

# WORKSAFEBC

PUBLIC HEARING

OCCUPATIONAL HEALTH AND SAFETY REGULATION

Kelowna, B.C.

June 14, 2007

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TRANSCRIPT OF PROCEEDINGS

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PANEL:

Roberta Ellis  
Anne Burch  
Ed Bates

Chair  
Vice-Chair  
Legal Counsel

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[PROCEEDINGS COMMENCED AT 3:05 P.M.]

THE CHAIR: So welcome, everybody. My first duty is to thank you all for being here on a really beautiful afternoon, and thank you sincerely for taking the time to be here with us.

I want to welcome you to this public hearing on proposed amendments to the Occupational Health and Safety Regulation, and also introduce us.

So I'm Roberta Ellis. I'm the Chair of the Panel and the Vice-President of Policy and Research at WorkSafeBC. And on my left is Anne Burch, who is the Vice-Chair of the Panel, and Anne is the Director of Prevention Policy and Regulation Review. And on my right, Mr. Ed Bates, who is General Counsel and Secretary to WorkSafeBC.

And I also want to acknowledge Wayne Bilko, who we have worked with before. As you know, Wayne hit a little bit of a glitch in getting here. Wayne is a court reporter and he's taking verbatim notes of our public hearing, and the notes assist our Board of Directors when they make their decisions about these proposed amendments. You should also know that the recorded notes that we're making today and in all of the public hearings that we will be holding, they are made public after the Board of Directors make their

decision regarding these proposed amendments.

You should also know that members of the media are very welcome to attend our public hearings, and so what you say at these public hearings, including all of your comments, can be recorded, including television, radio and print media.

The purpose of this public hearing is to provide you with an opportunity to comment on proposed amendments to the Regulations as follows, and I'm just going to read these into the record:

Part 3, Rights and Responsibilities, relating to occupational first aid; Part 4, General Conditions, with amendments to Part 1, Definitions, Part 20, Construction, Excavation and Demolition, and Part 22, Underground Workings. These amendments relate to terrain stability, avalanche assessment, fills and stockpiles. Part 4, General Conditions, relating to working alone or in isolation; Part 6, Substance-Specific Requirements with amendments to Part 5, Chemical and Biological Substances, and these relate to what we call biohazardous materials; Part 9, Confined Spaces, relating to isolation procedures in confined spaces; Part 11, Fall Protection, and it's just a section of that that relates to stunt workers, for protection of stunt workers; Part 13, Ladders,

Scaffolds and Temporary Work Platforms, relating to platforms and fall protection; Part 14, and this is the part that deals with cranes and hoists, and we're reviewing the entire section. There's a consequential amendment there to Part 16, Mobile Equipment. Part 26, which is Forestry Operations, and again we're looking at the whole part of the Regulation, and there are some consequential amendments to Part 1, Definitions, and Part 4, General Conditions. And Part 30, laboratories, and that's an issue that deals with fume hoods and the use of fume hoods in laboratories.

Just by way of a little bit of background, I want to let you know that the proposed amendments to Part 4, which is the working alone or in isolation, the Minister of Labour and Citizen Services asked our Board of Directors, under section 229 of the Workers Compensation Act, to address the issue of prepayment for gasoline at service stations in urban areas during late-night and early-morning hours, and we drafted proposed amendments and we brought them to public hearing last November 2006. And some of you will remember the snowstorm that intervened, and so we had to actually postpone some of those hearings and continue into January of 2007.

We considered the feedback that we received from

the public hearings, and the Board of Directors asked us to come back out to a hearing process to look at province-wide, 24-by-7 effectiveness for those Regulations. So those provisions represent what we would call a material change to that which was originally proposed, and that's why we wanted to come back out here and hear what stakeholders have to say.

We advised the stakeholders of all of these proposed amendments, with the explanatory notes. They've been placed on the WorkSafeBC website, sent to over 1,600 stakeholders via E-news, and also copies are available at the front desk if you want to have them.

So today we're here to listen to you. And I keep an eye on the time, but we have plenty of time this afternoon. So while I will keep an eye on the clock, we encourage you to take the time to tell us what you think. We're here to listen to you today.

If you have written material that you would like to leave with us, you can do that by just leaving it with the front desk. If you decide that you would like to wait and provide us with that written material a little later, I just want to make sure that you know that we have to receive that by 4:30 p.m. Friday, June the 29th, 2007. The oral proceedings and the written material are part of the formal process, so it's very

important that we get everything that you want to give us. So just Friday, 4:30, June 29th, make sure if you have written material, get it to us by then.

So these hearings represent the formal consultation process. Once the hearing process is complete, all of the submissions are analyzed, and the Board of Directors at WorkSafeBC is our decision-making body. They will have access to all of the submissions prior to making their final decision on each proposal. So this is your opportunity to be involved in this process, and we really are delighted that so many of you have decided to be here today.

I'm going to begin the public hearings by calling on Mr. Doug De Patie to be our first presenter. Thanks, Doug. And I think, Doug, in principle, you're going to be speaking to working alone.

MR. De PATIE: Yes.

THE CHAIR: Go ahead.

PRESENTATION BY DOUG DE PATIE ON HIS OWN BEHALF:

MR. De PATIE: I would like to thank you all for everything that you've done. And of course, as in the past, I have said that I haven't been particularly proud, some of the decisions in my son's death, being a Canadian, but this is not one of those times. This is one of the times where I am proud and will carry these

Regulations across Canada; Grant's Law, pay before you pump.

I think that other provinces can learn from us, the steps that Minister Olga Illich has taken to address Grant's death and the underlying causes, as well as WorkSafeBC to address at the underlying causes that led to Grant's death, and safety in the workplace, things that we learned about those -- you know, what it's cost my family and everyone in British Columbia.

I think that enforcement of Grant's Law and enforcement of these regulations is crucial. I'm pleased to hear that training and orientation for new young workers has come out. I think that, in hand with Grant's Law, is going to make a significant difference in protecting young workers in convenience stores, gas stations, and all other workplaces.

I think that working-alone regulations, they are more difficult and more complex. I think that barriers should be put in, regardless of working alone, especially in gas stations, convenience stores and cabs, and any other workplace where a hazard assessment has been done or an employee has done a work refusal and an assessment has been done to deem it necessary, whether it be a pizza parlour, whether it be an ICBC claims centre, whether it be your doctor's office,

whether it be WorkSafeBC's offices; wherever the public is involved particularly.

I think that working-alone regulations, for example, people checking in on people working alone, those people checking in on you could, in all probability, if it is a night shift, could be working alone. I think that it is far more difficult. I think that there is some challenges in it. But I think if those people, working with the general public at night, have barriers, I think that they will be far more protected.

And I think that as far as safety for workers, it is due diligence. If an employer puts barriers in, how much better can they be towards due diligence in protecting the worker by bringing something physical in there: They can't be screwed up. And to enjoy that and to use it during the day shifts and not remove it during the day shifts is also important. I think that to reap the rewards of it during the day shift rather than open the Lexan glass and allow purchasers to work over the counter, I mean, just like gas-and-dashers, if they don't come at night, they'll come in the day. If they don't come to the main areas, they'll pick rural areas, just as robbers and thieves and those doing assaults at gas stations and convenience stores and

Presentation by Doug De Patie  
(Own behalf)

other workplaces. If you take away their choice at night, they may just pick other hours of the day.

But most of all, I would like to thank you all for giving me the opportunity and for doing Grant's name right, and thank you very much.

THE CHAIR: Doug, just before you do go, and I just want to acknowledge this, I did it in Vancouver and I want to do it in Kelowna too, I just really want to, on behalf of our Panel today and also on behalf of WorkSafeBC, thank you and your family very much. You've been very dedicated in coming to all of these public hearings and making your views known, and I just want to acknowledge that that's a difficult thing to do, but you've done it very well. Thanks very much.

MR. De PATIE: Thank you.

THE CHAIR: Mr. Scott Davis. And I think, Mr. Davis, you're speaking to Part 4, which is the avalanche assessment section.

MR. DAVIS: That's correct.

THE CHAIR: Maybe I'll also mention that Mr. Davis is with the Association of Canadian Mountain Guides.

MR. DAVIS: That saves me the first two lines of my speech here.

Presentation by Scott Davis  
(Association of Canadian Mountain Guides)

PRESENTATION BY SCOTT DAVIS ON BEHALF OF THE  
ASSOCIATION OF CANADIAN MOUNTAIN GUIDES:

Good afternoon, I'm Scott Davis and I'm president of the Association of Canadian Mountain Guides.

First of all, I would like to thank you for the opportunity to speak to you today, as well as all the efforts WorkSafeBC has put into creating all these amendments.

