

Occupational Health and Safety (OHS) Regulation and Code Amendments

Technical Briefing

May 22, 2018

Agenda

- *Occupational Health and Safety Act* prompted changes
- Stakeholder consultation
- OHS Regulation amendments
 - Joint work site health and safety committees (HSC) and health and safety representatives (representatives)
- OHS Code amendments
 - Harassment
 - Violence
 - Joint work site health and safety committees and health and safety representatives
 - Workplace Hazardous Materials Information System
- Administrative Amendments
- Implementation

Occupational Health and Safety Act

- The new OHS Act sets a framework for HSC and representatives, and prevention of workplace harassment and violence
 - HSC and representatives will now be required for work sites of a certain size
 - Employers and supervisors are responsible to prevent harassment and violence and workers to refrain from these activities

Regulatory Changes

- Additional detail is now provided in regulation to clarify how employers will meet their new responsibilities
 - Prevention of and addressing workplace harassment and violence
 - HSCs and representatives' functions, approvals and training
- Regulatory updates also include:
 - Workplace Hazardous Materials Information System (WHMIS) 2015 changes
 - Administrative amendments to align the OHS Regulation and OHS Code with the new OHS Act

Stakeholder Consultation

Consultation Summary

- Consultation was open to Albertans from March 12 to April 9, 2018
- Received 132 written submissions from employers, workers and OHS professionals. General comments include:
 - Desire for government to provide resources such as guidelines, approved training resources and templates
 - Important to balance protection of privacy with OHS, communication of threat assessments, H&S records

Changes to the OHS Regulation

Roles and Responsibilities of Work Site Parties

- The new OHS Act introduced the supervisor as a work site party
- Requirements for the use of personal protective equipment should align with roles and responsibilities in the new OHS Act
- If a worker must use or wear specific equipment, the employer and supervisor must ensure that they do so
 - This is a ticketing provision, employers and supervisors could receive OHS violation tickets in case of infraction

HSC and Representatives

- The new OHS Act requires HSC members and representatives to receive training
- The Minister will establish the curriculum to train HSC co-chairs and representatives which includes:
 - Roles and responsibilities of work site parties
 - Rights of workers
 - How the designated organization will address the legislative responsibilities of workers and employers in training delivery
 - Balanced delivery

HSC and Representatives

- The OHS Act allows an employer to apply for an approval to vary from the HSC or the designation of a health and safety representative legislative requirements
- For an application, the employer must provide:
 - Name and contact information
 - Numbers of workers at work sites
 - Type and nature of work
 - Number and nature of injuries or incidents reported and investigated during past year
 - Proposed procedures for workers to communicate issues
 - Proposed alternatives to a HSC or representative
 - Proposed work site inspection schedule
 - Documentation showing support from workers

HSC and Representatives

- Criteria added for a Statutory Director to consider when deciding if an approval may be issued:
 - Information provided by the employer
 - The effect an approval could have on the health and safety of a worker or other person
 - Relevant history of compliance or non-compliance with the OHS legislation
 - Any other criteria considered appropriate
- If an approval is issued and there are subsequent changes to the information, the employer must notify the Director of those changes in writing

Changes to the OHS Code

Health and Safety Committees and Representatives

HSC and Representatives

- HSC must establish a terms of reference with the following elements:
 - Representation of health and safety concerns by membership
 - Process for replacing a member during their term of office
 - Dispute resolution process when a committee fails to reach a consensus on making a recommendation to the employer, prime contractor or owner
 - Processes for coordinating with other HSC established by the employer
- HSC must inspect each work site at least once before each quarterly committee meeting to identify hazards that have not been controlled
- HSC, its members or representative must not disclose a worker's personal health information or any other personal information unless required by law

HSC and Representatives

- Employers, contractors and prime contractors must:
 - Consult and cooperate with HSC and representatives to develop OHS policies, procedures and codes of practice
 - Provide members of committees and representatives with reasonable opportunity to inform workers on OHS matters
 - Ensure that HSC and representatives are allowed to examine records, policies, plans, procedures, codes of practice, reports or manufacturer specifications
 - Distribute to HSC and representatives any information or documents addressed to them as soon as reasonably practicable

HSC and Representatives

- Where feasible, OHS officers conducting inspections of work sites must request a HSC co-chair who represents the workers or the co-chair's designate, or a representative be present at the inspection
 - The employer must provide that person with time away to attend the inspection

HSC and Representatives Training

- The new OHS Act requires HSC co-chairs and HS representatives to be allowed 16 hours or two shifts for training for their roles
- Employers and prime contractors must use an organization approved by the Minister for the required training for HSC co-chairs, members and representatives
- Training criteria and a list of approved providers are under development and will be posted online when available
- Information on how to become an approved trainer will be available soon

