

W1025

Written Presentation to the Policy & Regulation Development Bureau

Introduction

I view an ongoing review and revision of occupational health and safety regulation as an integral part of a responsible process. It ensures that the OH&S regulation keeps pace with current knowledge and accepted practices in the field and allows stakeholders to voice their concerns with regulatory requirements. The concept of performance based OH&S regulation is that the required level of performance is defined and the regulated entities are allowed great flexibility in ensuring compliance with those levels of performance.

In a perfect world the entire OH&S regulation could be reduced to the following:

- an employer is required to carry out regular assessments of the workplace to identify and document all known and potential hazards
- an employer must develop, implement and maintain programs and procedures to eliminate or minimize all identified hazards

However this is not a perfect world and too many workers continue to suffer from injury or illness that could have been prevented. My concern is that too much reliance on performance based regulation without prescriptive minimum standards of compliance will result in confusion, confrontation, widely varying standards of performance and an eventually an increase in the number of incidents.

First Aid

My first comments will address the proposed abolishment of Part 33, Occupational First Aid. I cannot see any possible benefit to employers, workers or regulatory agencies if the first aid regulation is rolled over into Part 3, Rights and Responsibilities. This proposed change causes me to wonder if other parts of the regulation could face the same possible fate in the name of a streamlined regulation. I strongly believe that Occupational First Aid should continue as a distinct part of the regulation as should all parts of the current regulation.

The proposal to require each employer to carry out an annual assessment of the workplace (3.16), then develop and implement written first aid procedures based on the assessment (3.17) is an excellent one and should form the basis of any revision.

The proposal to reduce the time that first aid records must be kept (3.19(2)) from ten years to three should not be considered. It will result in problems for both employers and workers if a claim has to be filed in future years because in most cases the first aid report is the only documentation on seemingly minor injuries or illnesses. First aid records should be retained by the employer for a minimum of ten years as per current regulation.

Proposed regulation 3.21(3) specifies the responsibility of the attendant for first aid treatment and differs from the current 33.24(1) in that there is no reference to relinquishing responsibility for treatment to ambulance or emergency medical assistants. This oversight should be corrected.

The proposal to require review of the first aid regulation (3.22) within five years is an excellent one that should be part of the revised regulation. The review however should

be a tripartite process that involves input from workers, employers, organizations and the board.

I am extremely concerned with the proposal to remove that schedules 1-6 from the regulation and place them in the employer guideline, a non-mandatory document. The tables in Schedule 1 specify the hazard classification requirements for first aid attendants, supplies and facilities. The other schedules specify the minimum requirements for supplies in first aid kits, treatment areas and vehicles. Is BC to become the only Canadian jurisdiction without specified minimum standards for first aid services and supplies? These schedules must remain in the regulation as a minimum acceptable standard for supplies and equipment.

The proposal to categorize workplaces as either “low risk” or “not low risk” instead of retaining the current A (high), B (moderate) and C (low) hazard categories is not going to simplify the regulations. The only thing it will do is to force the majority of B category employers into the “not low risk” category. This will require them to increase their levels of first aid delivery when it is not required. I believe that the three category system that would allow an employer to classify themselves as a moderate hazard operation based on the workplace assessment should be retained.

The Employer Guideline is identified as a document providing non-mandatory recommendations which employer may choose to follow or ignore. The Attendant and Agency Guidelines are not identified as recommendations and would appear to be more regulatory in nature, if this is the case these guidelines should be retained in the revised regulation instead of published as a separate document

Occupational Exposure Limits

I will now turn to Part 5 and express some concerns regarding the proposal to replace Table 5-4 Exposure Limits and Designations, currently found in the regulation and adopt the 2002 edition of the ACGIH publication Threshold Limit Values and Biological Indices to specify exposure limits. The ACGIH publication is revised and reissued every one or two years and will have to be purchased on a regular basis at a cost of approximately \$55 Canadian to keep abreast of current values. What does the proposed change accomplish other than remove the values from the regulation and reference an outside standard?

In addition Table 5-4 contains a number of substances which are not listed in the ACGIH publication as well as lower exposure levels for certain substances. The proposed revision would allow the WCB to identify these substances in a smaller version of Table 5-4 which will result in employers having to maintain two publications listing exposure limits.

A quick check of regulations indicate that four other provinces and the territories have set their own exposure limits in regulation as BC has rather than rely on outside standards such as the ACGIH publication.

I strongly recommend that Table 5-4 be retained to ensure that employers and workers can readily refer to the permissible concentrations of hazardous substances. The exposure limits should be reviewed by the board and other involved parties at this time and on an ongoing basis to determine if exposure levels should be reduced.

In the event the ACGIH publication does become the standard in BC I a smaller version of Table 5-4 must be retained for substances that are not listed in or have lower exposure limits than the ACGIH publication.

A final comment is that the ACGIH publication also provides standards that provide exposure limits for heat stress, cold stress and other physical hazards. In the future will these exposure limits replace the exposure limits referenced in other parts of the OH&S regulation?

Duplication of Requirements

My only comments on the proposal to eliminate duplication in the regulation will deal with the references to training and external /internal standards. The suggestion that because the responsibility for training and instruction are referred to in Section 115(2)(e) of the Workers Compensation Act and Part 3.3(g) of the OH&S Regulation there is no need to make any further reference to training in other regulations is not reasonable.

When employers and workers refer to specific regulations they must be reminded of the training requirements instead of hoping that they will realize that the general duty clause requires adequate training and instruction in all areas of the regulation. Retain the specific references to training and instruction throughout the regulation to ensure that everyone is aware of the specific need to train and instruct.

The same concern applies to external and internal standards, removing references to these standards in the belief that employers and workers already realize these standards apply in the workplace is going to result in confusion, confrontation and

increased incidents of violations. Retain references to external and internal standards currently referenced in regulation.

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