



SUBMISSION TO:

**WORKSAFBC
POLICY AND RESEARCH DIVISION**

RE:

**CHANGES TO THE OCCUPATIONAL
HEALTH AND SAFETY REGULATION**

**VANCOUVER, BC
JULY 2007**

INTRODUCTION

On behalf of 70,000 workers, represented by the Provincial Division of the Canadian Union of Public Employees (CUPE BC), we offer our comments to the proposed changes to the Occupational Health and Safety Regulation Part 3, Part 4, Part 5, Part 6 and Part 9.

Our members' work in diverse environments, from Municipalities to Education. We work in Schools, Colleges and Universities, Libraries and Social Services. Our members also work as Ambulance Paramedics, Dispatchers and By-Law Officers. Workers in each of these sectors face a wide range of issues that have to be addressed under the Occupational Health and Safety Regulation.

Although some of the proposed changes to the Occupational Health and Safety Regulation do not apply to our sectors, we feel the need to ensure that amendments to the Regulation be sound in judgement and offer a safe environment for all.

CUPE BC congratulates WorkSafeBC for ensuring that these changes have widened participation through public hearings, which have proven to be effective in the past.

In 2006, 160 workers in British Columbia lost their lives due to a fatality or work related illness. Although WorkSafeBC contends that all these deaths are preventable, the decline in compensable injuries, near misses or a death has not been significantly reduced.

Employers continue to shirk their responsibilities when it comes to adequate training, instruction and supervision, often citing costs.

REVIEW OF THE PROPOSED AMENDMENTS

PART 3: RIGHTS AND RESPONSIBILITIES

Occupational Health and Safety Programs

Firstly, we are pleased to see that the First Aid Regulation is being reinstated to a more prescriptive Regulation. Unfortunately, this followed a Coroner's inquest into the death of Ted Gramlich, a Vancouver Island faller, which cited the weak First Aid Regulation as one of the contributing factors in his death and recommended that the 2002 First Aid Regulation be reinstated.

Secondly, we are pleased to see that the Board has removed the determination of 'low risk' under Section 3.16 (2)(b) of the Occupational Health and Safety Regulation. There were relatively few Employers that fell into that category, but yet they would always try to argue the case that they should be considered a low risk. The onus will now be put on Employers to prove whether they are moderate or high risk for first aid purposes, based on the distance between the workplace and nearest hospital.

The Canadian Union of Public Employees also supports the WorkSafeBC inclusion of Section 3.17.1, which deals with air transportation and was also a recommendation made by the Coroner's inquest into Ted Gramlich's death. This Regulation will ensure that medical aid is available where other transportation is not accessible to prevent debilitating injuries or death.

The Employer now has to ensure that prior to the start of operations arrangements are made with an air service to ensure an appropriate aircraft is reasonably available to the workplace during those operations; That the availability of the aircraft is determined before the start of each work day; That the Employer is notified by the air carrier if the aircraft ceases to be available and that a system has to be available between the pilot and the first aid attendant attending to the injured worker to communicate at all times while the aircraft is in transit.

We believe that this change in communication between the Pilot and First Aid Attendant will greatly assist in the safe transportation of an injured worker.

PART 4: GENERAL CONDITIONS

Working Alone or In Isolation

The Canadian Union of Public Employees is pleased that WorkSafeBC has finally recognized the serious risk of injury to workers when Working Alone or In Isolation.

Within the various sectors that we cover, one of our major hurdles to overcome appears to be the issue of Working Alone.

As a Bylaw Officer, Social Service Worker, Residential Home Worker, Custodian, etc. faced with cutbacks to several services, Employers do not look at increasing staffing levels on shifts that require an additional body, but rather put various control mechanisms in place to meet their needs and 'manage the risk'.

The proposed Regulation as intended by WorkSafeBC is to be explicit as to what the Employer's obligation is towards their workers before they are to be assigned to work alone or in isolation.

Section 4.20.2 requiring hazard identification, elimination and control, places significant responsibility on the Employer to minimise the hazards of working alone.

The Regulation even goes further by ensuring that Section 4.21 (1) has been clarified and reads: "The Employer must develop and implement a written procedure for checking the well being of a worker assigned to work alone or in isolation." The provisions contained in the above noted Section that made reference to 'under conditions which present a risk of disabling injury', are being proposed to be deleted.

In Section 4.22, the worker and the Employer have to be trained on the proper written procedure for checking on the workers well being. The combination of these changes will provide a safer workplace for our members.