WorkSafeBC and ACMG share a great deal in common, a great deal of common ground with respect to safety. Ensuring the highest possible safety standards for guides and their clients is paramount to us as guides. Indeed, it is fundamental to the premise of the rigorous training assessment that guides undergo. However, we are concerned that the amendments to Part 4 with respect to avalanche assessment will inadvertently lead to decreased worker safety, and on this premise we must disagree with the amendments as written. I'll outline the specifics of these concerns shortly.

ACMG has been in existence since 1963 and currently has over 600 members. As an accountable and responsible organization, we set standards for the practice of mountain guiding and define the scope of our members. As a professional association of trained and certified guides and instructors, we're also

Presentation by Scott Davis  
(Association of Canadian Mountain Guides)

internationally recognized as leaders in the area of back-country safety. We're the only body certifying mountain guides in Canada, and we're proud to be the only Canadian guide association to meet the standards of the International Federation of Mountain Guide Associations.

The ACMG sets educational standards for the mountain guiding profession. This standard defines the curriculum of the Canadian Mountain and Ski Guide Program at Thompson Rivers University in Kamloops, where aspirant guides receive their training and assessment. This path of certification for professional guides is rigorous, requiring years of training and examinations to succeed, and this process includes the completion of the Canadian Avalanche Association Level 1 and 2 courses as a prerequisite. The ACMG guide certification takes an average of six years of education, apprenticeship and mentorship to complete. The international guiding community looks to Canada as the highest standard in back-country avalanche expertise.

Aside from the before-mentioned training certification standards, the ACMG fulfills its accountability and responsibilities by requiring members to meet mandatory continuing education

Presentation by Scott Davis  
(Association of Canadian Mountain Guides)

requirements, allowing lay people to sit on important committees, maintaining a public complaints process, establishing a disciplinary committee for conduct reviews.

As a professional association, the ACMG takes its duties around accountability very seriously. It worked hard to meet the best practices of a regulated body. Because our procedures are recognized around the world as best practices, we believe that they should be considered as part of the proposed Regulations for this sector. This is with respect to our specific concerns for proposed amendments relating to avalanche assessments.

First, as it stands in section 4.1.2, requiring the currently-listed qualified registered professionals to do all the workplace avalanche assessments, it is beyond the training and experience of many of these professionals when applied to the ski, climbing and guiding sector, and therefore the capacity to fill the requirements is seriously in doubt.

Furthermore, considering the vast mountain terrain of our province as a workplace of B.C. ski and climbing guides, the execution of this form of assessment on a scale of application this large is impractical. The real issue is not the lack of identification of

Presentation by Scott Davis  
(Association of Canadian Mountain Guides)

avalanche terrain. All trained back-country workers recognize when they're in such areas. Further formal identification of such terrain will do nothing to enhance their safety. Because these qualified registered professionals would be empowered by regulation but not by training or experience, this could lead to increased safety concerns.

Second, in section 4.12, avalanche risk watch is described as being conducted by an appropriately qualified person. This individual has a significant effect, if not the greatest effect, on day-to-day worker safety. The ACMG believes the qualifications for the role should be clearly stated when applied to the back-country skiing, climbing and guiding sector. This role should include the applicable ACMG certification or its equivalent.

The ACMG respectfully recommends the following: We request that WorkSafeBC refrain from applying the standards of slope stability and avalanche assessments for the back-country ski, climbing and guiding sector until such time as WorkSafeBC develops a deeper understanding of this sector and its unique risks. This should include a review of the following: Current national best practices for back-country and avalanche safety; emerging avalanche safety-related technologies;

Presentation by Scott Davis  
(Association of Canadian Mountain Guides)

subsectors involved with commercial back-country recreation; current standards for each of the above, if they exist; the ways in which standards and accountability for these standards can be improved; and consider certification requirements for skiing/climbing sector workers. Developing this understanding within WorkSafeBC and in collaboration with all relevant stakeholders is the best way to identify a more effective model for protecting worker safety. The ACMG is dedicated to improving worker safety in the guiding sector, and we [inaudible] the process should WorkSafeBC deem this an appropriate next step.

Thank you very much for your time and this opportunity and consideration.

THE CHAIR: Thanks, Mr. Davis. And you're going to leave these notes also?

MR. DAVIS: Yes. We've sent in --

THE CHAIR: That's fine.

I just do want to say that we've had some excellent presentations from the sector broadly. I mean, clearly there has been an acknowledgment that the intention is good, but there needs to be further work done to make sure that the desire to meet solid safety standards will work in this industry and in this sector, and so I very much appreciate your presentation

Presentation by Scott Davis  
(Association of Canadian Mountain Guides)

today.

MR. DAVIS: As I say, we're committed to help in any way.

THE CHAIR: Thanks very much.

Mr. Steve Arstad.

Thanks, Mr. Arstad. Good afternoon, and I think you are planning to speak to Part 3, which is the changes to the first aid section.

MR. ARSTAD: Yes.

THE CHAIR: But I also want to encourage you to feel free to speak to any section you want.

PRESENTATION BY STEVE ARSTAD ON HIS OWN BEHALF:

MR. ARSTAD: My name is Steve Arstad, and I will be speaking on the proposed changes to rights and responsibilities related to first aid.

First of all, thank you for the opportunity to speak to you today. I'm speaking on behalf of myself.

I'm speaking on this Regulation because of my experience with this part of the Act in the workplace. I'm a Level 3 first aid attendant at my workplace, and I've noticed over the years that when this part of the Regulation was just a guideline, there was a noticeable lack of effort on the part of my employer to ensure that the Regulation is maintained. Making it again part of the Regulation and having them conform to it

Presentation by Steve Arstad  
(Own behalf)

ensures enforceability, I think, and at the very least it allows me, as a first aid attendant, to better challenge management decisions in this regard.

I'd also like to state that I'm in favour of the additional legislation related to air transportation, section 317(1). I think this is necessary to further ensure the safety of workers in the forest working in multiple locations, and it's a step well taken to prevent incidents such as the one that occurred on Vancouver Island last year.

I'd like to thank you very much for your time.

THE CHAIR: Thanks, Mr. Arstad. Thank you very much.

Could I ask Mr. Gilles Valade, please. It's Thompson Rivers University; is that right?

MR. VALADE: Correct. I'll look at my watch.

THE CHAIR: Just relax and take your time.

PRESENTATION BY GILLES VALADE ON BEHALF OF THOMPSON RIVERS UNIVERSITY:

MR. VALADE: Thank you very much.

First of all, a little bit of background on Thompson Rivers University. We're probably different than the speakers you have heard, but we are involved in training professionals that will end up working in avalanche terrain. For example, we are the training

Presentation by Gilles Valade  
(Thompson Rivers University)

arm of the ACMG that Mr. Scott Davis has spoke about before, and the university is the sole trainer of mountain guides in Canada. We've been training professionals and expert guides since 1992, and we're the largest post-secondary program in British Columbia. I also represent, by the role of being Chair, the Articulation Committee that represents the 12 institutions that offer also post-secondary training. So that's a bit of background on why I'm here.

We are very happy to see WorkSafeBC get involved in worker safety, especially in regards to avalanche hazards. We support the intent, obviously, of this. We, at the university, see anything that's going to improve worker safety translate to improved student or candidate safety, and vice versa, so anything that makes a worker safer is very important to us.

On the proposed changes, we do have many questions and significant concerns. Being academics, we also analyze words and text a little bit more, probably, but we have certain issues with the implementation part of such Regulation, which you probably heard already. But we see no evidence that the involvement of qualified registered professionals, as stated in the proposed policy changes -- we don't see them having expertise, the willingness or the ability to undertake these

assessments on a large scale, like province-wide. There's other concerns in terms of their willingness to embark with this and how that might be implemented when we start looking at business for business.

We also have issues with or questions around the industry involvement in the development of such Regulations. We would like to see more industry involvement.

We don't -- like some of the other speakers on this topic, we don't produce standards, we don't determine standards. What we do is we train to existing standards, for example, the ACMG or the Canadian Avalanche Association and these international and other national standards we train to, so we don't set standards, we don't set the technical aspects of the program.

We are concerned that there's no implementation process in terms of timelines, actual implications for businesses. And even a university like us, we do have quite a number of workers in avalanche terrain, and as you know, as being a publicly-funded institution, we have certain restrictions in what we can and cannot do and how that's got to be worked out.

We're worried that the implementation of such Regulations would divert limited resources from many

private operators, including public institutions like us, to something that we're not convinced would improve the actual safety of workers and divert these resources from other areas, which might impact negatively in the end on worker safety.

We have questions around wording in the Regulation. One was mentioned already in section 4.1.2, paragraph 1. It speaks about an appropriately qualified person, which is very vague. If the intent of the Regulation is to address worker safety and be specific, we think that should be defined.

