

March 19, 2007

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RE: Suggestions for OH&S Code Changes

Dear Mr. Hample,

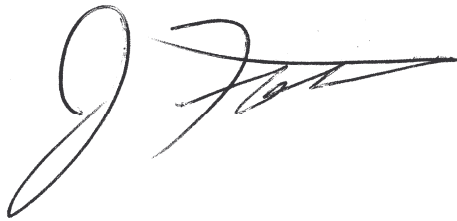
Attached please find a proposal for changes to the Occupational Health and Safety Code, submitted by the Alberta Federation of Labour. I trust they are presented in time and in a format to allow them to be considered in the next round of Code review.

The AFL has decided, rather than make a long list of suggestions, to select 10 issues that we believe require attention as soon as possible. They are summarized on the attached table. The table offers the current Code section, a draft of possible wording to amend the Code and a short rationale for the suggestion.

In the interests of brevity, I have only provided a brief rationale for the proposals. If you require more detailed explanations, please feel free to contact me. I will be happy to provide more information.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jason Foster', written over a light blue horizontal line.

Jason Foster
Director of Policy Analysis

Enclosure: AFL Proposals for 2008 OH&S Code Review

AFL Proposals for 2008 OH&S Code Review

March 2007

Existing Section	Proposal	Rationale
Part 4 Chemical Hazards	<p>Replace 16(1) and (2): 16(1) An employer must ensure that a worker's exposure to any substance listed in Schedule 1, Table 2 is kept as low as reasonably achievable (2) an employer, under no circumstances, will exceed the exposure limit listed in Schedule 1, Table 2 (3) if a harmful substance is not listed in Schedule 1, Table 2, the employer shall ensure a worker's exposure to that substance is kept as low as reasonably achievable. (4) an employer must provide, in writing, to affected workers, and make available to a Occupational Health and Safety Officer upon request, the steps taken to meet obligations under 16(1) to 16(3)</p> <p>Renumber remaining subsections</p>	<ul style="list-style-type: none"> • Current wording of section 16 does not properly clarify the employer obligation. Many employers believe they only have to meet the OEL in the table. Part of the problem is the term "reasonable practicable". • The issue of occupational disease is the single largest growing issue in health and safety. Years of exposure to harmful chemicals have created hundreds of reported diseases and fatalities. We need to strengthen protections around chemical hazards – and we need to lower the level of exposure to every hazardous substance. The way to do this is to more rigidly enforce the ALARA principle. • Intent of new wording is to explicitly insert the principle of ALARA into the Code, which is to put the OELs in a secondary role of firm ceiling. However, employers should be striving to keep exposure as low as possible. • The employer should also have to demonstrate to workers how they determined what was reasonably achievable.
Part 4 Chemical Hazards	<p>Insert: 16-1 If a worker is exposed in the workplace to a substance that has been classified by the International Agency for Research on Cancer (IARC) as Group 1 (carcinogenic to humans), Group 2A (probably carcinogenic to humans) or Group 2B (possibly carcinogenic to humans), the employer must inform the worker of the substances classification and provide information about the nature of the risk of cancer to the worker.</p>	<ul style="list-style-type: none"> • Occupational disease is rapidly becoming one of Canada' biggest health and safety issues. In particular, long term exposure to carcinogenic substances is a growing concern for workers. • Citizens are becoming increasingly aware of the risks of cancer in their environment and lifestyle choices. Exposure to workplace carcinogens is part of that desire to know. • The proposal will extend the right to know, which is well established in H&S law, to the right to know specifically about risks of cancer. Workers should have the right to know the nature of the risk the face from particular exposures.
Part 9 Fall Protection	<p>Replace section 139 with: 139(1) An employer must ensure that workers use a fall protection system at a temporary or permanent work area if a. a worker may fall 3 metres or more, or b. there is an unusual possibility of injury if a worker falls less than 3 metres 140 (2) for the purposes of this section, there is an unusual possibility of injury if the injury may be worse than an injury from landing on a solid, flat surface</p>	<ul style="list-style-type: none"> • Current wording does not reflect a hierarchy of controls. This is inconsistent with the general control hierarchy in Part 2. • The proposed wording aims to require a handrail before moving to fall protection, and to ensure travel restraint before fall arrest. This would more accurately reflect the desirable order of protection for workers. • The proposal keeps the requirement for fall protection above 1.2 m, as is the case in the current section.

