regulation that will truly help to improve the
10 safety of workers exposed to avalanches.

11 And in summary of this section, I'd like to
12 say thank you and commend WorkSafeBC for your efforts over
13 the past eight months to engage in meaningful consultation
14 with all stakeholders. It's been most helpful.

15 Some general comments regarding the proposed
16 regulation. The CAA is generally supportive of the March
17 2008 version of the proposed regulation. We believe that
18 this regulation is now conceptually workable and will
19 effectively enhance worker safety for all three categories
20 of workers we identified in our submissions last year,
21 specifically unprotected workers, protected workers and
22 avalanche workers, the people who do the work of protecting
23 others.

24 The proposed regulation explicitly
25 references several CAA technical or guidance documents. I

1 am pleased to state that this month the CAA unanimously
2 ratified training and experience qualifications for persons
3 who would serve in the role of qualified avalanche planner
4 under the proposed regulation, and that these
5 qualifications will be published to the CAA website and
6 elsewhere when the regulation is finalized.

7 Through this spring and summer the CAA will
8 be continuing to work with experts from the various sectors
9 within the avalanche community to further revise and
10 clarify other CAA guidance materials referenced in the
11 proposed regulation. Specifically, we intend to enhance the
12 following:

- 13 - One, guidance for avalanche risk assessments for
14 wilderness operations
- 15 - Two, guidance for preparation of active avalanche
16 safety plans, the sort of template approach that Rob
17 referenced
- 18 - And three, recommended minimum training and
19 experience qualifications for avalanche workers with
20 responsibilities for decisions affecting workplace
21 safety

22 When completed, these revised guidance documents will be
23 published and widely circulated by the CAA.

24 We do suggest that clarification is required
25 to explicitly state that the requirements of section

1 4.1.2(2)(a), which calls for an avalanche risk assessment
2 prepared by a qualified registered professional, will not
3 be required for ski slopes in downhill ski resorts that
4 have active avalanche safety programs.

5 The ski resort operators already know which
6 of their ski slopes are capable of generating avalanches.
7 In fact, the product that these ski resorts advertise most
8 often is their steep double black diamond ski terrain that
9 is by definition avalanche prone. The resort operators
10 don't need an engineer to tell them they are skiing in
11 avalanche terrain. What they really do need is a well
12 qualified avalanche planner to devise an active avalanche
13 safety program that will provide high levels of worker and
14 public safety. They know they're in avalanche terrain.
15 That's not the question.

16 We also request clarification that if an
17 avalanche risk assessment that would now fall under the
18 proposed section 4.1.2(2)(a) has been done by a qualified
19 registered professional in the past, that then there will
20 be no need for this work to be repeated when this
21 regulation comes into force. As an example, I give the
22 Coquihalla Highway between Hope and Merritt that was
23 designed with some of the best avalanche experts and
24 engineers in the world. The siting of the highway was very,
25 very carefully taken and sheds and other protective

1 measures were built to protect that highway. It seems
2 unreasonable to ask that that work be done again now just
3 because this regulation comes into play. So if this work
4 has been done in the past, we need clarification that it
5 wouldn't have to be done again.

6 I agree with my colleague Rob Rohn. We
7 suggest that safety plans would under the regulation need
8 to be reviewed perhaps every five years rather than three.
9 Things honestly don't change that quickly in the work out
10 there, and if the situation does change significantly, then
11 under the proposed regulation the operator would be
12 required to update his safety plan. So it seems to me that
13 a five-year period for mandatory review is appropriate.

14 I'd now like to make a few comments
15 regarding the role of qualified registered professionals.
16 The CAA believes there is a critical role for engineers,
17 geoscientists and foresters - QRPs - with sufficient
18 training and experience in the delivery of avalanche
19 protection for workers and the public in BC.

20 The CAA applauds the requirements for QRPs
21 and qualified avalanche planners to work together in
22 circumstances where worker safety is in question for
23 regularly occupied workplaces such as buildings,
24 construction sites, logging, transportation corridors, et
25 cetera.