Section 4.1.2, paragraph 3, mentions that no work may be conducted unless an avalanche risk watch has been conducted and the person conducting the avalanche risk watch determines that it is safe for people to work in the avalanche hazard area. Our own senior mountain guide has mentioned that he would not be able to assess an area being safe. It's a dynamic environment, and I won't go into the technical aspects, but is the wording meaning guaranteed safety, or relative safety, or acceptable safety? And if it is, what risks are acceptable, and acceptable to who; to WorkSafeBC, to the public, to the guides, et cetera? So some of these concerns we have.

Presentation by Gilles Valade  
(Thompson Rivers University)

We believe that there needs to be industry involvement in the development of Regulations, both employers and workers and other entities like ours which are sort of on the fringe, not necessarily in terms of setting standards or being seen as private companies, but certainly involved. We do support WorkSafeBC with this. We encourage them to continue to find ways to improve worker safety.

Our recommendation is to suspend the proposed Regulations for now until more work is done to understand the issues, perhaps the development of a working group that involves many stakeholders, including somebody like us, we would be happy to participate. And again we're pleased to see WorkSafeBC getting involved, and we support your endeavours.

THE CHAIR: Thanks, Mr. Valade, and that's been a very consistent thought throughout the public hearing process so far. We've heard from a wide variety of people from industry, supportive of the intent, but feeling that there needs to be more time to be thoughtful with industry.

I wonder if I could ask you a question just to make sure that I'm clear.

MR. VALADE: Yes.

THE CHAIR: So Thompson Rivers University, and

this program is the training arm for the ACMG?

MR. VALADE: That's correct.

THE CHAIR: But you also mentioned that there were other institutions. You said 12 institutions?

MR. VALADE: Yes. They offer adventure tourism and outdoor recreation programs. They are not involved with the ACMG, per se, but --

THE CHAIR: They're not training to that standard?

MR. VALADE: No, but they will have workers in avalanche terrain doing a variety of work, and some is to train maybe at a lower level, introduction to back-country skiing and even snow-shoeing, but they will be involved in some form of training for entry-level professionals, not necessarily at the level of the ACMG.

THE CHAIR: And these are institutions throughout British Columbia, but your program is the sole trainer in Canada for the ACMG?

MR. VALADE: That's correct.

THE CHAIR: I just wanted to make sure I clearly understood that.

MR. VALADE: And we will have a written submission for you.

THE CHAIR: Thanks, Mr. Valade, that's been very helpful. Thank you very much. I appreciate that.

Presentation by Lance Osberg  
(Own behalf)

Mr. Lance Osberg.

Mr. Osberg, I hope I'm pronouncing your name properly. Mr. Osberg is speaking on his own behalf, and he's going to speak on Part 4.

Thank you, sir.

PRESENTATION BY LANCE OSBERG ON HIS OWN BEHALF:

MR. OSBERG: Thank you for this opportunity.

The proposed amendments to Part 4, working alone or in isolation, for some of these amendments, they are too little, too late. For the rest of us, they cannot come soon enough. They are very important. They will make the employer more accountable to minimize and eliminate the hazard. As an employee, it will be my responsibility or our responsibility, as employees, to be more diligent and to see that they are adhered to, allowing us all to have a safer work environment.

Thanks.

THE CHAIR: Thanks, Mr. Osberg, thanks very much. I appreciate that.

Mr. Brad Dunlop.

Nice to see you again. Mr. Dunlop represents the North Okanagan Labour Council, and Mr. Dunlop is also speaking to Part 4.

Presentation by Brad Dunlop  
(North Okanagan Labour Council)

PRESENTATION BY BRAD DUNLOP ON BEHALF OF THE NORTH  
OKANAGAN LABOUR COUNCIL:

MR. DUNLOP: Thank you.

My name is Brad Dunlop, and I will be speaking on the proposed changes to the working alone or in isolation Regulation. I am speaking on behalf of the 10,000 members of the North Okanagan Labour Council, and thank you for giving me this opportunity to speak to you today.

The North Okanagan Labour Council, hereafter referred to as "we", are supporting the Regulation that will require, (1), 24-hour pay before you pump and, (2), that employers, (a), lock the doors between the hours of 10:00 p.m. to 6:00 p.m., and/or, (b), provide workers with a bulletproof physical barrier, and/or, (c), have two people on during the late-night shift. And we also want to acknowledge the work that WorkSafeBC has done in the gas station inspections and stepping up the enforcement, and this is a graph.

Last year, when WCB brought forward Grant's Law, many concerns were raised about the situation of late-night workers and the apprehensions that the prepayment of gas between the hours of 10:00 p.m. to 6:00 a.m. did not address a number of concerns. We would like to thank the WCB for moving forward with the

feedback from stakeholders and introducing this legislation to provide greater protection for workers who work alone, especially late-night workers.

We would like to begin with a comment on 24-hour prepayment requirements for all gas stations in all regions of the province. Many incidents of gas-and-dash occur during the day. The transaction occurs when individuals put fuel into their vehicles and then, instead of purchasing the goods, they leave without payment. When a gas-and-dash occurs, there are repercussions, such as: workers feeling responsible for the loss; not wanting to see the company suffer a loss; or fearing that they will be perceived as bad workers for allowing it to happen. Although employers may have a "no chase" policy, they are not always clear on this, and it leads to workers putting themselves on the line to recover the cost.

This proposed Regulation is designed to prevent the gas-and-dash from occurring. The result of requiring prepayment will take away any illegal requirements that employers will put on workers to chase after their customers who commit a theft. Requiring a worker to pay for loss of income to the employer is a clear violation of the Employment Standards Act and also puts workers at risk. When

Presentation by Brad Dunlop  
(North Okanagan Labour Council)

workers are held responsible for covering the cost of theft, this leads them to vulnerable situations such as pursuing customers for payment.

While we support the regulation that requires 24-hour prepayment and agree that it is an important addition to this Regulation, we are pleased that there have been more additions made. Prepayment is an important step towards creating a safer workplace within the gas station environment. However, it does not address all of the reasons that workers face violence and fear in the workplace, especially late at night.

In the WCB publication "Preventing Violence, Robbery and Theft", it is stated that out of 1,200 workers surveyed by the Retail Association, a full 21 percent had been subject to violence or aggressive acts. The B.C. Federation of Labour has also conducted three surveys that found that the number of workers who experienced violence doubled when they only spoke with workers who worked late at night. This proposed Regulation addresses the significant challenges that late-night workers face and gives clear direction on how to ensure that these workers have some protection while working alone. In all sectors, working alone can put workers at risk of violence, among other things.

Check-in procedures will only let people know of incidents after something has already occurred.

The current Regulation only requires employers to do risk assessments if the worker is deemed at risk of violent. Once the assessment is done, the employer is to eliminate, and when that is not possible, they are to reduce the risk. This also leaves employers to determine what steps need to be taken, and in most if not all instances, the solutions are ineffectual.

Of the 366 gas stations WorkSafeBC inspected in July 2006, it was discovered that most of the stations did not follow the current Regulations as they stand. It was stated in the media release that:

"The pilot phase of this initiative has resulted in virtually every inspection document in violation of issuing orders."

This noncompliance rate is, of course, unacceptable. This shows that the current Regulations that are in place to protect the workers who work in gas stations and convenience stores are not being followed. WorkSafeBC inspections show that most employers have not, (1), properly evaluated the risk involved in doing the job and, (2), developed the working-alone procedure to check on the workers who are working alone. Considering the results of these

inspections, there needs to be more done than changing the prepay rules to ensure safety. As it may be one step to reducing risk, it does not do enough to eliminate all the risk.

The current Regulation allows the employers to decide on the steps that need to be taken to lessen the risk. The Regulation assumes the employer will take the responsibility to do so. However, it has been proven by WorkSafeBC inspections that this is an unfair assumption.

Measures that are defined in the proposed Regulations in section 4.20.2 will assist by stating clearly that the employer must do both a risk assessment and eliminate or minimize the risk. In order to deal with the rising occurrences of theft and violence, there needs to be prescriptive Regulations that can clearly state what the employer needs to do in order to ensure the risks are eliminated.

Section 4.22.1, highlighting the late-night requirements for employers, is an excellent addition to the Regulation. It specifies what an employer must do in the event that they choose to stay open late at night. The proposed Regulation brings forward two options for employers that would both be preventable measures to protect late-night retail workers, such as

requiring that they have two people on shift or a barrier to provide protection for the worker. Ideally, it would be great to see both of these measures put in place to ensure the greatest level of safety for the workers.