	<p>(3) to meet obligations under subsection (1), the employer must erect a guardrail conforming with section 315</p> <p>(4) if subsection (3) is not reasonably practicable, the employer must ensure a worker uses travel restraint system that meets the requirements of this Part</p> <p>(5) if a travel restraint system is not reasonably practicable, the employer must ensure a worker uses a fall arrest system that meets the requirements of this Part</p> <p>(6) if a fall arrest system is not reasonably practicable, the employer must ensure a worker uses an equally effective means that protects the worker from falling that is approved by the Director of Inspection</p> <p>(7) a worker must use or wear the fall protection system the employer requires the worker to use or wear in compliance with this Code</p> <p>140 (1) if the work area is a permanent work area, an employer must protect a worker from falling by a guardrail if the worker may fall a distance greater than 1.2 metres and less than 3 metres</p> <p>(2) if a guardrail is not reasonably practicable, the employer must ensure a worker uses a fall protection system that protects the worker from falling</p>	
Part 14 Lifting and Handling Loads	<p>Rename: Musculoskeletal Hazards</p> <p>Add:</p> <p>207 An employer must take all reasonably practicable steps to eliminate, or if not reasonably practicable, reduce the risk of musculoskeletal injury (MSI) to workers</p> <p>208 Risk of MSI is considered a hazard for the purposes of Part 2</p> <p>209 If the hazard assessment identifies a risk of MSI, the employer must:</p> <ol style="list-style-type: none"> inform the worker of the nature and extent of the hazard immediately implement interim control measures until permanent controls can be introduced implement permanent controls to eliminate the risk, in accordance with Part 2 <p>Renumber remaining sections</p>	<ul style="list-style-type: none"> There are two shortcomings in the existing wording. <ol style="list-style-type: none"> It focuses too much on lifting and handling loads, when such activity is only one source of MSI. By broadening the scope, we allow for prevention of MSI due to other factors, such as work station design, repetitive work or awkward body movement. the new wording clarifies employer obligations in the area and clarifies that controls must follow the hierarchy of controls laid out in Part 2.
Part 16 Noise Exposure	<p>Add:</p> <p>218-1 If a worker is or is likely to be exposed to noise exceeding 80dBA, but not exceeding 85dBA, the employer must:</p> <ol style="list-style-type: none"> inform the worker about the hazards of the level of noise, and on the request of the worker, provide hearing protection in compliance with section 222 	<ul style="list-style-type: none"> If noise levels are close to regulatory level for action, provides worker with the right to know about the hazard and provides the option to use hearing protection. Not all humans sensitivity to hearing is equal. Some individuals can experience hearing loss at lower noise thresholds, especially over long periods of time. Workers should be allowed the option of protecting their hearing in cases of marginal exposure levels.
Part 27 Violence	Amend:	Fills in missing elements from existing sections.