1 The APEGBC and the Association of BC
2 Professional Foresters Joint Practices Board Technical
3 Bulletin entitled "Snow Avalanche Assessments in the Forest
4 Sector - Skill Sets for QRPs" specifies the training and
5 experience requirements for QRPs involved in snow avalanche
6 assessments in BC. We feel obliged to bring to your
7 attention that we believe these professional qualifications
8 contained in that technical bulletin are inadequate,
9 conceptually flawed, and possibly unsustainable.

10 Also, despite the code of ethics intended to
11 be enforceable on these professional members, it appears
12 that only a few, and by that I mean perhaps eight or ten at
13 most, of the APEGBC or ABCPF members who are presently
14 conducting avalanche risk assessments in BC comply with all
15 of the stated essential requirements in this technical
16 bulletin.

17 For the record, the CAA contends that this
18 situation has the potential to jeopardize the lives of
19 workers in BC. For this reason we request that WorkSafeBC
20 continues to carefully monitor issues regarding QRPs and
21 avalanche assessments in BC.

22 And within the next few weeks the CAA will
23 be engaging APEGBC and the ABCPF and will be requesting
24 their urgent attention to these issues. We trust that these
25 issues will be resolved in an appropriate and timely

1 manner.

2 Finally, a few thoughts on implementation. A
3 year ago I stated that, "We need a full year to work with
4 professional associations and employers' organizations to
5 develop consensus based qualifications and sector specific
6 guidance for persons who will conduct avalanche risk
7 assessments and create and implement avalanche control
8 plans in BC." I am pleased to report that I believe these
9 tasks will be substantially complete by this fall, October
10 2008.

11 A year ago I also stated, "We believe
12 employers will need one additional year to do the avalanche
13 risk assessments and prepare the avalanche control plans
14 for the spectrum of operations in BC where workers are
15 exposed to avalanche hazards."

16 In many cases these risk assessments have
17 already been done and well designed active avalanche safety
18 programs are already in place. For those that have not
19 already been completed, the CAA contends that rather than
20 rushing poorly designed safety programs into the workplace,
21 it is preferable to give all stakeholders a reasonable
22 amount of time to produce high quality risk assessments and
23 safety plans.

24 A year ago I proposed the fall of 2009 or
25 some later date as determined by WorkSafeBC as the

1 implementation date for this regulation. Respectfully, and
2 notwithstanding the urgency for action toward our common
3 goal of preventing workplace accidents due to avalanches, I
4 suggest again that fall 2009 is the earliest reasonable
5 date that this regulation should be implemented.

6 In our work on this issue over the past
7 year, I have become more keenly aware of the challenges
8 facing the commercial snowmobiling sector in their efforts
9 to develop professional qualifications, operating standards
10 and other quality assurance mechanisms. I believe this
11 sector may be asking WorkSafeBC for an exemption from this
12 regulation, perhaps until the fall of 2010.

13 For the record, and in consideration of my
14 point a moment ago that "It is preferable to give all
15 stakeholders a reasonable amount of time to produce high
16 quality risk assessments and safety plans," the CAA would
17 not object if WorkSafeBC granted an additional year to the
18 snowmobile sector to fully comply with the proposed
19 regulation.

20 For your information, the CAA will be
21 sending you a written submission that will contain a few
22 minor suggestions around clarification and wording, but is
23 substantially in favour of the regulation as presented.

24 Thank you.

25 THE CHAIR: Thanks very much, Mr. Israelson.

1 And thank you again to members of the industry for all the
2 hard work that you undertook with us to try to address some
3 of our mutual concerns. Much appreciated.

4 MR. ISRAELSON: You're very welcome.

5 THE CHAIR: Thank you. Can I ask if Mr. Joe
6 Barrett is here? Hi, Joe. Mr. Barrett is here representing
7 the BC Building Trades, and I think you're going to speak
8 to Part 22.