Having two people on shift at all times would lessen the risk to the workers by serving as a deterrent as well as having the second person with the worker if something were to happen. The, and I quote, "buddy system", has worked well in many other situations over the course of history. While some late-night retail operations may have a check-in procedure based on time intervals, it does not let people know that the worker is in danger until after an incident has happened. Regulations that are in place only to protect workers after an incident has happened are really not effective in protecting the worker.

As we now see it with many gas stations, the ability to lock the door or secure from physical contact with customers is a possibility. Limiting customer access to the workers reduces the potential of violence acts as a preventative measure. Most of us are well aware of this. We lock our doors at home to protect us from this possibility. It is important that we not only protect workers from violence, but also

ensure that they're able to work free of the fear of violence.

We would also like it noted that these changes are a clear indication that WCB has recognized the risks that late-night workers face. However, it will only be effective if there is the enforcement to ensure that the employer complies with the Regulations. It is clear from the initial gas station blitz that WCB did last year that employers are not complying with the most basic regulations. Ultimately, we need to consider the workers who are predictably at risk of violence every time they go to work.

According to a 1998 International Labour Organization or ILO study, the effects of violence have a greater cost than any of the systems that would be required by this Regulation. Workers who have experienced violence suffer from physical injury, post-traumatic stress, loss of sleep, depression, self-blame, and many other symptoms that are a result of the incident. The cost to the employer should also be considered. Workers who have experienced violence lose trust in their employer and may be likely to find other employment after the incident. Productivity is reduced, and the worker is likely to require increased time off, hence the term "false economy" applies.

Presentation by Brad Dunlop  
(North Okanagan Labour Council)

Prediction and prevention are key to ensuring the safety of all workers. We believe every worker has the absolute right to go home after their shift in the same condition as they reported to work. We encourage the Board to move forward on these Regulations without any undue delay.

Thank you for your time.

THE CHAIR: Thanks very much, Mr. Dunlop. And you're going to leave that with us?

MR. DUNLOP: I will.

THE CHAIR: Thanks, sir, thanks very much. It's good to see you again.

Jay Hayashi or Heather Moore from Big White Ski Resort. Is Mr. Hayashi or Ms. Moore here?

MS. MOORE: This isn't Mr. Hayashi. This is Chris Hawryluik. He also works at Big White.

THE CHAIR: We'll just make sure we've got you properly identified, sir. We're delighted to have you here today.

I'm assuming you're speaking to Part 4.

MS. MOORE: Yes. Specifically, the avalanche safety part.

THE CHAIR: Yes.

Presentation by Heather Moore and Chris Hawryluik  
(Big White Ski Resort)

PRESENTATION BY HEATHER MOORE AND CHRIS HAWRYLUIK ON  
BEHALF OF BIG WHITE SKI RESORT:

MS. MOORE: Thank you for allowing us to voice our  
opinion.

We are specifically interested in the avalanche  
part of it and the definitions. We're basically asking  
that, with all due respect to the professions listed,  
that another profession be included in the avalanche  
part, specifically.

So we've done a little bit of research into it,  
and we do have an active avalanche program at Big White  
Ski Resort, and we employ a Canadian Avalanche Level 1  
avi-tech. It's a specific course that is run through  
the Canadian Avalanche Association for ski area  
operators, and they are designed to teach these  
individuals how to assess and learn and designate which  
terrain is avalanche terrain, how to recognize, you  
know, whether it's safe or not, and then through the  
WCB we have other courses in controlling that hazard.  
So we've brought with us, and we'll leave it with you,  
the definition of what is in this course and  
everything.

The Canadian Avalanche Association, it's a  
nationwide association, and they have what they call  
the CAA industry training program, and it's a fully

Presentation by Heather Moore and Chris Hawryluik  
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bonded and provincially-licensed post-secondary education institution offering technical training courses in B.C., Alberta and Québec. The courses are recognized by the industry -- by industry guide training organizations and government agencies. It's widely regarded to be very high-calibre training, and within this they cover research, best practices, decision-making, operational risk management concepts essential to commercial avalanche management programs. So their courses are specifically designed for ski areas, back country, parks operations, highways, resources, and snowmobile tours.

So within the Level 1, which we use at Big White, they're trained to: recognize avalanche terrain; state the formation and nature of avalanches and the hazards involved; describe significant properties within the mountain snowpack; state factors that are applied to snow stability evaluation, the element of operational risk management and decision-making; collect and record weather, snow pack and avalanche occurrence data; and apply personal group safety measures and perform companion rescue, and they also participate in organized group search and rescue.

It's a course where they do have to pass some exams. There are three practical exams: one in making

Presentation by Heather Moore and Chris Hawryluik  
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a snow profile which helps to determine the snow pack; weather observations and going onto places like the Weather Network websites and all that and determining what weather is coming in, if they need to plan ahead for significant snowfalls and stuff like that; and then do a multiple transceiver search, which is companion rescue if someone is buried in an avalanche. And they also have to pass a written test with a minimum of 71 percent to pass. So it's a very well-respected and well-known course, and it is very specifically tailored to snow and ski areas. We would just ask that the Board consider and include this specifically to the avalanche portion of it, with recognizing that the other professions, although they are very highly trained, don't study snow, specifically.

THE CHAIR: Right, thank you.

And, sir, you've obviously taken the time to be here today, so I really do want to hear from you.

MR. HAWRYLUIK: I'm the ski patrol operations manager, so the avalanche program is under my direction.

Heather covered it really well with what they had to say. We would just like to include the Canadian Avalanche Association training and certification in your definition of a qualified registered professional.

Presentation by Heather Moore and Chris Hawryluik  
(Big White Ski Resort)

It seems to have been missed in regards to avalanche assessment within a ski resort prior to any work commencing in the area. We feel that a geo-scientist or forestry tech isn't the right profession to make these assessments within a ski resort, within the ski industry.

THE CHAIR: Well, I have to say, and I think I'm taking maybe not too much liberty in speaking for my colleagues on the Panel, we often forget that in British Columbia there's an absolutely unique model for creating occupational health and safety standards. Back in 1917, the Legislature delegated to the then Workers' Compensation Board, now WorkSafeBC, the ability to make regulations, and because these Regulations are within our span of control and not with government, which is the norm in many other provinces, we have this very transparent process where before we will introduce a standard, we bring it out to ask stakeholders, "Does it make sense, is it workable, will it do what we want it to do?" And I have to say I've been very impressed, as have my colleagues, Ms. Burch and Mr. Bates, with the willingness of this community to say, "We appreciate the intent, but this won't work, and we want to work with you to make it happen." That's exactly the intent of this process.

Presentation by Heather Moore and Chris Hawryluik  
(Big White Ski Resort)

I just do want to take a moment to say how impressed we've been with the quality and the calibre of the presentations we've had from the industry. I think I might venture to say we got your attention.

MS. MOORE: Yes.

MR. BATES: And vice versa.

THE CHAIR: "And vice versa" is what Mr. Bates is saying. And I do think we're going to have a very productive dialogue, as we continue down this path, to find something that meets our needs, which is obviously concerned with the safety and welfare of workers in the profession, but with your concerns, as very knowledgeable experts, on how to make that work.

So we had outstanding presentations in Vancouver, so it's nice to see the quality and the standard has been maintained in Kelowna. So thank you very much.

MS. MOORE: Thank you.

MR. HAWRYLUIK: Thank you.

THE CHAIR: And we've learned a lot.

Can I ask if Mr. Mike Hadikin is here?

Mr. Hadikin, welcome.

MR. HADIKIN: I won't be speaking, because Mr. Dunlop and I had the same script. That's good.

THE CHAIR: But if you want to take a minute to just sit there and identify yourself.

Presentation by Linda Brown  
(Own behalf)

MR. HADIKIN: Mike Hadikin, representing myself.

THE CHAIR: And you're in support of the presentation that Mr. Mike Dunlop made?

MR. HADIKIN: Yes, I am.

THE CHAIR: And the comments he made in regard to Part 4 are supported by you?

MR. HADIKIN: Yes, I had the same thing and there's no need to trot it out again. There's other people to speak, so make room.

THE CHAIR: But you're on the record.

MR. HADIKIN: Thank you.

THE CHAIR: Thank you, Mr. Hadikin.

Our next speaker is Ms. Linda Brown. Is Ms. Brown here?

Hello, Ms. Brown, and you're also going to speak to Part 4, working alone?

MS. BROWN: Yes, I am.

THE CHAIR: Thank you.

PRESENTATION BY LINDA BROWN ON HER OWN BEHALF:

MS. BROWN: I am here because of your advertised hearing, and I want to speak to you about working alone or in isolation with a reference to violence in the workplace.

I'm a registered nurse who came to B.C. from Alberta last year. There, by contract, we may not work

alone on a unit. I am working in a long-term care facility in a permanent night position here, and that's from 11:00 p.m. to 7:00 o'clock a.m., so that is through the night.

