



Modernization of the *Workers' Compensation Act and Occupational Health and Safety Act*

Acts modernization public open houses

This is a summary of the feedback received on topics raised by participants at the public open house sessions in Whitehorse, Haines Junction, Watson Lake, Mayo and Dawson.

Whitehorse - Mount McIntyre Recreation Centre (Grey Mountain Room)

Wednesday, October 23, 2019, 3:00 p.m. to 7:00 p.m.

Definitions

- Where there is common terms used between the *Workers' Compensation Act* and the *Occupational Health and Safety Act*, they should align; and
- Better terms and definitions for the following:
 - Supervisor;
 - Constructor;
 - Owner;
 - Worksite; and
 - Workplace.

Worker responsibilities

- More emphasis on the workers' responsibility to report and guidance on how that should be done.

Materials to support the *Occupational Health and Safety Act*

- A code of practice, policy, or something of the likes for things like: What is an acceptable safety program? What is required when working alone?
- An intent or interpretation document for the *Occupational Health and Safety Act*. The thinking being that this would better ensure content is interpreted the same way; and
- Anything that is referenced in the *Occupational Health and Safety Act* should be accessible by the public (e.g. Canadian Standards Association (CSA), National Fire Protection Association (NFPA) and American Nation Standards Institute (ANSI)).

Offences and penalties

- Prosecutions should have the ability to result in higher consequences (money and time served);



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- Administrative penalties should scale to the company (e.g. based off payroll or contract size);
- Summary conviction tickets should be issued on site;
- Failing to comply with the orders of a Yukon Workers' Compensation Health and Safety Board (YWCHSB) safety officer should result in a higher penalty;

Joint health and safety committees (JHSC) and health and safety representatives

- It is close to impossible for workers "in the field" to participate in the JHSC;
- With the current *Occupational Health and Safety Act*, where there is a requirement to have a health and safety representative, it should be worded so that the requirement begins with the work; and
- The employer should be allowed to select the safety representative.

Serious accidents and injuries

- Better clarity about reporting a serious accident or injury.

Reviews of health and safety management system

There should be mandatory reviews based on industry type and scope of work;

- It's challenging for companies with multiple worksites (especially if there is variety in the work they do) to have one unified health and safety management system; and
- It would be better for each worksite to have their own health and safety management system.

Inspections

- There should be stronger language regarding:
 - The worksite inspections performed by a company representative; and
 - Requirement for documentation.

Training

- There should be a requirement for training for any specific roles or obligations (e.g. supervisors, inspections, investigations, risk assessment, JHSC members or health and safety representative).



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Appeals, compliance and enforcement issues

- Occupational health and safety (OHS) officers producing fines when they should be providing education; and
- It should be a learning experience for employers rather than hitting them with fines.

Amalgamating the Acts

- Should not amalgamate the *Workers' Compensation Act* and *Occupational Health and Safety Act*;
- People will find it confusing;
- OHS = on the job prevention; and
- Workers' compensation = after the fact.

Safety culture

- People confuse safety and emergency; and
- Safety is prevention, it is not emergency planning (having a first aid kit is not enough "safety", also need planning and prevention).

Northern Safety Network Yukon

- Many of the courses require people to repeat every three years to stay current;
- It would be good to have new content for those repeating, or a bridge or extension course could be offered every few years; and
- Some employers consider it a money grab.

Auditors

- Have an auditor attend course and provide feedback to Northern Safety Network Yukon.

Occupational health and safety (OHS)

- It seems that OHS officers often deliver fines quickly, as opposed to taking time to educate;
- Sometimes they won't discuss why the fine was given; and
- Should be a learning experience.



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Challenges with occupational disease claims

- An individual who worked his whole life at loud construction jobs now has poor hearing and requires hearing aids. Was told he needed proof of companies that he had previously worked for and finding this information was challenging.

Additional thoughts

- Coverage for contractors/sub-contractors at a chosen amount (pay for a specific amount of coverage);
- YWCHSB should not need to know profits/dividends;
- If a contractor/subcontractor wants a specific dollar amount of coverage, they should be able to get that amount of coverage;
- Yes, standard employees/employers should still be based on actual earnings and T4's but a contractor sub-contracting shouldn't;
- If a contractor hires a sub-contractor to do work that he/she could have done, the "insurance" purchased should comp some of that loss to the contractor;
 - A predetermined specific percentage.
- Would be great to have access to files/claims without having to come down to YWCHSB to sign a waiver. WorkSafeBC has an access code system which would be a good starting point for research;
- Why are there so few registered massage therapists' on the service provider list? Wish you access services from anyone who could provide the service, instead of having to use the list. There is a certain level of comfort required in finding someone;
- Would like to see an app for phones with act, regulations and legislation;
- Workers' Safety and Compensation Commission in Northwest Territories has a good app.
- Joint duties of employers (#5). Would like better definitions;
 - Principal contractor; and
 - Owner.
- Joint Health and Safety Meetings (#12);
- Regularity of meetings, 1/month is too frequent, quarterly is too few, and bi-monthly would be a better fit.
- Injuries and accidents (#30);
 - How do we report near-misses (PSI)? and
 - Would like a more formal avenue to report, i.e. a form, a recorded telephone line, maybe a file number/receipt upon completion to track.