HSC and Representatives Training

- Free introductory 2-hour course for co-chairs and representatives developed in partnership with the Canadian Centre for Occupational Health and Safety
- Available at: <https://www.ccohs.ca/distributors/alberta/>
- Participants will receive a certificate and a two hour credit toward their mandatory training requirements
- Facilitated learning will be approximately 6 hours

Violence and Harassment

Violence

- Employers must develop and implement a workplace violence prevention plan with their HSC or representative if in place, or if there is none, then with affected workers
- The plan must include policy and procedures
- The violence prevention policy must include set statements:
 - The employer is committed to addressing violence
 - Incidents will be investigated and corrective action taken
 - Confidentiality of information will be maintained
 - Policy is not intended to discourage workers from exercising other rights under law

Violence

- Violence prevention procedures must include:
 - Measures to eliminate or control violence hazards
 - Information about the hazard in the workplace
 - How to disclose information on hazards of violence
 - How a worker can obtain immediate assistance when incidents occur
 - Reporting of incidents
 - Documentation and investigation of incidents
 - Informing affected parties of the outcomes of investigations

Violence

- Provisions were also added to Part 27 as a result of Bill 19, *An Act to Protect Gas and Convenience Store Workers*
 - A violence prevention plan is required with prescribed elements
 - Workers must be trained on the plan
 - Workers who work alone must wear a personal emergency transmitter
 - Customers must prepay for fuel (alternatives may be approved by a statutory Director)

Domestic Violence

- The definition of violence under the new OHS Act includes domestic violence
- The employer must take every reasonable precaution to protect workers and any other persons at the work site likely to be affected by domestic violence that comes into the workplace

Harassment

- Employers must develop and implement a workplace harassment prevention plan with their HSC or representative if in place, or if there is none, then with affected workers
- The plan must include a policy and procedures
- The harassment prevention policy must include the following:
 - The employer is committed to eliminating or controlling harassment
 - Harassment incidents will be investigated and corrective actions taken
 - Confidentiality of information will be maintained
 - Policy is not intended to discourage a workers from exercising rights under any other law, including the *Alberta Human Rights Act*

Harassment

- Harassment prevention procedures must include:
 - How workers report incidents
 - Documentation, investigation of incidents by the employer and prevention procedures
 - Informing affected parties of the outcomes of investigations

Harassment and Violence

- Employers must review the prevention plans in consultation with the HSC, representative, or affected workers, as appropriate
- The review must take place on the earliest of:
 - When an incident occurs
 - If the HSC or representative recommend a review, or
 - Every three years

Harassment and Violence

- Employers must ensure workers are trained in
 - Recognition of harassment and violence
 - Policies and procedures and workplace arrangements the employer has developed
 - Appropriate response to incidents, including procedures for obtaining assistance
 - Procedures for reporting, investigating and documenting incidents

Harassment and Violence

- Employers must advise a worker reporting an injury or adverse symptom resulting from an incident of violence or harassment to consult a health professional of the worker's choice for treatment or referral
 - Workers are advised to access their benefits from the Workers' Compensation Board or the Employee and Family Assistance Program through the employer
- If a worker receives treatment for work related violence or harassment, the employer must not make a deduction from the worker's pay or benefits for the time during which a worker attends the session

WHMIS



Workplace Hazardous Materials Information System (WHMIS)

- Federal WHMIS legislation was changed in 2015
- WHMIS legislation is both federal and provincial:
 - WHMIS legislation for suppliers of chemicals is the federal *Hazardous Products Act (HPA)* and Hazardous Products Regulation which are administered by Health Canada
 - Alberta employer and workplace requirements for WHMIS are specified in Part 29 of the OHS Code
- The changes in the OHS Code align Alberta with the requirements for WHMIS 2015 that have been adopted in the rest of Canada
- For more information: WHMIS.org

Administrative Amendments

Administrative Amendments

- Repeal of provisions in the OHS Regulation and Code that were moved to the OHS Act, such as definitions.
- Changes to ensure consistency with terminology and context in the OHS Act as well as ensuring language aligns with the new provisions.
- Amending provisions for acceptances and approvals to align with sections 55 and 56 of the new OHS Act (for example, some existing approvals are now acceptances)

Implementation

Implementation

- The OHS Regulation and OHS Code changes come into force on June 1, 2018 along with the new OHS Act
- Information materials are being developed to include templates where appropriate
- OHS officers will work with employers ensuring changes have been successfully implemented. Officers will:
 - assess the level of risk associated with any outstanding issues
 - set reasonable timelines to improve any outstanding OHS requirements
- Resources will be available on the Alberta Labour website:
alberta.ca/occupational-health-safety

Thank you

Questions?