There are three units. One unit is designated for the chronic behaviour disorders. Here, violence is a constant consideration and many incidents occur. And although the criteria of loss of limb or blood loss has not been met, there have been many incidents where the use of a limb has been affected and blood loss is contained to the form of a bruise. It's a locked unit for approximately 20 residents. It has two staff on during the night and it's visually isolated from the other units, and within there is a central core that blocks the view from one side to the other side of the unit. Many of the residents are early risers, and supervision is difficult.

The other two units have approximately 40 residents each, and they also have two staff on each unit during the night. One of these is the R.N., who can be called away if there are problems on the other units. The rooms on these units have a central courtyard, and it takes 200 steps to walk around the unit and an additional 100 steps to get across to the other unit. The two nurses' stations are within sight

of each other, but they are out of voice range. Our work is mainly out on the unit, in the rooms and corridors, and not in the nursing stations, and we have paging devices that we often find are less than reliable. If you're fending off a physical attack, you don't have a free hand to be able to use them.

We sometimes have to work with less staff if replacements can't be found, and during the night we have no recourse as the scheduling office is closed. We are allowed one half-hour meal break and two 15-minute coffee breaks, if work permits, so for at least three hours during the night on each of the two open units, there is only one staff member in charge of the 40 residents, since each unit sends one staff member into the locked unit to cover their breaks.

Most of the people in our care require much assistance and are unable to follow direction due to physical or mental impairment. I have had the experience of being attacked. I have administered medications, called the manager, the police, doctors on call, the ambulance who was actually in the process of returning someone to us. I was unable to get assistance until after the attack actually happened. And even then, the doctor on call refused to be of help until he had spoken with the constable.

I believe that in our work, we are quite isolated and should be considered for your list of workers who are at risk of violent attack. We are isolated from other workers or from public view.

Thank you for providing the opportunity to bring this to someone's attention.

THE CHAIR: Thank you very much, Ms. Brown.

Can I just ask you a question, because I want to make sure I've understood what you said. I kind of missed something.

MS. BROWN: Okay.

THE CHAIR: So how many residents were you saying that you would be working with in this environment?

MS. BROWN: There are three arms. There's about 40. We have some flux, but there's at least 40 on one side, 40 on the other, and 20 in the lock-down unit.

THE CHAIR: And when you are working alone, how many residents would you be responsible for?

MS. BROWN: Forty is usually the rule, yes.

THE CHAIR: That's what I thought you said, but I wasn't sure. So it would be 40?

MS. BROWN: Forty.

THE CHAIR: The definition in the working alone or isolation section is very broad, and then there's a further definition with regard to late-night retail

establishments, so just so I'm understanding what you're saying, when you are working alone with 40 residents and you describe a situation where something happened, what do you do, who do you call?

MS. BROWN: I'm the R.N., so I'm the one that gets called first. And if I'm alone, if I'm the one that's alone on the unit, I have to call someone from somewhere else to come and replace me so that I can go into that other unit.

THE CHAIR: I see, I understand.

MS. BROWN: If it's into the locked unit, ideally I'm the third one to go in. If I'm replacing in there, I'm just the second one, it gets very complicated and it fluctuates depending on the circumstances. But in this instance, the full PRN medication dose requires three hypodermic needles, which is difficult to manage with one person. On days, they would use seven people in order to confine them for long enough in order to give the medications. We don't have that kind of draw on the --

THE CHAIR: At night, right.

And again just the other thing I wanted to ask you a little bit about: In terms of when you would be more likely to be working alone in this environment, is there a time frame around that when the shift change

Presentation by Linda Brown  
(Own behalf)

would say up until this point of time at night, there tend to be more staff, but after, what is it, 10:00 o'clock, or after midnight, or --

MS. BROWN: We come on at 11:00 and we go home at 7:00.

THE CHAIR: That's the shift where you would be --

MS. BROWN: Yes, there's a lot more staff on either side of it.

THE CHAIR: Okay.

Thank you very much, Ms. Brown, and I really do want to thank you for taking the time to be with us here today. And you're going to leave us also your --

MS. BROWN: Yes. At the front desk?

THE CHAIR: You can leave it at the front desk. And like I said, if there's anything you would like to add, even though the questions we had will be recorded, but if there's anything you want to add to your comments, as long as you get them in before June 29th. But you can leave them at the front.

Thank you.

Mr. Greg Filek.

Hi, Mr. Filek.

MR. FILEK: I've got rubbery knees.

THE CHAIR: Thank you for saying that. I've said to many people this is a different environment. People

Presentation by Linda Brown  
(Own behalf)

become very comfortable about speaking in all sorts of environments. It's actually not the easiest thing, though, in the world to do this. So you take a moment, take a deep breath. We want to know what you have to say, so you don't have to be at all concerned.

MR. FILEK: Well, this is the first microphone I've spoken to, or to you, actually, through a microphone.

THE CHAIR: So you're already doing well.

MR. FILEK: I am shaking.

THE CHAIR: Don't be worried.

PRESENTATION BY GREG FILEK ON HIS OWN BEHALF:

MR. FILEK: Basically, I'm here to talk about the new late-night safety regulations, how they will affect me personally. Okay. To my understanding, employees will either have to be working with a second employee or behind a cage between 10:00 p.m. and 6:00 a.m. Well, this will, for myself, have a huge financial impact on me.

Just to let you know, I run a little cafeteria at the Greyhound Bus Depot, and I've been there 16 and a half years. We have security cameras. We run off a DVR system. We have a security system. We've got panic buttons. But we work alone at night. There's not that much money there.

Okay. Anyway, my contract with Greyhound states that I'm open from 5:30 a.m. 'til 3:00 a.m. daily, including holidays. Basically, we're there just about 24 hours a day. Sometimes we get out 15 minutes early. I have only one employee on at late night and early mornings. If there was a second employee on, it would cost me over 2,000 hours a year. Now, 2,000 hours being, today's wages, 20,000, \$22,000 a year, that's about half my year's wage, so it cuts my wage in half.

Next, more importantly, where am I going to find an employee? With the baby-boomers retiring in combination with a strong economy causing such a huge labour shortage, I can't find employees for full-time shifts, let alone five hours of late-night shifts. It's an employees' market. You know, "Help Wanted" ads bring in little or no résumés. I've had an ad in for three weeks and got one résumé. Sometimes I'll have it in for two and get two, and sometimes we get none, and that's common everywhere, you're seeing "Help Wanted" everywhere.

You know, I've been told that working late-night shifts suck. Well, I'm already working 50 to 65 hours a week, and if I put in another 35, which I've done and I don't want to do that again, I only end up making the same amount of money because we're adding the 2,000

hours per year.

My little company cannot justify to pay out anymore. This year we've already given out more raises than we've ever had to, paid out more overtime than we ever dreamed of paying out. I don't pay out overtime, and now it's 30 hours every pay period is common. You know, there's like this person is five, this person is seven, this person is six hours of overtime. It happens all the time.

We've been running about three employees short since the beginning of April, because we normally have a lot of true students, the university only a block and a half away from us -- well, across the cemetery it's a block and a half away, and as soon as they left, they go back home to Prince George, Williams Lake, whatever, and we tried to replace them and we couldn't this year. It was an impossibility.

So basically here's how I see my scenario:  
Basically, work another 35 hours a week, try to hire employees to cover the additional shifts, take a huge wage decrease, or close down the business. But closing down the business, I have a personal guarantee on the lease, and if I make it through this month and say this is at the end of the month, it would cost me about \$133,000 to walk.

So any way I look at it, you know, I can't win under this proposed legislation. But if it was at the end of my lease, if there was something in there to say at the end of your lease or something, that would be a different scenario for me. Then the next poor guy would have to deal with it.

THE CHAIR: Right.

The one thing, Mr. Filek, I would just take a minute to speak to you about would be: In constructing this Regulation, generally speaking when you're trying to introduce a mechanism to prevent harm to an individual, an engineering control, something that engineers would -- once you've established there is a risk, so I don't want to get into your particular circumstance because that's not what these hearings are for, but I always want to make sure we have at least a good dialogue when we have public hearings. So the first thing is for you and for anybody in a circumstance that you're describing that's open for late-night hours is to actually determine what the risk from harm is. That's the first step. And having determined what the risk of harm is from violent acts, then the Regulation takes you through essentially a bit of a hierarchy, and it says, "Can you engineer out the harm?" So the Regulation's arranged to do either/or or

both. It's not compelling you to do the staffing action, but it's saying you've got to go through a risk assessment and you've got to go through a carefully-considered process to look at how you would engineer that risk to the worker.

