

Alberta's New Health and Safety Code Highlights and "Low Lights"

January 2004

After 5 years of revision and consultation, the Alberta government recently passed its first overhaul of the Occupational Health and Safety Regulations in 20 years. The new rules will take effect on April 1, 2004. The changes are extensive and wide ranging. Below are some of the more important changes.

CODE VS. REGULATIONS

The bulk of the rules governing health and safety now belong under what is called the OH&S Code. The Code will act the same as the nine regulations previously. It has the same weight in law as the regulations did. What has changed is that future amendments do not have to be approved by Cabinet. The Minister, by themselves, can pass changes to the health and safety rules. They can do so only after a public consultation, but the AFL remains concerned the process is too easy and could be manipulated by employers.

OVERVIEW

1. The Code is written in plainer English than the old regulations. This makes the rules easier to read.
2. In many places the Code only requires an employer to establish a code of practice, rather than meet specific requirements. A code of practice is not a legal document, and can be seen as a policy. This is a weakening of the regulations.
3. The Code comes with a detailed explanation guide to assist employers and workers in complying with the rules.
4. There are many new sections and new areas of coverage that did not exist before. These are positive steps.
5. Whenever an external standards body was referenced (e.g. ANSI, CSA, etc.), these were automatically updated to the most recent standard. It ensures up-to-date requirements.

Note: Not all changes are included below, but only those deemed significant by the AFL.

THE OH&S REGULATION

- Section 8 requires employer to inform workers in writing of any health and safety procedures, plan or report they are required to implement under the Code.

THE OH&S CODE

Part 1: Definitions

- Many changes, but relevant to other sections of the Code. Look up specific words for new definitions.

Part 2: Hazard Assessment, Elimination and Control

- Sections 7-8: More detailed requirements about hazard assessment, including requirements for repeating it and guarantees of worker participation. Stronger wording to make assessments a more serious tool for workers.
- Section 9: Hierarchy of controls is implemented. Employers must first use engineering controls, then administrative controls and only if these are not practicable then require PPE. This is a big improvement, as now an employer has to justify the use of PPE, rather than rely on them first.
- Section 11: An employer can be required by a Director of Inspections to write a health and safety plan for their workplace. The AFL attempted to make H&S Plans mandatory for all workplaces, but met with stiff employer resistance.

Part 3: Specifications and Certifications

- Nothing significant

Part 4: Chemical, Biological Hazards

- Section 18: Calculates the OEL (occupational exposure limit) for shifts longer than 8 hours.
- Section 19: any person may apply to the Director of Inspections for a specific OEL to be reviewed.
- Section 26: Codes of practice now required for designated substances, including asbestos, lead, benzene, arsenic, etc.
- Section 41: An exposure control plan is now required for lead.
- OEL Tables: Hundreds of changes. Most reflect internationally accepted levels of exposure, however some have been intentionally left higher than accepted levels. These substances include coal dust, cobalt, formaldehyde, ozone, propane, styrene and wood dust. All are at significantly higher levels than they should be. The AFL opposed these exceptions, arguing for tighter restrictions on these substances, which are some of the most dangerous in Alberta.

Part 5: Confined Spaces

- More detailed requirements for confined space entry generally. Requires written codes of practice and a full hazard assessment.

- Introduces a new entry permit system that requires a completed permit for each worker before they enter a confined space.

Part 6: Cranes

- Specific changes, including new requirement for annual load testing.

Part 7: Emergency Preparedness and Response

- NEW PART
- Employers must have an emergency response plan in place and have designated workers (who are trained) who will supervise evacuation and provide rescue.

Part 8: Entrances, Walkways, Stairways, Ladders

- 119: a secondary escape route is now mandatory if a worker could be trapped.
- New requirements for handrails on stairways.
- Fall protection is required on portable ladders higher than 3 metres.

Part 9: Fall protection

- This part has been substantially overhauled. Anyone who needs to use fall protection at their work should consult the new code.
- Flat roofs and structural iron work are no longer exempt from requirements
- Distance where fall protection required is lowered to 3 metres (from 3.5 metres).

Part 10: Fire and Explosion Hazards

- 162: No one may work in an area if more than 20% of the lower explosive limit of any substance is present.

Part 11: First Aid

- No significant changes. Some sections have been moved to other areas (such as chemical hazards) where they fit better.

Part 12: General Safety Precautions

- Sections on general safety are now more detailed. In particular rules regarding vehicle traffic control, signalers and working on ice are more specific.

Part 13: Joint Worksite Health and Safety Committees

- The list of worksites where Joint Committees are mandatory has been repealed. So, no workplace in Alberta is required to have one by law. The AFL fought to make joint committees mandatory at all workplaces, but employers won the fight.
- The minister has the right to order a mandatory committee on any workplace, but has not done so yet.
- This means the regulations governing structure and process of joint committees in the Code do not apply to anything. (Any workplace with a voluntary committee is not bound by the Code).

Part 14: Lifting and Handling Loads

- NEW PART
- 208: employer must provide, where reasonably practical, equipment for lifting and handling heavy or awkward loads. The section is vague on what the equipment must be, but it sets up a requirement that heavy loads should not be lifted manually, which can be used by workers as a new tool for safety.
- 211: Allows for reporting of musculoskeletal injuries to ensure that lifting tasks do not cause further injury.

Part 15: Locking Out

- New tagging system in place. Group lock outs are now allowed. Warning tags are now optional, but enhanced requirements in place for identification tags on locks.