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- ATCO has good mental health policies and best practices. They have a team trained for violence and harassment; and
- Would likely share materials with respect to training for staff on subject of bullying and harassment. They give their employees the tools to handle situation.

Haines Junction - Convention Centre Mezzanine

Tuesday, November 5, 2019, 4:30 p.m. to 7:00 p.m.

What brings you here?

- Clarity and questions on first aid requirements;
 - 20 minutes away?
 - Remote?
 - Level of first aiders? For camps? Obligations?
 - First aid kits; and
 - Clarity on penalty pieces – case law? Written in the *Occupational Health and Safety Act*? Example: impairment.
- To hear from others;
- Impairment (marijuana) conversation; and
 - What is happening?
- Certificate of recognition (COR) Certification.
 - Eventually unable to bid on large contracts;
 - Doesn't make sense for sole proprietor/self-employed;
 - Small operators are penalized when not certified;
 - What even is injury rate for small operations? Probably low as you can't afford to miss work; and
 - Solutions.
 - Small businesses shouldn't be included; and
 - Consider safety records in the past to impact certification.

Experiences

- Hearing loss from years of loud machinery with no personal protective equipment (PPE); and



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- Solutions?
 - More education and training;
 - Outreach is helpful;
 - More equipment; and
 - Better regulations.
- Long term health issues.
 - What contributed? Lifestyle? Work? and
 - How are they handled?
 - Gradual onset, has been happening for years.

What have been your experiences with YWCHSB?

- Overall positive with claim and coverage;
- Many injuries weren't reported; and
 - Employees made a quick health care visit, then nothing else;
 - Workers are not reporting injuries to employers;
 - Employer must report any injury;
 - Doctor must file a report; and
 - Easy to call YWCHSB and be talked through the process.
- Generally positive staff experiences at YWCHSB.

Occupational health and safety

- Act and regulations don't apply to First Nations (they are covered by the Federal Labour Code instead), but appreciate YWCHSB's help with understanding roles and responsibilities; and
- Challenging for all First Nations that federal departments visit (inspect) only once per year approximately.

First Aid regulations

- First aid responders and kits – regulations are confusing; and
 - What are the levels? and
 - What are the requirements?
- Hazard classifications.



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- Recommendation is to make language/wording more First Nations inclusive, for example: land based camps versus recreational uses (when providing examples of activities for wilderness first aid requirements).

Clarity on penalties

- Penalties in the *Occupational Health and Safety Act* should be clearer;
- Worker duties versus supervisor duties versus employer duties;
 - For overlapping duties (person with multiple roles) all duties from each section apply.
- Penalties: If any workplace party commits offense they are subject to penalties;
- Relationship between employers and contractors;
 - Contractors fall under the *Occupational Health and Safety Act* (First Nations government doesn't, but economic development corporation does); and
 - First Nations should write into all contracts that the need to follow the *Occupational Health and Safety Act* (or all applicable legislation) to ensure compliance – if contractor is not following rules, employers can penalize by not paying on contract.
- Need to fix legislation to clarify roles and duties; and
 - Prime contractor (constructor duties) versus owner makes clear who is responsible for health and safety.
- Penalties (applied depending on who has/hasn't met their responsibilities under the *act*) versus orders (issued to correct the issue).

Training

- Why is Northern Safety Network Yukon (NSNY) the only place to get supervisor training? (Leadership for Safety Excellence).
 - Issues with NSNY regarding people being turned away, and training is difficult to access from the communities;
 - Difficult to get training in the community; and
 - Would like more user friendly and online training opportunities.

Mental health

- Challenges in determining whether a psychological condition is an injury under the *Workers' Compensation Act* ;



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- YWCHSB could do more research/data analysis regarding: First Nations; truth and reconciliation; impacts of residential schools; crisis management and trauma; Canada Labour Code changes (domestic violence, identity issues, etc.); rural communities and connections; and challenges for holistic (physical, mental, spiritual);
 - What's working/not working? and
 - Cultural sensitivity, triggers.
- Is there something YWCHSB could do or consider to take into account possible triggers in the medical system (someone who has never left rural community being sent to Vancouver for medical specialist)? and
- Lack of services available in communities (i.e. physiotherapy requires travel to Whitehorse, providing more options).

What are the main challenges to safety in a Yukon context?