9 MR. BARRETT: Yes, that's right. Would you
10 like the submission now or after?

11 THE CHAIR: It's entirely up to you, Mr.
12 Barrett. You can just give us it at the end or give us it
13 now.

14 MR. BARRETT: I can give it to you now.

15 PRESENTATION BY MR. JOE BARRETT, ON BEHALF OF BC BUILDING
16 TRADES:

17 MR. BARRETT: I just want to state at the
18 outset that the Building Trades do not support the
19 exemptions that are proposed in 22.51.

20 It largely revolves around the explanatory
21 notes that follow each of the proposed changes. There's so
22 much missing information in those explanatory notes that
23 it's really highlighted to us that we've got to go back to
24 do some serious consultations. I'm not an underground
25 miner. I haven't worked underground. But the stories that

1 I've heard in the last week preparing this, and for the
2 last two years I've been working with the Canada Line
3 workers, just show there is too much at risk to move to
4 allow these exemptions.

5 The workers themselves have got so much
6 intimate information about what it's like inside these
7 tunnels, and for you to accept these explanatory notes as a
8 rationale and a reason to allow this to go through, I
9 really think we would be stepping into dangerous ground.
10 And I'm going to be followed by R.L McDonald, who spent 54
11 years in the industry and he can fill in some of the
12 details. But I'll try to very quickly go through our
13 submission.

14 With underground tunnels, the engineers
15 always do these core samples before they begin. One of the
16 examples that was pointed out to me is that you could do as
17 many core samples as you wanted. You could even do a core
18 sample right through however long the tunnel is. It's not
19 until you excavate the entire perimeter that you know what
20 you're going to find. Core samples are fine and they give
21 you some indication, but you'll never know what's behind
22 that face until you actually excavate it.

23 So that's a very simple way of saying that
24 in spite of the fact it's a lined tunnel and it's a TBM
25 machine, the face where they're actually doing is not. It

1 is exposed, and at any moment something could happen that
2 could put in jeopardy. The fact is there is no limited
3 hazard for this type of work. All of the this work is
4 hazardous.

5 We begin by talking about one of the
6 advantages of the old way of drilling and blasting. Yes,
7 there was a lot of smoke and the ventilation problems, but
8 after it cleared you could see very clearly what you were
9 facing inside the tunnel. With a tunnel boring machine, you
10 have a nice, clean, round surface. Mother Nature didn't
11 make the geotechnical conditions into a nice, round --
12 right behind that surface, you could be facing some hazard.
13 But with the blasting, you would expose what they call the
14 slips, these rock formations that can simply cave in and
15 come down on you, and those would be exposed under the
16 drilling and blasting.

17 You know, one thing I learned from the
18 Canada Line is TBMs can get stuck, and in that case you
19 have to revert to the old system and literally dig a
20 secondary tunnel around the TBM to the front of the
21 machine, whether it's with what they call jumbos or
22 blasting or with pick and rock. So you're faced with the
23 same thing again. There's so many different conditions to
24 be aware of. You can't call it a TBM, just a monolithic way
25 of drilling tunnels.

1 This submission is presented to you going
2 through all of the points that were raised, and I will go
3 through it, but I want to point out that there are many
4 more parts to the TBM and the excavation with tunnelling
5 that aren't covered even in the amendments that are
6 proposed.

7 As far as the hours of work, we are in
8 favour of extending the hours of work as long as the
9 ventilation and the other engineering concerns that we've
10 got have been taken into account.

11 Self-rescuers. Any underground operation,
12 you've got to remember, this is the darkest place in the
13 world. And if there is an accident, there's no way people
14 are going to be able to find their way around. They need to
15 be carrying the self -- and the new self-rescuers are small
16 enough that they can carry them on their belt.

17 The alternative air flow. There's nothing
18 new about what's being proposed here. I mean, all of these
19 ventilation systems have both a blow and an exhaust
20 function to them. What's more important is when they are
21 bringing fresh air to the face of the machine, that the
22 source of the air that's coming in be a fresh source of
23 air. I heard stories of a waste fire being held out in the
24 yard at the time that the ventilation was supposed to be
25 bringing fresh air to the tunnellers, and instead it was

1 bringing them PCBs from the burning plastic.