MR. FILEK: Okay. You're saying if there's little risk, then --

THE CHAIR: Well, no, what I'm saying is where there is a risk of violent act or harm to the worker, that's the first step in any risk assessment, and that's your obligation under this Regulation, to do that. And then once you've done that, you then have to take account of the section in the Regulation that says if a worker is assigned to work alone or in isolation and there's risk of harmful, violent acts, then, as well as some other obligations, the employer must develop and implement written procedures and go through this process. Where the worker is assigned to work late-night hours, you must do either one or the other, or some employers may choose to do both, but either/or. And one of the things I've been concerned about is that people not be confused about that. You need to actually look at the wording of that Regulation, and then if it becomes effective, look at your particular circumstances.

MR. FILEK: I actually went to -- well, it wasn't WorkSafe, but it was WorkSafe for the employer last week, and they stated that this would be -- I'd have to have a second employee. When I talked to them, they said, "Your situation is your risk is high." It's not a low risk. They said the only thing that was low risk was -- and he couldn't think of anything that was low risk.

THE CHAIR: The wording, and I can't speak to that because I wasn't there, I just say you have to focus on the wording in the Regulation. I mean, for example, when the previous speakers were presenting to us, they made the comment, "We would prefer that you do all of this," but what we're asking employers to do is to look carefully at the wording of this Regulation and work through the hierarchy of controls that we're asking employers to, if this Regulation becomes law, think through.

So I very much appreciate that you're bringing your specific set of circumstances here, and I don't know enough about your operation, but I want to make sure that you're clear on what the wording in the Regulation actually says.

Do you have that in front of you, sir?

MR. FILEK: No, I don't.

THE CHAIR: What I'm going to ask, then, also is just what I've said to other presenters, that I think it's very important that you pick up a copy of that Regulation and look at it.

MR. FILEK: I actually did read it, and I read it the way I saw it, actually.

THE CHAIR: All right, because the Regulation is actually saying that when the worker is assigned to work late-night hours, the employer must also do either or both of the following, either or both.

MR. FILEK: That's right. There's no way I can cage off the employee.

THE CHAIR: Then that's the point, sir, that if this Regulation becomes the law, you must give thought to it. You're right.

MR. FILEK: Yes. There's no way that we can --

THE CHAIR: And that's the difficulty when we're having public hearings is that the Panel can't get into the specific details of your circumstances, but I wanted to be clear with you that the language is saying "either or both". It's not an obligation around how many people you must hire, but either one or the other or both. I just wanted to make sure we were clear with you about that.

MR. FILEK: Yeah. It would be pretty difficult in

Presentation by Greg Filek  
(Own behalf)

the situation to cage off an employee.

THE CHAIR: Thanks, Mr. Filek. Is there anything else that you would like to say?

MR. FILEK: No, that's fine.

THE CHAIR: Sir, are you going to leave us your notes?

MR. FILEK: I'll add a couple of things. I did this last night.

THE CHAIR: I understand, sir. Again, just make sure you get it to us before June 29th, your comments. Thanks very much, sir.

So we are about 10 minutes ahead of ourselves on the schedule, and we have -- or, no, we're not. We have Mr. Matt Robertson and Mr. Rick Harman from Silver Star.

Pleasure to have you here, and you're planning to speak to Part 4, avalanche assessment.

PRESENTATION BY MATT ROBERTSON AND RICK HARMAN ON  
BEHALF OF SILVER STAR SKI RESORT:

MR. ROBERTSON: Good afternoon.

Silver Star wishes to assist the ski industry and WorkSafe in developing its definition of a qualified registered professional. This is pertaining to the avalanche assessment.

Silver Star acknowledges that the risk of

Presentation by Matt Robertson and Rick Harman  
(Silver Star Ski Resort)

avalanches within B.C. ski resorts can be effectively controlled by assessments conducted in-house by the ski resort area's own professionals. Silver Star suggests that WorkSafe rescind its proposed definition of QRP as a registered engineer or professional geo-scientist registered or licensed to practice under the Engineers and Geoscientists Act, or a professional forester registered or holding a special permit to practice, or a registered forest technologist registered to practice under the Foresters Act, and replace it with a revised definition of QRP; a ski patroller, safety manager, risk manager, or similar ski area professional who has an appropriate level of qualification through training and certification from the Canadian Avalanche Association, or equivalent credentials.

The QRPs indicated in WorkSafe's proposed definition do not have the necessary training in snow avalanche work to fulfill the role as patrollers would. WorkSafe's proposed QRPs do not have the detailed knowledge and experience of the particular ski area as the resort area's ski professionals, who have been doing avalanche assessments on a daily basis season after season, would.

For instance, Silver Star Ski Resort currently has five certified Canadian Avalanche Association Level 1

Presentation by Matt Robertson and Rick Harman  
(Silver Star Ski Resort)

technicians who have been practicing for up to 18 years each at our resort. We have additional seasonal employees that also carry this qualification. Our ski patrol department conducts avalanche terrain assessment techniques in accordance with the Canadian Avalanche Association standard, including weather assessments twice daily and slope assessments on each run as required. It would be a needless waste of expense and duplication of effort to hire a P. Eng., a geoscientist, or a foresters to tell us what we already know and practice in accordance with the CAA standard.

We wholeheartedly support the statements indicated by Jimmy Spencer, president and CEO of Canada West Ski Areas Association and direct your attention to the Canada West Ski Areas Association letter dated January 23rd, 2007, for background information.

Thank you for holding this hearing, and we look forward to your reply on this area.

THE CHAIR: Thanks, Mr. Robertson.

Mr. Harman, would you like to add anything?

MR. HARMAN: Yes, I would, actually.

I'm the ski patrol director for Silver Star, and I'd like to let everybody understand, too, just like with WCB, safety for public and our staff is paramount for the resort. And just like Matt pointed out, we do

Presentation by Matt Robertson and Rick Harman  
(Silver Star Ski Resort)

everything we can at Silver Star to ensure that safety is followed by following a regular procedure as far as avalanche assessment, weather assessments and day-to-day operations. So I would just like to bring that to the table.

As well, without getting into a bunch of other stuff that Big White also has already brought up, we very much share their views. We're actually a partner resort to Big White, so we definitely share their views on this matter as well.

And just to bring one other little thing to the table sort of specific to Silver Star, which is not -- a little bit less than some of the other bigger resorts like Kicking Horse and Revelstoke, some areas with a lot larger terrain assessed than what Silver Star has, we have a relatively low assessment at Silver Star. We have very little alpine terrain, so our terrain at Silver Star is very much controlled by a ski-cutting program as well as a -- and we actually don't have a blasting program at Silver Star. So our risk at Silver Star is generally quite a bit lower than some of the other resorts. So I just wanted to bring that to the table as well.

And, again, we're definitely in support of safety.

THE CHAIR: Thank you. Can I ask a quick

Presentation by Matt Robertson and Rick Harman  
(Silver Star Ski Resort)

question?

MR. HARMAN: Sure.

THE CHAIR: That was an interesting comment. So the qualified professionals, CAA or equivalent credentials. And so just because I want this on the record and to be clear, the CAA would also make a determination about what those equivalent credentials are? CAA has the capacity to do that? Do they do that?

MR. HARMAN: Yeah, no, to the best of my recollection on that matter, there is other courses that are recognized worldwide as well as industry-wide that are offered in other countries; like, for instance, Australia and some overseas countries. Now, the course is called something different, and I'm not 100 percent sure what that is, but it is recognized by the CAA when these workers come to B.C. to work. The criteria of the course is very much -- it's very similar to what we offer here from the CAA, so they take that course as an equivalent.

THE CHAIR: So we can probably explore that, go forward, but I was just curious about whether or not there was a standard-setting body in Canada.

MR. HARMAN: In Canada, it is definitely the CAA, 100 percent.

Presentation by Matt Robertson and Rick Harman  
(Silver Star Ski Resort)

THE CHAIR: And therefore those national or international bodies would have some sort of an ability to say, yes, you have this experience, this training, this capacity, and that meets our standard here in Canada?

MR. HARMAN: That's right, yeah.

THE CHAIR: That's all I was really testing.  
Thanks very much for your comments.

MR. HARMAN: Thanks.

THE CHAIR: Thank you.

Mr. Chett Crellin is our last registered speaker today, but before I turn to Mr. Crellin, I just want to make sure there is no one else here today who hasn't registered and has something they want to say, but have not had the opportunity to come forward.

Can I canvas the people here? Is there anyone who would like to come up and say a few words? We're happy to hear from you.

Okay. Mr. Chett Crellin. He is our last registered speaker of the day, and I will note that Mr. Crellin is the grandfather of Grant De Patie.

PRESENTATION BY CHETT CRELLIN ON HIS OWN BEHALF:

MR. CRELLIN: I'm Chett Crellin, the grandfather of Grant De Patie, and I'm going to take a look a little bit at working alone or in isolation. Before I

start, I see it's from 3:00 to 5:00, so I've got 35 minutes.