Part 16: Noise Exposure

- New exchange rate is 3dB (from 5dB). This means the allowable exposure to noise drops more quickly as then noise increases. The AFL considers this a step forward.
- 217: Any new design of work process, machines or buildings must ensure noise is controlled to below 85dBA. This means changes to work must have engineered noise control to prevent noise exposure in the first place. This will help in the future as workplaces change.
- 221: If workers are noise exposed, the employer now must implement a noise management program to address education, minimizing exposure, and testing of workers.
- 223: Employer must pay for audiometric testing.

Part 17: Overhead Power Lines

- Made to be consistent with the Electrical Utility Code.

Part 18: Personal Protective Equipment

- Generally this part is more fleshed out, with greater detail about specifications on PPE.

- 230: New rules around contact lenses. If they are found to be a hazard, they should not be worn.
- 232: new requirements for flame resistant clothing.
- 233: Footwear specifications are expanded.
- 235: New rules making specific headgear mandatory for bicycles and inline skates on worksites.
- 236: More detailed rules regarding appropriate head protection on ATVs.
- 244: Oxygen is now measured as percent per volume when determining if respiratory protection is needed. This does not change the levels when protection needed, but better accounts for differences in altitude.

Part 19: Powered Mobile Equipment

- 256: outlines operator responsibilities before and during operation
- 269: New requirements to protect workers from flying objects that may enter the cab of the vehicle
- 270: Riding lawnmowers over a certain size now must have rollover protection
- 272: new requirements for Falling Object Protective Structures in certain circumstances. This is to protect against things falling on the operator of the vehicle.
- 276: a ban on workers riding on loads.
- 280-82: new rules around ATVs. This is a new section. Three-wheeled ATVs are banned and there are now limits on types of slope and terrain they can be used on.

Part 20: Radiation Exposure

- NEW PART
- Basic rules requiring prevention and protection from radiation exposure. Significance is that for the first time, radiation is named as a specific hazard to be controlled.

Part 21: Rigging

- Generally minor, technical changes to this section
- New criteria for rejecting synthetic fibre slings

Part 22: Safeguards

- Only minor changes to this part

Part 23: Scaffolds and Temporary Work Platforms

- 326: New tag system and inspection requirements. Three colour system (red, yellow and green) for all scaffolds. Tags expire after 21 days and scaffold must be re-inspected.

- 349: New requirements for fork-mounted work platforms, including having someone at the controls of the forklift, proper toe boards, etc. It also bans workers being on the platform when the forklift is in motion.

Part 24: Toilets and Washing Facilities

- No significant changes

Part 25: Tools, Equipment and Machinery

- New sections governing saw blades and saws. Establishes a chart for when blades must be replaced.
- New sections governing robots. This is a new section to ensure no worker can be harmed by the operation of a robot.

Part 26: Ventilation Systems

- This part has been overhauled. There is a new approach to the regulation. First, it indicates when ventilation is mandatory. Then it states requirements for the design of the ventilation. It then requires employers to act immediately if the ventilation system is not working properly.

Part 27: Violence

- NEW PART
- Defines violence as a safety hazard. Requires employers to do a hazard assessment, to develop policies and procedures, to educate workers, and to respond to incidents by treating it as a serious injury and advise the affected workers of their right to consult a health professional of their choice. The AFL was central in getting this topic on the table and included in the Code.

Part 28: Working Alone

- No changes from amendment passed in 2000.

Part 29: WHMIS

- 398/404: A substance cannot be on the workplace for more than 120 days without an MSDS being readily available for workers. Before there was no limit.
- 406: MSDS must be less than three years old. Employer must ensure MSDS are up-to-date.

Part 30: Demolition

- This part has been re-organized and more detail provided.

Part 31: Diving

- NEW PART
- Harmonized with other provinces' regulations on commercial diving operations.

Part 32: Excavations and Tunneling

- 442: A new definition of soil types. Soil is now either "hard and compact", "likely to crack or crumble", or "soft, sandy or loose". Clear definitions provide means for determining soil types.
- New rules around dealing with buried facilities, entry points to excavations and the size of slope required for each soil type.

Part 33: Explosives

- Minimum separation distance tables have been changed, moving to an external standard (NFPA).
- Changes to specific sections, such as allowing pre-priming for avalanche control and new requirements for oil well blasting.

Part 34: Minor changes.

- Allows logging trucks to exceed manufacturer's maximum load weights. The AFL opposed this section.

Part 35: Health Care

- NEW PART
- This new part acknowledges for the first time the specific hazards related to health care and biological hazards. While the wording is general, and the part is short, it is a good beginning for health care. Rules address handling sharps and handling other biological materials.

Part 36: Mining

- Minor changes (no pun intended).

Part 37: Oil and Gas Wells

- Few changes of significance.
- 751: There are now minimum competency requirements for supervisors on drilling operations

- 759: as in logging, rig trucks are allowed to exceed the manufacturer's maximum weight specifications. The AFL opposed this section.

Part 38: Residential Roofing

- NEW PART
- This part is temporary. It expires on April 30, 2007, when fall protection sections apply fully to this industry. This was a compromise with the industry to eventually get them to operate at same safety level as other industries, but to give them some transition time. The AFL advocated making fall protection provisions apply immediately.
- Allows for slide guards as fall protection, depending on the slope of the roof.
- Must have daily inspection of roof.

Part 39: Tree Care

- NEW PART
- A new section dealing with work on trees (pruning, cutting, etc.) when the worker relies on the tree for support.
- Employer must implement procedures and practices for this type of work.
- Allows exemption from fall protection, but requires a work positioning system as a minimum level of protection.