2 The radioactivity survey. This opened up a
3 whole area of different occupations inside the mine. I
4 can't really speak to what the position of safety miner
5 entails but I was told and I heard from a couple of sources
6 that inside the mine there's a whole protocol, there's a
7 whole kind of ranking of the workers according to their
8 experience and according to their knowledge, their skills.
9 These safety miner positions, they already embody this job
10 of looking for radioactive and other materials. So I think
11 you could encompass this one by looking at that occupation.

12 The cap lamps. Again, it's so dark in these
13 tunnels, if there is a power failure, there's no way you
14 can be crawling around on your hands and knees with one
15 hand holding a flashlight and the other trying to find
16 other workers.

17 The refuge stations. What I learned in the
18 last two years is that workers are throughout the tunnel;
19 they're not only at the face. They're involved in
20 regrouting of the liners that are there. When the machine
21 breaks down, which is constant, they're doing maintenance
22 work in the tunnel. They're going back. So by and large
23 they are at the face of the machine, but I think that there
24 has to be some idea about mobile refuge stations maybe
25 connected to the loci, back and forth.

1 The self-contained breathing apparatus. You
2 know, it just makes sense, especially with the TBM.
3 Transformers, it's an electric machine down there. There's
4 all kinds of motors. That they catch fire is a normal thing
5 for -- well, that's one of the hazards with a TBM. Not that
6 it's normal, but it's a hazard that isn't there with the
7 other excavation techniques. I found out there's 4,000
8 litres of oil to lubricate the main bearing in these TBM
9 machines. That's another hazard you've got to take account
10 of.

11 Finally, other jurisdictions. I learned just
12 three weeks ago there was a big accident outside of Toronto
13 in North York with a TBM. Ontario is one of the centres of
14 TBMs in the world. LOVAT is one of the -- there's three or
15 four manufacturers, and LOVAT manufactures these machines.
16 They've got lots of experience with them. But here again,
17 it's the unpredictability of the face. There were just 120
18 rings -- rings are those liners that are talked about in
19 the explanatory notes. They're about a metre wide. They
20 were almost through to the other side. Workers had been
21 having trouble with water coming into the tunnel, but on
22 this day -- I mean, we're waiting. The Ministry of Labour
23 is still investigating what happened. The workers heard a
24 big rumble and the crew decided, let's get out of here as
25 quickly as possible. And it was a good thing they did.

1 Almost right after they got out of the tunnel, there was a
2 huge mass of water and slurry that came in. Right now the
3 machine itself is completely buried in this slurry. They're
4 not sure how they're going to go in. They're going to have
5 to excavate. The machine itself is -- again, it's the
6 front. It's the face of the machine that is the most
7 dangerous part.

8 There's so many other stories. I mean, I
9 wouldn't have time to tell you them all. I mean, I remember
10 workers on the Canada Line coming with their eyes just
11 bloodshot from the dust. The problem with TBMs is it's
12 difficult to get the ventilation right close to the front,
13 and that's where most of the dust is. So we are asking here
14 for ventilation to be brought right up to the front.

15 So that's it in a nutshell, and I'll leave
16 it.

17 THE CHAIR: I thank you, Mr. Barrett. And I
18 do know our time is limited, but I think I can speak for my
19 colleagues when I say when we come out to public hearings,
20 it's the experiences of knowledgeable individuals like
21 yourself or like Mr. Israelson or Mr. Rohn or other
22 individuals who come and share the actual practical aspects
23 that are happening in the workplace that make this so
24 valuable. So I do appreciate you sharing that with us.

25 MR. BARRETT: I wish I could give you more.

R.L. McDONALD
(Construction and Specialized Workers' Union, Local 1611)

1 I'm just the lowly researcher and I listen to stories.

2 THE CHAIR: Not so much. Thanks very much,
3 Mr. Barrett.

4 MR. BARRETT: Thank you.

5 THE CHAIR: Mr. McDonald. Mr. McDonald is
6 also going to speak to Part 22, and he is addressing us on
7 behalf of the Construction and Specialized Workers' Union,
8 Local 1611. Correct?