THE CHAIR: You can fill your boots.

MR. CRELLIN: I do that quite well, too.

Number 1, from our fan mail, I would like to also reiterate the thanks that we have for what has taken place so far, the bringing forth of "pay before you pump", the work that WorkSafeBC has done on this, the stakeholders that have come forward and helped. Sometimes I get a little depressed, and I was talking about that coming up today with Doug, and I said, "You know, I haven't seen any parents here supporting the "pay before you pump" or the working alone for their children. And we talked that over, and he closed it by saying, "You know what? Would we have truly been here either if had not something happened that totally affected our lives and brought us into this?" So, you see, it was a bit of a thing, and I had to agree with him, that sometimes we may see things and not see things, and unless it happens directly to us, you don't always see it.

But, anyways, I've taken a few things that I'm going to talk to, but in essence I'm going to sort of put my thoughts, if I could, and add some discussion on it.

Presentation by Chett Crellin  
(Own behalf)

I was looking at the -- I'm terrible. On the back page here, it says: "The use of a personal emergency call device the worker would wear on a lanyard around his neck and use to call or held in the event of personal security or emergency."

THE CHAIR: Mr. Crellin, is that just on the notes?

MR. CRELLIN: On the back, yeah. I just thought about it, and I talked about that with Doug, and I might have a problem with that because I found that in talking to some of the people at service stations, they haven't got a bloody clue on where that goes.

I see that it's taken care of in another area, where it says that the procedure for checking a worker's well being, including time intervals between checks, must be developed in consultation with a joint committee or worker health and safety representative, as applicable. Now, is that on site? The reason I ask that is that in the investigation into the death of my grandson, I seen that that service station had a safety committee, but it never met. So, you see, the question is, who is the applicable joint committee or worker health and safety representative? Is it somebody in there or what?

THE CHAIR: You raise a very good point, and I'll

just speak to that from the point of view of the process.

When we bring proposed regulatory standards out for public hearing, the actual law is the words that are contained in those proposed regulatory amendments. When you look at the explanatory notes, the explanatory notes are important because they're trying to give the people who are coming to these public hearings a sense of the logic or the thought process, but they don't have the same force in law as the Regulations themselves. And so really the only answer I can give to that question that you're posing, which is a very legitimate one, is that it would depend on the circumstances that an officer of the Board encountered, and they would then have to take the regulatory standard and look at the circumstances. So really all those notes are doing is trying to give members of the public, interested stakeholders, a sense of the thought process that went behind the actual regulatory language. That's all.

So I can't really answer your question, sir, because it would depend on the circumstances that an officer was looking at.

MR. CRELLIN: That's fair.

The other part is when we're looking at working

alone or in isolation, one thing that bothers me is there's been no consideration for people working alone driving cabs and there's no consideration for people that are working alone in the wording, and maybe I missed it, that are driving buses. We may allude to it in some area, but I think it's a part that really has to come forth, because my son-in-law and I had the opportunity to ride with a cab into -- we were brought into Vancouver for an occasion, and we talked to the cab driver at quite length. And he said that the majority of cab drivers would give their left arm, so to speak, to have a barrier between themselves and the passenger. Okay? Some cities, i.e., Vancouver for one, say they wouldn't like that because it would look too -- you know, they're replacing the way it would look as against the safety of an individual, and I think that's maybe something you could look at.

THE CHAIR: Sir, because you're raising it, I am going to speak to it.

The Regulation, as it is proposed, has a number of sections, so the 4.22.1, which is at sort of the bottom of that first page, deals specifically with late-night retail safety procedures and requirements. But if you look up the page to 4.20.2, "Hazard Identification, Elimination and Control", that's very general. That

applies to all workers, so it would actually encompass the situation that you are describing.

So a cab driver, for example, who is a worker, before that worker is assigned to work alone or in isolation, the employer would have to identify the hazards, and before the worker goes to work, the Regulation is requiring that the hazard be eliminated. But if you can't eliminate the hazard, so in the case of a cab driver, if you can't eliminate the passenger or the cab driver doesn't have a job, then you go down a little bit and it says you have to minimize the risk by using, and we go back to the point Mr. Filek was speaking to, engineering control, and so an example of an engineering control could be a camera or a barrier or some mechanical way to minimize that risk.

So it's a very good point, Mr. Crellin. That's always the problem with regulations, I always hate to say it, but to some extent they end up being blunt instruments because they cannot deal with every single specific workplace situation or you would have regulations that would fill this room. But the situation that you're contemplating would actually be covered by 4.20.2.

MR. CRELLIN: I was also thinking of bus drivers, Vancouver City bus drivers and other city bus drivers

that are being --

THE CHAIR: Again, you have to look at the particular circumstances. And actually, Mr. Crellin, you raise a good point because the regulatory language has to have life breathed into it when it's applied at the work site level, and again this is a good one and there will be a myriad of circumstances here actually beyond the ones you've raised, but they are very good points, sir.

MR. CRELLIN: The other part was on the back of this page, that it talks about prepayment options would be acceptable, and again it's alluding to, and I'm going to throw in my little pea-picker thoughts on this, the payment at the fuel pump by either debit or credit card or prepayment of fuel products to an attendant. The minute I thought of that, I thought, holy doodle, this guy's got two people on, he's agreeing with putting two people on, but he's got one person running out doing a full-service-type area, and that is endangering the person. And I just thought, you know, we had problems, as your own investigations show, you've got regulations in place now and yet there are a lot of service station owners out there who aren't following through, and I thought this would be something that maybe the people in the service stations

in Richmond and Coquitlam may look at, trying to get around on it.

THE CHAIR: Well, again, sir, you raise a very good point, but on mandatory prepayment for fuel, 4.22.2, that an employer must require that customers prepay for fuel sold in gas stations and other retail fueling outlets will be the standard, and I'll take a minute to say this on the record. That then becomes the challenge for our officers. The kinds of examples or situations that yourself or Mr. Filek and others raise, I have to say the officers have a challenge ahead of them, as they do with many other parts of their investigations, because they will have to make it real in all of those myriad specific situations across the province should this become the standard. But they are good points, Mr. Crellin, and I thank you for raising them.

MR. CRELLIN: Again, I'll just close with our thanks to the Board, to WorkSafeBC. We really appreciate what has been done from the Ministry of Labour, Olga Illich, what she's done in bringing this forth, and there will be a working-alone situation and there will be hopefully barriers in there, whatever it is, but the fact is that we will have to pay before you pump.

THE CHAIR  
(Further remarks)

Thank you very much.

THE CHAIR: Thank you, sir.

So, ladies and gentlemen, that concludes the proceedings from the perspective of individuals who have registered to speak, and generally speaking it's our practice at this point in time, unless there is someone who wishes to come forward, to recess for 10 minutes just to make sure we haven't lost anybody, because we do want to hear from everybody, and then come back to determine whether or not in fact there is anybody else who wants to speak today. So I will recess for 10 minutes, but before I do that, is there anybody else who would like to say a few words?

Then we'll recess for 10 minutes. Thank you.

[SHORT RECESS]

THE CHAIR: So ladies and gentlemen, just for our formal record, I just want to make you aware that I have checked with the desk and no one else has registered. It being 10 to 5:00, I am going to now formally adjourn this session of the public hearing process.

Thank you very much.

[PROCEEDINGS ADJOURNED AT 4:50 P.M.]

[PROCEEDINGS RESUMED AT 7:05 P.M.]

THE CHAIR: So good evening, everyone, on a

THE CHAIR  
(Introductory remarks)

beautiful evening in Kelowna. Thank you very, very much for taking the time to attend this public hearing on proposed amendments to the Occupational Health and Safety Regulation. I really do thank you for being here this evening.

I'm going to first of all introduce this Panel. I'm Roberta Ellis. I'm the Chair of the Panel, and I'm Vice-President of Research and Policy at WorkSafeBC. On my right is Anne Burch, who is the Vice-Chair of the Panel, and Anne is the Director of Prevention Policy and Regulation Review. On my right is Ed Bates, who is General Counsel and Secretary at WorkSafeBC.

And I'd like to introduce Wayne Bilko, our court reporter, and he is taking verbatim notes of our hearing here in Kelowna. The recorded notes are made public after the Board of Directors makes a decision regarding the proposed regulatory amendments.

I repeat the remarks I made in the morning, so I am cautioning everybody that the media is welcome to attend these public hearings, and in fact we have had media at our public sessions, including this morning. They are not here tonight, but I do let everybody know they are welcome to attend public hearings, and so all the comments can be included by media, television and print.

