

PART 4: GENERAL CONDITIONS

ENVIRONMENTAL TOBACCO SMOKE

Controlling exposure

- 4.81** The employer must control the exposure of workers at any workplace to environmental tobacco smoke by
- (a) prohibiting smoking in the workplace, or
 - (b) restricting smoking to ~~designated smoking areas or by other equally effective means.~~ **a safe outdoor location that is a minimum of 3 metres from a doorway, window or air intake of an indoor workplace, subject to section 4.22 (3) of the Tobacco Control Regulation, and**
 - (c) prohibiting workers from working in an indoor area where smoking is allowed under section 4.23 (2) (a) and (b) of the Tobacco Control Regulation, except as permitted in section 4.82 of this regulation.**

Designated areas Exceptions

- 4.82** (1) A designated smoking area provided under section 4.81(b) must be clearly identified to the workforce by signs or other effective means and be a
- ~~(a) safe outdoor location, or~~
 - ~~(b) room structurally separated from other work or break areas.~~
- An employer must ensure that a worker does not work in an indoor area where smoking is permitted under section 4.23 (2) (a) and (b) of the Tobacco Control Regulation unless**
- (a) a worker must enter the area to respond to an emergency endangering life, health or property,**
 - (b) a worker must enter the area to investigate for illegal activity, or**
 - (c) the tobacco smoke has been effectively removed.**
- (2) If necessary to prevent tobacco smoke from entering a workplace, ~~the designated smoking room~~ **an indoor room where smoking is permitted under section 4.23 (2) (a) of the Tobacco Control Regulation** must be provided with a separate, non-recirculating exhaust ventilation system which
- (a) meets the requirements for a smoking lounge specified in *ASHRAE Standard 62-1989, Ventilation for Acceptable Indoor Air Quality*,
 - (b) is designed in accordance with expected occupancy rates,
 - (c) maintains adequate air flows from non-smoking to smoking areas, and
 - (d) discharges directly to the outdoors.
- (3) ~~An employer must ensure that a worker does not work in an indoor area where smoking is permitted except if~~
- ~~(a) the worker must enter the indoor area to respond to an emergency endangering life, health or property,~~
 - ~~(b) the worker must enter the indoor area to investigate for illegal activity,~~
 - ~~(c) the workplace is a public entertainment facility, as defined in section 4.83(1), that conforms to the requirements of section 4.83 and the entry conforms with section 4.83(8), or~~

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~~(d) the tobacco smoke has been effectively removed.~~

**Public
entertainment
facilities**

*"public
entertainment
facility"*

"CFM/person"

4.83 ~~(1) In this section:~~

~~includes a bar, bingo hall, bowling alley, cocktail lounge, restaurant, gambling casino, nightclub or pub;~~

~~means cubic feet per minute per person.~~

~~(2) In a public entertainment facility, areas that are used by the public are exempt from the requirements of section 4.81 if the employer provides a separate place for smoking in accordance with the requirements of this section.~~

~~(3) A separate place for smoking provided under subsection (2) must~~

~~(a) for a public entertainment facility other than a bingo hall, not have a floor space that exceeds 45% of the total floor area that is used by the public;~~

~~(b) for a bingo hall, not have a floor space that exceeds 65% of the total floor area that is used by the public;~~

~~(c) for a public entertainment facility licensed for the service of liquor,~~

~~(i) not have a floor space that exceeds 45% of the total floor area licensed for the service of liquor,~~

~~(ii) not have more than 2 indoor areas in the one facility, and~~

~~(iii) have each indoor area not exceed 80 square metres in size,~~

~~(d) be clearly identified by signs or other effective means, and~~

~~(e) be a safe outdoor location or a designated room structurally separated from other areas.~~

~~(4) A designated room under subsection (3) must be ventilated by~~

~~(a) a non-recirculating exhaust ventilation system,~~

~~(b) an air cleaning system, or~~

~~(c) a combination of a non-recirculating exhaust ventilation system and an air cleaning system~~

~~that meets the following requirements:~~

~~(d) the flow of air is from non-smoking areas to the designated room;~~

~~(e) the air flows in the designated room at a minimum ventilation rate of 35 CFM/person;~~

~~(f) the air only discharges in a manner that does not recirculate or transfer it from a designated room to non-smoking areas.~~

~~(5) If an air cleaning system is used for the purposes of this section, the employer must ensure that the air cleaning system, at a minimum, meets a standard of 95% operating efficiency at 0.3 micrometre particle size.~~

~~(6) For the purposes of this section, a non-recirculating exhaust ventilation system or an air cleaning system must have an inspection and maintenance record that complies with the requirements of this Regulation.~~

~~(7) A workstation must not be located in a designated room to which this section applies.~~

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- ~~(8) For the purposes of this section, no worker must be required to enter a designated room unless section 4.82(3)(a) or (b) applies or~~
- ~~(a) the entries are on an intermittent basis to perform the worker's functions,~~
- ~~(b) for the worker's work period in a 24 hour day, the total of all times that worker spends in the designated room to perform the worker's functions do not exceed 20% of that work period, and~~
- ~~(c) the employer allows the worker to choose~~
- ~~(i) never, except as required under section 4.82(3)(a) or (b), to enter the designated room to perform the worker's functions, or~~
- ~~(ii) for the worker's work period in a 24 hour day, to enter the designated room to perform the worker's functions for a total of all times spent there that is less than 20% of that work period.~~
- ~~(9) For a public entertainment facility licensed for the service of liquor, the employer must ensure that the indoor area is adequately inspected to monitor compliance with the *Liquor Control and Licensing Act* and regulations under that Act.~~
- ~~(10) An employer must not take discriminatory action as defined in section 150 of Part 3 of the *Workers Compensation Act* against a worker who chooses under subsection (8)(c)~~
- ~~(a) never to enter a designated room to perform the worker's functions, or~~
- ~~(b) for the worker's work period in a 24 hour day, to enter a designated room to perform the worker's functions for a total of all times spent there that is less than 20% of that work period.~~
- ~~(11) This section applies despite any other section of this Regulation.~~

[Enacted by B.C. Reg. 3/2002.]