9 MR. McDONALD: Correct.

10 THE CHAIR: Thank you, sir.

11 PRESENTATION BY MR. R.L. McDONALD, ON BEHALF OF THE
12 CONSTRUCTION AND SPECIALIZED WORKERS' UNION, LOCAL 1611:

13 MR. McDONALD: Good evening and thank you for
14 having me.

15 My name is R.L. McDonald and I started
16 working underground as a development miner in 1954. I'm
17 still working. I have worked abroad, in the States, Canada,
18 and one thing I always believed in was safety.

19 Now, there is no area in an underground
20 tunnel project that I consider as a limited hazard. When
21 you open up and disturb rock that has been there for
22 thousands of years, it's the same as exploring the
23 universe. You don't know what is there. Any person who
24 works underground needs to have excellent safety equipment
25 ready to use at all times.

1 The amendments for Part 22, Underground
2 Workings, wants to remove some of these. I disagree.

3 A safety miner is an essential part of the
4 crew. This is the person who takes a gas test at the start
5 of the shift and midway through the shift. This test does
6 not take very long, and then he would go back to his
7 designated job. It seems in the amendment that they do not
8 think this is necessary.

9 Now, on ventilation, ventilation can be
10 blowing or sucking as long as it's as close to the face as
11 possible. With enough volume of air, you can defeat any gas
12 you will encounter underground.

13 When an unusual occurrence happens
14 underground, you want to have the tools of survival right
15 with you. A self-rescuer. Carrying them on your belt has
16 never been a problem, so I don't see why it is a problem
17 now. If there is an electrical fire and power is lost to
18 the tunnel, there is two things you will need immediately,
19 and that is your headlamp and your self-rescuer.

20 If a person has never been underground, they
21 can't imagine how dark it is. You can't see anything. You
22 have no sense of direction, none whatsoever, and it's very
23 easy to panic in a situation like this.

24 Now refuge stations, they should be at
25 certain intervals in the tunnel. In the event of any

1 serious incident and there is no possible exit to the
2 surface, they are your best chance for survival in a
3 situation like this. If you have injured workers, you can
4 only pack or assist them so far and then you exhaust
5 yourself. For example, the tunnel at Revelstoke was 16
6 kilometres long. In an instance like this, you must have
7 refuge stations strategically placed in order to assist an
8 injured worker as quickly and as safely as possible. There
9 is no tunnel that is accident or hazardous free, so please
10 take this into consideration.

11 I cannot emphasize enough how important a
12 miner's lamp is to him. It's your lifeline. And you cannot
13 have it sitting on a shelf or in a compartment in the
14 tunnel on the boring machine. It is dangerous and it's a
15 very grave mistake. Please consider this very carefully
16 before you make a decision.

17 A mine rescue team or person is one of the
18 most qualified workers underground and they are very
19 essential to the crew. They have other jobs in the tunnel
20 as well, and to have these trained people on the job makes
21 everyone more comfortable. To try and get a first aid
22 person or an ambulance driver underground working on these
23 tunnels in town, I doubt like hell if they'd come
24 underground. No way. No way at all.

25 A tunnel is completed after you've broken

1 through, all rock is secured and all cement liners are
2 installed and in place. You will have natural ventilation
3 then and you can install your permanent lighting then.
4 Ventilation can be installed for workshops if there are
5 any. In all my years underground, I have held many
6 supervising positions. I have never had a fatality as I
7 thoroughly believe in safety procedure underground.

8 On the boring machine, like when they cut
9 it, it's like that, eh (gesturing). You can't sound that
10 ground. Loose comes anywhere. Could be like this, could be
11 like that. It can come out on you. That's why, the mine and
12 blast I believe in, you can see your face. You can check
13 your leaks. You can scale it. You can sure your ground,
14 timber it, whether it's shotcrete, steel sets, whatever.
15 But do you know, when you go back to work, you're okay.
16 That ground above you is safe.