THE CHAIR  
(Introductory remarks)

The purpose of this public hearing is to provide you with an opportunity to comment on proposed amendments to the Occupational Health and Safety Regulation as follows, and I'm going to read the sections into the record:

Part 3, Rights and Responsibilities, relating to occupational first aid; Part 4, General Conditions, with amendments to Part 1, Definitions, Part 20, Construction, Excavation and Demolition, and Part 22, Underground Workings. These amendments relate to terrain stability, avalanche assessment, fills and stockpiles. Part 4, General Conditions, relating to working alone or in isolation; Part 6, Substance-Specific Requirements with amendments to Part 5, Chemical and Biological Substances, and these relate to what we call biohazardous materials; Part 9, Confined Spaces, relating to isolation procedures in confined spaces; Part 11, Fall Protection, and it's just a section of that that relates to stunt workers, for protection of stunt workers; Part 13, Ladders, Scaffolds and Temporary Work Platforms, relating to platforms and fall protection; Part 14, Cranes and Hoists, and we've reviewed this entire part, and there are consequential amendments to Part 1, Definitions, and Part 4, General Conditions; and Part 30, a section

that deals with laboratories and fume hoods.

By way of background, I want to mention that proposed amendments to Part 4, which relate to working alone or in isolation, last year were subject of a request by the Minister of Labour and Citizens Services who asked our Board of Directors, under section 229 of the Workers Compensation Act, to address the issue of prepayment for gasoline at service stations in urban areas during late and early-morning hours. So these proposed amendments were drafted and taken to public hearings in November of 2006, and you'll recollect there was a snowstorm in November and so we had to postpone the remainder of the public hearings to January 2007.

After considering the feedback from these public hearings, the Board of Directors directed that the proposed amendments be revised to apply province-wide and be in effect 24 hours per day, so 24-by-7. As these revisions represent a material change to the original proposals, it is necessary for us to bring them back to a second public hearing, which is what we're doing now.

Stakeholders have been advised of all of the proposed amendments and associated explanatory notes, and they've been placed on our website and sent to over

1,600 stakeholders who subscribe to our E-news service. And you can obviously pick them up at the front desk as well.

So this evening we're here to listen to your remarks. And I usually advise people that I keep my eye on the clock, but we've obviously got plenty of time, and in any case it's very important for us to have people say what they want to say and have us hear them, so we're very generous with time.

If you have written material that you want to leave with us tonight, you can leave it at the front desk with our administrative assistant, Leley Neudorf, or if you want to present a written proposal, you have until Friday, June 29th, 2007, by 4:30 to get that material to us.

The public hearings represent the formal consultation process, and once the hearing process is complete, written and oral submissions are analyzed, the Board of Directors, who are the decision-making body at WorkSafeBC, will have access to all of the submissions before they make their final decision on each proposal. So this is the opportunity of the public and stakeholders to be heard on these issues, and we thank all who took the time to attend for their interest and involvement.

And I would like to call on Mr. Doug De Patie, the father of Grant De Patie, to be our first presenter. Many of you know that Grant De Patie died a very tragic death in 2005 while working alone as a gas station attendant.

Welcome.

FURTHER PRESENTATION BY DOUG DE PATIE ON HIS OWN BEHALF:

MR. De PATIE: Thank you very much.

First of all, Roberta Ellis, Anne Burch and Ed Bates, thank you for the opportunity to speak.

I would like to say, on behalf of the DePatie family, that I'm very happy with the Regulations as they sit. I'm happy with the working-alone regulations and I'm happy with the "pay before you pump" regulations, and I'm also happy with the barriers the way they are written.

I just would like to say that as far as employers go, I think that to avoid the complexity of the working-alone regulations and those sorts of things, that if possible in the gas stations and convenience stores, barriers would be an easier way to go. It is not complex, and the cost, of course, is incurred one time. You put the barriers in and you reap the rewards of them 24 hours a day, seven days a week, for the

Further presentation by Doug De Patie  
(Own behalf)

duration of when these gas stations and convenience stores are open, and I think they give the worker a sense of security. I don't think that the working-alone regulations give them near the sense that barriers do, and I think that they are something visual for criminals to see, as is two people on. There's something, when you look at them, it stands right out to you that the employer cares, and I think as far as due diligence goes, I think the barriers are a much further step as far as showing that and taking those steps. I think it presents that to the worker from the employers.

I think if people are trained in using those barriers and using the working-alone regulations and having this "pay before you pump", those things would have saved Grant's life, had these have been in place and had he been trained. And training would mean using them properly, not just being trained and then not seen to have used them properly. I mean, it has to be in combination with checking on them and making sure they actually do those things and use them, implementation and enforcement of these things. And as we know, enforcement is a very important part of this.

I'd like to thank you very much, and I look forward to seeing these things put in place to save the

Further presentation by Doug De Patie  
(Own behalf)

lives of gas station and convenience store workers, and all other workplaces as well.

Thank you very much.

THE CHAIR: Thanks so much, Mr. De Patie. I appreciate that.

This evening, our second speaker is going to be Mr. Chett Crellin. Do you want to speak now? Thanks, Mr. Crellin.

I just mention that Mr. De Patie and Mr. Crellin have made a point of attending many of our public hearings. Usually, they speak first and last, but this evening they're going to speak one after the other.

Thanks, Mr. Crellin. Mr. Crellin is the grandfather of Grant De Patie.

FURTHER PRESENTATION BY CHETT CRELLIN ON HIS OWN BEHALF:

MR. CRELLIN: Yes. My name is Chett Crellin, and like my son-in-law, I'd like to really thank the Panel, starting with Roberta Ellis, Anne Burch and your general counsel, Ed Bates. And, as a matter of fact, I've listened to you, Roberta, and I am really, really thankful that I've seen a woman that I admire in the way she reaches out, outside of her position. I thank you for that.

I won't go into a big dialogue of things. I'll

Further presentation by Chett Crellin  
(Own behalf)

just reiterate the fact that I, myself, speaking on behalf of the Crellin family and for the De Paties and my grandson, that we've come a long way.

I'm not going to knock any of the things. I support them 100 percent. I know that we have to grow from that. We could sit and pull it apart and put in things and stuff like that, but by golly I think we're in a win-win situation the way things are running to protect those workers.

We can be, in essence, proud of what WorkSafe has done, what the Minister has done. And taking a look at it, we will never lose the memory of my grandson by virtue of the fact of seeing things in place to save the children and grandchildren of other parents and grandparents. And it's only by the grace of God that we're able to do that.

But I will add that as far as barriers, I remember a conversation with the president of WorkSafe, who said that he, too, thinks the barriers were a good thing and he would like to see that. And he was talking to us not in his position of his job; he was talking as a father. I think that was admirable that he shared from his heart how he felt. But having said that, I've enjoyed the support from you folks, and for those who have supported the "pay before you pump", and those who

Further presentation by Chett Crellin  
(Own behalf)

have supported even these last few days the barriers and the working-alone situation.

So I want to thank you very much.

THE CHAIR: Thank you, Mr. Crellin, thank you very much.

So, ladies and gentlemen, I just do want to make you aware that we publicized these hearings quite broadly and have had very good attendance at our first two meetings in Vancouver and also excellent attendance this afternoon. We don't have any other registered speakers, and I'm just going to ask if there's anybody in the audience who does wish to speak, who is here to say a few words.

Then just let me say that our practice in these situations is that while we don't anticipate that there will be other speakers, we always like to err on the side of caution, so what I'm going to do is I'm going to recess the hearing for approximately 10 to 15 minutes and then resume just to give anybody who may have decided to drop in the opportunity to determine whether or not they want to speak before I make a decision about a formal adjournment. But I do just want to make you aware that we have had no other indication of individuals who want to make presentations this evening.

THE CHAIR  
(Closing remarks)

So with that, what I'm going to do is recess for the next 10 to 15 minutes, and then we'll return and we'll make a decision about whether or not we think that there is anybody else who wants to present this evening.

Thank you very much. So we're recessed.

[SHORT RECESS]

THE CHAIR: So, ladies and gentlemen, I have checked with our administrative assistant. In that no one else has registered to speak this evening and no one else has appeared, I am going to adjourn this session of our public hearing and thank everybody who has attended and who has participated for being here.

Thank you very much. We're adjourned.

[PROCEEDINGS ADJOURNED AT 7:35 P.M.]

REPORTER'S CERTIFICATE

I, Wayne M. Bilko, Official Reporter in the Province of British Columbia, Canada, BCSRA No. 290, DO HEREBY CERTIFY:

That the proceedings were taken down by me in shorthand at the time and place therein set forth and thereafter transcribed, and the same is a true and correct and complete transcript of said proceedings to the best of my skill and ability.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 20th day of June, 2007.

Wayne M. Bilko RCR, CRR  
Official Reporter