

# 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](http://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](http://alberta.ca/occupational-health-safety)

**Thank you**

**Questions?**