17 And as far as gases go, unexpected -- on a
18 small job at Deas Lake for Hydro, we went up and drove a
19 small tunnel to do rock stress tests for a dam site. We
20 were only in 300 feet, and all of a sudden we're cut off on
21 the throat, the breathing and the eyes. So we jumped off,
22 put on our self-rescuers and went outside at about 200
23 feet. We went out a little bit wonky. But there you are.
24 There's nobody around there. And we had a young labourer.
25 It was a helicopter job, so his job was to clean up so that

1 nothing could get in the blades of the prop, and burn it,
2 lumber or scrap paper. When he did this he got a burn, but
3 he threw in some PVC pipe, and the fumes and that just are
4 wicked. So like I say, you can get the gas or the
5 unexpected any time, anywhere, even in these tunnels in
6 town here, you know. Say a tanker rolls down Cambie Street.
7 If he went down in below and burst into flames, you could
8 have unexpected, unusual occurrences.

9 And that's really what I have to say. Safety
10 is the only thing we can do. We're short of young men to go
11 underground now, and they're sure not going to come into it
12 if they know they're going to be run through a jackpot and
13 hazardous conditions. I thank you.

14 THE CHAIR: Thanks, Mr. McDonald, very much.
15 And just to emphasize, if you want to leave us some notes,
16 you can do that. But we've got it verbatim.

17 MR. McDONALD: I've got to get closer. I want
18 to hear you.

19 THE CHAIR: If you want to leave us some of
20 your notes, that would be great. That's terrific. Thanks
21 very much. That's wonderful. Thank very much, Mr. McDonald.

22 MR. McDONALD: Thank you very much.

23 THE CHAIR: And I thank you. Our last
24 scheduled speaker this evening is Della McGaw with the
25 Hospital Employees' Union. Della, I think you wanted to

1 speak to Part 5.

2 MS. MCGAW: Yes. Thank you.

3 THE CHAIR: You're welcome.

4 PRESENTATION BY MS. DELLA MCGAW, ON BEHALF OF THE HOSPITAL
5 EMPLOYEES' UNION:

6 MS. MCGAW: Yes, I'm here to speak to Part 5,
7 Chemical and Biological Substances, and Part 1, Definitions
8 relating to designated substances.

9 The Hospital Employees' Union is very
10 concerned that the proposed amendments to Part 5, Part 1,
11 only serve to maintain a flawed status quo. We're concerned
12 with the continued sole reliance on the ACGIH, a resource
13 that acknowledges it will not review substances for the
14 designation of reproductive toxins and/or sensitizers,
15 unless those are the basis for the threshold limit value as
16 the standard on which to base worker rights to protection
17 is inherently wrong.

18 The Hospital Employees' Union represents
19 over -- I don't know why I'm nervous.

20 THE CHAIR: You don't have to be.

21 MS. MCGAW: Oh, good. All right. There we go.

22 The Hospital Employees' Union represents
23 over 44,000 health care workers. We are the oldest health
24 care union in British Columbia. Our workers work in a
25 variety of sectors identified by the Board as being

1 affected beyond the broad definition of health care. Our
2 members work in pharmacies, animal research labs and as
3 dental assistants in facility clinics. Additionally they
4 maintain and repair hospitals, long-term care facilities
5 and other related buildings. They paint, repair furniture
6 and perform metal fabrication. The issue of regulating
7 exposure to chemical and biological substances that have
8 been or will be identified as sensitizers or reproductive
9 toxins is of significant importance to these members and
10 therefore to the Hospital Employees' Union.

11 The right to protection against agents that
12 can cause sterility, foetal abnormalities, testicular
13 damage or cancers of the reproductive organs is so
14 fundamental a human right that it's difficult to quantify.
15 No one should be expected to lose one's own reproductive
16 health or risk the health of your unborn children in order
17 to make a living.

18 Sensitizers can have devastating effects on
19 individuals. It is well documented that even a small
20 exposure to a known sensitizing agent can cause real and
21 potentially fatal consequences on the affected individual.
22 These effects on individuals can extend far beyond their
23 ability to work in their chosen field. It can mean for some
24 they are no longer able to work in any capacity nor to
25 participate fully in family and community life.