Explanatory Notes:

The Provincial Government has recently amended the [Tobacco Control Act](#) ("TCA") and the [Tobacco Control Regulation](#) ("TCR") to restrict the promotion and sale of tobacco products and to protect employees and the public from the harmful effects of secondhand smoke by banning smoking in all indoor public spaces and workplaces.

The amendments to the TCR will become effective on March 31, 2008, at which time it will be against the law to:

- smoke in fully or substantially enclosed public places and workplaces;
- smoke within 3 metres of most public and workplace doorways and by open windows and air intakes (i.e., buffer zone);
- display tobacco products anywhere tobacco is sold if accessible to youth under 19;
- advertise tobacco using certain methods such as countertop displays, hanging advertisements and self-serve displays where youth have access; and
- sell tobacco in public hospitals and health facilities; public universities and colleges; public athletic and recreational facilities; and provincial buildings.

As of March 31, 2008, it will be against the law to smoke in any indoor public place or workplace. This will affect all establishments in the hospitality sector, such as hotels, restaurants, bars, pubs,

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casinos, bingo halls, and clubs (including legion halls). Designated smoking rooms will no longer be permitted, as per the Occupational Health and Safety Regulation ("OHSR").

The regulations in Part 4 of the OHSR which relate to environmental tobacco smoke in the workplace must, therefore, be amended in order to harmonize the OHSR with the new tobacco laws.

The proposed amendments to Part 4, General Conditions, are intended to harmonize the OHSR with the amendments to the *TCA* and *TCR*.

Proposed amendments to section 4.81(b) are intended to require employers to control the exposure of workers at workplaces to environmental tobacco smoke by restricting smoking to a safe outdoor location that is a minimum of 3 metres from a doorway, window or air intake of an indoor workplace. This restriction is subject to section 4.22(3) of the *TCR* which exempts patios used in conjunction with a public place where food or beverages are being served, and casino and bingo hall patios from the 3 metre buffer zone requirement provided that:

- the patio is not fully or substantially enclosed;
- the doorways are kept closed except to enter or exit the patio; and
- windows or air intakes are closed at all times when the patio is in use.

It is proposed to delete the provision in section 4.81(b) restricting smoking to designated smoking areas in order to harmonize the OHSR with the *TCA* and *TCR* which will ban smoking in enclosed public places.

Section 4.23(2)(a) and (b) of the *TCR* exempts certain persons from the ban on smoking in indoor or enclosed areas. The exemption applies to:

- residents or persons in care of facilities licensed or registered under the *Community Care and Assisted Living Act*,
- patients in extended care facilities or private hospitals; and
- guests registered under the *Hotel Guest Registration Act* who are in their exclusive accommodation.

Proposed new section 4.81(c) will require employers to prohibit workers from working in an indoor area where smoking is allowed under section 4.23 (a) and (b) of the *TCR*, except as permitted by proposed section 4.82.

It is proposed to delete section 4.82(1) as it provides requirements for designated smoking areas, which will no longer be permitted pursuant to the *TCA* and *TCR*. Section 4.82(1) is proposed to be replaced with new section 4.82(1) which lists the exceptions to the requirement in proposed new section 4.81(c).

Proposed new section 4.82(1)(a) is a relocation of section 4.82(3)(a) and allows a worker to work in an indoor area where smoking is permitted where required to respond to an emergency endangering life, health or property.

Proposed new section 4.82(1)(b) is a relocation of section 4.82(3)(b) which allows a worker to work in an indoor area where smoking is permitted where required to investigate for illegal activity.

Proposed new section 4.82(1)(c) is a relocation of section 4.82(3)(d) which allows a worker to work in an indoor area where smoking is permitted if the tobacco smoke has been effectively removed.

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The proposed amendments to section 4.82(2) will remove the reference to “the designated smoking room” and replace it with reference to section 4.23(2)(a) of the TCR, which specifies the only indoor areas where ventilation must be provided.

Sections 4.82(3)(a), (b), and (d) are proposed to be relocated to proposed new section 4.82, which will list the exceptions to proposed new section 4.81(c).

It is proposed to delete section 4.82(3)(c) which provides that a worker may smoke in the workplace if the workplace is a public entertainment facility. This section must be deleted in order to harmonize the OHSR with the new tobacco laws which will ban smoking in enclosed public places and workplaces, including public entertainment facilities.

It is proposed to delete section 4.83 in its entirety; this section provides for smoking in public entertainment facilities, such as bars, bingo halls, bowling alleys, cocktail lounges, restaurants, gambling casinos, nightclubs, or pubs. The amendments to the TCA and TCR will ban smoking in enclosed public places and workplaces, including public entertainment facilities. Therefore, section 4.83 must be deleted in order to harmonize the OHSR with the new tobacco laws.

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