	<p>390 An employer, in <i>consultation with affected workers</i>, must develop a policy and procedures respecting potential workplace violence.</p> <p>Add: 391 the employer must ensure, so far as is reasonably practicable, that no worker is subjected to violence in the workplace</p> <p>392 If the hazard assessment performed under Part 2 identifies a risk of violence, the employer must inform affected workers about the risk, and provide information about:</p> <ol style="list-style-type: none"> a. the nature and extent of the risk b. the risk of violence from whom the workers are likely to encounter in the course of their work <p>Renumber existing sections</p>	<ul style="list-style-type: none"> • Ensures the employer develops the anti-violence policy in partnership with workers. This is an important principle throughout the Code. • Makes explicit that an employer has a specific obligation to do what they can to prevent workplace violence • Ensures workers know the nature and extent of the risk of violence they face. This is consistent with the right to know.
Part 28 Working Alone	<p>Amend: Title: Working Alone or in isolation 393(1) this part applies to a worker who:</p> <ol style="list-style-type: none"> a. is the only worker for that employer at a work site and is not directly supervised by the employer or designate (working alone), or b. there is no assistance readily available in the event of emergency, injury or illness (working in isolation) <p>(2) Working alone or in isolation is a hazard for the purposes of Part 2.</p> <p>Replace 394 and Add: 394 The employer shall inform an affected worker, before they work alone or in isolation, of the hazards associated with the work and any procedures in place to prevent or reduce the hazards; 395(1) no worker shall be compelled to work alone or in isolation if they feel their safety is at undue risk; (2) if a worker feels their safety is at undue risk, the employer shall take all reasonable steps to reduce the identified hazards, and communicate those steps to the worker (3) if the worker continues to feel their safety is at undue risk, the employer shall assign the worker to other duties, with no reprisal or punishment 396 For any worker working alone or in isolation, the employer must</p> <ol style="list-style-type: none"> a. develop and implement procedures to eliminate or reduce the hazards identified to workers working alone or in isolation b. provide an effective outbound communication system consisting of <ol style="list-style-type: none"> i. radio communication ii. telephone or cell phone communication iii. other effective electronic communication c. provide a system of regular contact by the employer or designate at intervals appropriate 	<ul style="list-style-type: none"> • The current working alone provisions have proven to be inadequate to effectively prevent accidents and tragedies due to working alone. They need to be strengthened to properly protect workers. • The changes are intended to do the following: <ol style="list-style-type: none"> 1. explicitly acknowledge that “working alone” consists of hazards that appear in two types of situations – being the only worker in a worksite AND being removed from available assistance. In either situation, hazards appear. The current wording requires both situations to be present. 2. adds additional obligations to inform workers of hazards 3. no worker shall be forced to work alone or in isolation if they feel at undue risk. This conforms to the principle that no worker should be placed in unsafe working conditions against their consent. 4. fixes a problem with the communications requirement. To protect workers, both outgoing communication and check-ins are required. If a worker is unconscious, a cell phone is no good to them. <p>provides the minister the option of banning working alone if a situation warrants it, which is a necessary step in some circumstances.</p>

	<p>to the nature of the hazards associated with the worker's work</p> <p>397 The Minister may, through Ministerial Order</p> <ol style="list-style-type: none"> a. designate an industry, occupation or worksite to require at least two workers to be present at a worksite at all times b. place restrictions on times, conditions or circumstances in which working alone or in isolation will be allowed in an industry, occupation or worksite. 	
Farming and Ranching Exemption Regulation	REPEAL	<ul style="list-style-type: none"> • While not strictly a part of the OH&S Code, it has significant impact on the application and enforcement of the Code. • The regulation exempts some of the most vulnerable workers from basic health and safety protection. It is a creature of a previous era, and an updating of health and safety regulations requires that it be repealed, to allow all workers protection by the Code.
NEW	<p>Create new Section on Harassment:</p> <p>1 the employer must ensure, so far as is reasonably practicable, that no worker is subjected to harassment in the workplace.</p> <p>2 an employer must develop and implement, in consultation with affected workers, a written policy and procedures to prevent harassment in the workplace, which must include:</p> <ol style="list-style-type: none"> a. a process for how a worker makes a complaint, with anonymity guaranteed b. an investigation process to be followed c. indication that the worker has a right to file a complaint with the Human Rights commission or pursue other legal action d. education on what is harassment and how to spot harassment <p>3. Harassment is defined as: unwelcome verbal or physical conduct because of race, religious beliefs, colour, place of origin, gender, mental or physical disability, ancestry, marital status, family status or source of income.</p>	<ul style="list-style-type: none"> • It is becoming increasingly clear that harassment at work, either from other workers or from the public, is a major source of stress, mental anguish and physical strain. • The studies are very clear that harassment can lead to a variety of health effects. This makes it a health and safety issue. • While harassment is covered by human rights legislation, so are many other workplace issues covered by the H&S Code. The purpose of adding harassment to the Code is to create a workplace-centred process for preventing and addressing harassment, and, more importantly, preventing the worker health effects of harassment. • A number of jurisdictions have included harassment in their H&S regulations.
NEW	<p>Add new part on environmental tobacco smoke</p> <ol style="list-style-type: none"> 1. An employer must prevent the exposure at any workplace to environmental tobacco smoke by <ol style="list-style-type: none"> a. prohibiting smoking in a work site, and b. prohibiting smoking within 10 metres of any entrance to a work site, or of any air intake to a worksite 	<ul style="list-style-type: none"> • A complete ban on smoking in the workplace is long overdue. The current Smoke Free Places Act is insufficient, for it provides too many exemptions. • Exposure to second-hand smoke is a serious occupational health and safety issue, and therefore needs to be addressed in the OH&S Code