We support the changes that WorkSafeBC are proposing on Section 4.22.1 – Section 4.22.2 that deal specifically with gas stations and convenience store outlets.

PART 5: CHEMICAL AND BIOLOGICAL SUBSTANCES

CUPE BC supports the new definition for 'biological agent' in Section 5.1, that has been added to accommodate the amendments proposed in Part 6, covering Infectious Agents and Materials.

The Board has included a new definition of 'adverse health effect' to mean an acute or chronic injury, acute or chronic disease or death.

We do agree with the submission by the BC Government and Service Employees' Union (BCGEU) that WorkSafeBC has watered down the definition of 'adverse health effect' in its proposed definition, as the proposal would not include a serious health effect that was neither acute nor chronic. The definition for 'adverse health effect' is too narrow and will eliminate many more infectious diseases than the common cold or seasonal flu.

The BCGEU further contends that the proposed Regulation was one premised on the precautionary principle and now instead the proposed Regulation is based on risk analysis and they do not support the change. In researching the definitions they also found that adverse health effects takes on a very different meaning from acute or chronic.

The BCGEU goes so far as to state that, "The definition proposed by WorkSafeBC of what an adverse health effect means is very limiting. Acute and chronic are more serious and may even result in the death of a worker; while an adverse health effect may be neither chronic nor acute but can cause an adverse health impact that can affect a worker for a specific duration. If the proposed definition of adverse health effect, '*acute or chronic injury, acute or chronic disease, or death*' goes ahead, Section 5.2 would only apply if in fact there was proof that a disease was chronic or acute or could cause death."

With this proposed definition of Section 5.2, the language would only apply if in fact there was proof that the disease was chronic or acute or could cause death. This would mean that measures would only be put in place after a risk assessment has been undertaken by the Employer and a determination has been made that the worker was exposed to a disease.

PART 6: SUBSTANCE SPECIFIC REQUIREMENTS

CUPE BC supports the changes to this Regulation from Biohazardous Materials to Infectious Agents And Infectious Materials.

Infectious diseases are hazards that our workers are exposed to in a variety of workplaces: in schools, while working with special needs students, in hospitals, in the community when working with patients or the street population, in garbage collection/landfill sites, in group homes, when working with physically and mentally challenged clients, our members move from one job to another never knowing what they will be encountering.

In the day-to-day jobs that our members provide we need to be protected from the various infectious diseases that we are unknowingly exposed to. Sometimes because of privacy issues that are cited by the Employer and sometimes because the nature of the work is such that we are expected to provide the care to clients that often are not aware that they are exposed to an infectious disease. Even under these circumstances we still battle Employers to provide vaccinations for our workers that require them for the job.

The proposed vaccination language pursuant to Section 6.39 contains a significant change, from a provision where a worker upon request would be entitled to a Hep B vaccine at no cost where there was a potential for exposure, to a provision where the Employer must offer vaccinations to all workers at risk of occupational exposure to the virus. While we agree that the emphasis should be on the Employer to offer the vaccinations, we fear there will be less access for workers to the vaccinations than with the current language.

We would encourage the Board to have the language remain in effect that all vaccinations are premised on the belief that where there might be an exposure, the vaccines are offered to workers at no cost.

PART 9: CONFINED SPACES

CUPE BC is in agreement with the proposed recommendation made by the BC Federation of Labour on the proposed changes to Section 9.11, Section 9.18 (2) & (3) and 9.22 (1).

Section 9.11

Recommendation:

The word "entry" should be added so that (2)(a) reads:

"(2) For the purposes of Subsection (1)(a) qualifications which are acceptable as evidence of adequate training and experience include: (a) certified industrial hygienist (CIH), registered occupational hygienist (ROH), certified safety Professional (CSP), Canadian registered safety professional (CRSP) or professional engineer (P.Eng), provided that the holders of these qualifications have experience in the recognition, Evaluation and control of confined space hazards *and entry*, or...."

Section 9.18 (2) & (3) Confined Spaces – Lockout and Isolation

Recommendation:

WorkSafeBC reconsider appropriate pressure levels when workers will not be allowed to access a confined space.

Section 9.22 (1) Alternate Procedures

Recommendation:

Section 9.22 remain in the present form so as to ensure the Employer at the minimum, makes all possible attempts to provide safe access to a confined space for workers exposed to the hazard

RESPECTFULLY SUBMITTED ON BEHALF OF CUPE BC:

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