Sloppy job site

- Increase supervisor requirements;
- Ensure clarity around processes and procedures; and
- Review effectiveness of the fines structure.

Lack of understanding of workplace safety by young people

- Visit places where young people work with spot check by YWCHSB safety officers;
- YWCHSB could deliver educational sessions to youth and small businesses;
- Target youth at work; and
- Job shadowing if available and possible.

Distractions at work

- Take away cell phones;
- Co-workers refuse to work if others are on phones; and
- Wondering about the current schedule for community spot checks?
 - How often are they happening? and
 - Are they focusing on specific types of work?



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Abuse of the system

- False injury reports;
- Lack of understanding how the compensation system is funded;
- Claims suppression; and
- More education for general public and in the classrooms about how YWCHSB works and how it impacts your future.

Impairment

- Questions about the ability to test for impairment.

How to work safely

- More training and education (elementary and high school).

Watson Lake - Recreation Centre Curling Lounge

Wednesday, November 20, 2019, 4:30 p.m. to 7:00 p.m.

Regulations and enforcement

- No internal oversight;
- More oversight from increased inspections;
- “Yukon attitude” that this is the way things are;
- Concerns with serious injuries or fatalities; and
- Regulations and *Occupational Health and Safety Act* need to be modernized; still in the '80s.

Solutions

- Perception there is no appetite from some employers to fix problems.

Clarification of duties

- In duties there needs to be standard operating procedures for critical industries; too loose to list under “supervisor duties”;



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- Manager and supervisor duties need to be clear; development, enforcement and oversight by the safety committees. Needs to always be in compliance with manufacturer's specifications;
- This will ensure protection of public health and protection of workers;
- Important to beef up responsibilities and clarify duties; and
- Core duties need to be cut and dry especially for specific industries.

Smaller businesses

- Onerous on seasonal companies, especially when in operation for a short time with only a few employees (re: CHOICES training);
- Received a little bit of rebate one year but training not practical for very small companies who are seasonal; and
- Much of what is offered is tailored to companies that are large and are open all year long.

CHOICES Incentive Program

- Specific challenges in small towns with small employers; requirements for training too much. YWCHSB needs to cater specific to these cases;
- Requirements for CHOICES too onerous so small business owners do not even apply; and
- Even the application process for CHOICES too hard to navigate. Information not presented easily so not easily accessible.

Mayo - Recreation Centre Curling Lounge

Monday, December 2, 2019, 4:30 p.m. to 7:00 p.m.

Compliance

- Challenges around getting workers to report injuries to their employers; and
- Paperwork can be time consuming in a small organization that doesn't have a dedicated HR team.

Barriers for new sole proprietors

- More and simpler information for sole proprietors (contractors) about how to register with YWCHSB;
- New contractors (which are needed in Mayo) can be turned off by the paperwork;



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- They can be turned off of trying to get a job because they are concerned about all the paperwork that is involved;
- Even making a call can be a barrier. Meeting face to face is ideal; and
- Could YWCHSB visit the Mayo job fair and talk to people? Silver Trail Chamber of Commerce AGM?

Coverage requirements for contractors

- Everyone should be covered with mandatory coverage to reduce the likelihood of some sole proprietors not being covered.

Dawson - Dänojà Zho Cultural Centre

Tuesday, December 3, 2019, 4:30 p.m. to 7:00 p.m.

What brings you here?

- Looking for info; and
- Concerned about Yukon safety culture.

Top point from participants

- Safety should be muscle memory; and
- Workers have the right and responsibility to refuse unsafe work. This should be our number one focus.

What are some of the differences between Northern BC and northern Alberta to Yukon?

- Yukon has a strong “cowboy culture” (less safety thinking);
- Often a few “old boys” don’t follow safety techniques and this results in other workers following along with that, even if they know better;
- Younger people have grown up with safety, but don’t always apply it at work, if older workers aren’t either;
- There needs to be more consequences on job sites for not adhering to safety culture; and
- Yukon needs better buy in for people wearing personal protective equipment (PPE).

In other places (than Yukon)

- Tailgate safety meetings are taken seriously; and



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- Hazard assessment are made and actually followed.

How to reach Yukon workers

- Discuss general safety issues at tailgates, often;
- Make safety lessons short and sweet; and
- Pander to the lowest common denominator when teaching at tailgate or other safety meetings.

What can YWCHSB improve?

- Improve enforcement on lack of safety training;
- Change the name of YWCHSB safety officers to safety inspectors to make it clearer;
- Administrative penalties should be increased; and
- Make language explicit and clear about responsibilities.

Other ideas

- There should be more job specific training for young people in schools;
- There needs to be clarification about the intersection between public health and occupational health and safety (the understanding where one agency ends and the other begins); and
- There should be more safety officers up here in the summer.