1 The information provided by the Board in the
2 "Overview" is that without the proposed changes, 20
3 substances listed as reproductive toxins and nine
4 substances currently designated as sensitizers will have
5 this designation removed. However, it is important to note
6 that this can hardly be considered an exhaustive list as
7 the ACGIH has not reviewed some reproductive toxins since
8 1994, and they do not have the resources to ensure up-to-
9 date reviews. This is not information that brings any
10 degree of comfort or surety in the accuracy and
11 comprehensiveness of the information currently being relied
12 on by the Board in determining the employer's
13 responsibility to protect workers' exposure to these
14 agents.

15 In a pre-consultation meeting on October
16 5th, 2007, with both employer and labour stakeholders,
17 there was consensus, for reasons previously noted, that the
18 most effective way to rectify the existing problems would
19 be to add to OH&S regulation 5.57(1) an item (e) that
20 reads: "Classified under WHMIS CPR 53 or 55 as a
21 developmental or reproductive toxin, subdivision A of
22 Division 2 of Class D - Poisonous and Infectious Material."
23 This addition is a simple and thorough way to ensure that
24 the protection of BC workers is based on current, relevant
25 and up-to-date scientific information. WHMIS is recognized

1 throughout Canada as a reliable, comprehensive and up-to-
2 date source for information on hazardous substances. It
3 seems an obvious addition to the proposed changes.

4 The Hospital Employees' Union is urging the
5 Board to change the proposed amendments to reflect the
6 position agreed on by both labour and employer
7 representatives. The workers of BC deserve the highest
8 level of protection possible.

9 Thank you.

10 THE CHAIR: Thanks very much. Thank you. I
11 was just making a note about some of your comments. And I
12 just have been clarifying too with some of the other
13 presenters that I do understand that it's not that anybody
14 wants to lose the protection. That was --

15 MS. MCGAW: Right.

16 THE CHAIR: -- why we brought this out for
17 public hearing is that there's a general dissatisfaction
18 with the ACGIH methodology and a desire to see some way of
19 incorporating another way of ensuring that all the
20 sensitizers and toxins are caught.

21 MS. MCGAW: Absolutely. We certainly don't
22 disagree with the addition of the identified substances. We
23 just don't feel it goes far enough.

24 THE CHAIR: Far enough. That's what --

25 MS. MCGAW: It's a good start, but we want to

1 provide -- you know, because really we have members that
2 work -- you know, I read all the occupations identified,
3 and I thought we've got plumbers, we've got -- you know,
4 most people think health care workers, you think of your
5 nurses and --

6 THE CHAIR: On the ward.

7 MS. MCGAW: You know. But we have workers
8 that work in just about every conceivable occupation --

9 THE CHAIR: That's right.

10 MS. MCGAW: -- and potentially affected.

11 THE CHAIR: No, I appreciate that. And thank
12 you very much, Della, for taking time tonight, and thank
13 you for waiting until the end.

14 MS. MCGAW: That's all right. I thought maybe
15 everybody would be gone by now.

16 THE CHAIR: No, no.

17 MS. MCGAW: I thought everybody would make
18 their submission and leave.

19 THE CHAIR: Ladies and gentlemen, can I just
20 canvass if there is anybody else here with us tonight who
21 would like to speak on any topic that is before us this
22 evening. I always feel as if I should say, "Going once,
23 going twice" but it doesn't seem respectful.

24 Well, with that I am going to adjourn the
25 hearings for a few minutes. I'll just check with Leley, our

1 assistant, because I always want to make sure everybody who
2 wants to be heard has been heard, and I will call the
3 proceedings in a few moments. But for the purposes of the
4 audience, we're adjourned temporarily.

5 --- PROCEEDINGS RECESSED

6 --- PROCEEDINGS CONCLUDED AT 8:15 P.M.

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9
10 I HEREBY CERTIFY the foregoing to be a
11 true and accurate transcript of the
12 proceedings herein, transcribed from
13 taped proceedings, to the best of my
14 skill and ability.

15
16 _____
17 Patricia Kealy, CVR, CM
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