
WORKING TOGETHER ON PREVENTION

**CONSULTATION FEEDBACK
SEPTEMBER 2005**



**YUKON WORKERS'
COMPENSATION
HEALTH AND
SAFETY BOARD**

WORKING TOGETHER ON PREVENTION CONSULTATION FEEDBACK

WHY THIS CONSULTATION?

The Yukon Workers' Compensation Health and Safety Board is concerned about the worsening record on workplace injuries in the Yukon and the resulting rising claims costs. The average length of a time-loss claim has tripled since 1992. In addition, subsidies to employer assessment premiums have been declining since 2003 and will eventually be eliminated altogether. In previous consultations employers have indicated to the Board that they would like an incentive program that improves worker safety, and would like it implemented before subsidies end.

As a result, the YWCHSB decided to hold a consultation in the spring of 2005 to address these concerns. In early 2005, the Board consulted with the chairs of its worker and employer stakeholder advisory committees about key issues and preferred methods for the consultation.

Based on the issues raised by stakeholders, and on the priorities of the Prevention Committee and the Board, the consultation was focused on three areas:

Prevention

Prevention of workplace injuries and illnesses is a top priority of the Board. The choice of this issue also addresses the empowerment and prevention priorities of labour, employers, the Prevention Committee and the Board. The goal of the Prevention Committee and Board is for all Yukon employers to have a safety management system in place by 2008. The consultation focused on asking employers, workers, and other stakeholders how the YWCHSB might work together with them to make this happen. Because most Yukon businesses have fewer than 20 workers, the consultation documents provided options for making safety management systems adaptable to the needs of smaller employers. For larger employers these measures might be linked to the second issue, economic incentives. The consultation also provided an opportunity to talk to stakeholders about the importance of a positive workplace safety culture in the Yukon.

Economic incentives

The issue of economic incentives was identified by both employers and labour as a key one. It is closely tied to prevention and is one of the top three priorities of the Prevention Committee and the Board. This issue is also a timely one because of the phasing out of assessment premium subsidies and employers' desire to see an incentive program in place soon. Labour had indicated it did not want incentives tied to claims experience, but was very supportive of effective prevention measures and of tying incentives to those. The consultation focused on informing stakeholders about the various types of incentive programs, especially those used by other small jurisdictions in Canada, and the possibility of tying incentives to best practices in the workplace. Stakeholders were asked to provide feedback on what type of program might work in the Yukon and how it would help achieve the overall goal of safe and healthy workplaces.

Indoor Air Quality/Environmental Tobacco Smoke

This issue is also tied to prevention and workplace safety. The consultation provided information on the steps already taken in the Yukon to regulate workplace smoking and the approaches used in other jurisdictions in Canada. Stakeholders were asked for feedback on possible next steps -- whether education, regulation or a combination of both -- to deal with this issue in Yukon workplaces.

KEY STAKEHOLDERS

The Board identified key stakeholders and target audiences for the consultation. These included:

- Employer groups such as the stakeholder advisory committee, chambers of commerce, the Tourism Industry Association of Yukon, the Yukon Chamber of Mines, the Yukon Contractors Association and the Yukon Construction Safety Association.
- Labour groups such as the stakeholder advisory committee, the Yukon Federation of Labour, the Public Service Alliance of Canada, the Workers' Task Force and others.
- Governments such as First Nations, CYFN, Government of Yukon, the City of Whitehorse and members of the Association of Yukon Communities.
- Workers and employers who are not connected to any particular group but who can be reached through communication to the general public.
- Health care providers.

HOW WE CONSULTED

Employers and labour indicated that they saw the consultation period as a time for gathering information and gaining an understanding of the issues. Based on their comments, the following materials were developed:

- A newsletter with general information about the issues.
- Follow-up issue papers on the three topics, with more specific information and possible options for consideration.

In mid-April, the YWCHSB mailed or emailed the newsletter to all large Yukon employers, Yukon First Nations, Yukon municipalities, both labour and employer members of the stakeholder advisory committees (which include all major Yukon labour and employer organizations) and health care providers. The three issue papers were sent a week later. The consultation documents were also posted to the YWCHSB website and were available for pickup at the YWCHSB front desk.

Employers, workers and other stakeholders were invited to provide feedback by email, telephone, letter, or by contacting employer or worker representatives on the YWCHSB's Board of Directors. They could also attend a series of four consultation meetings, scheduled in May. People in Yukon communities were encouraged to take part by teleconference, and the toll-free number was publicized widely. Key employer and labour organizations were also invited by letter.

The consultation meetings provided an opportunity for presentation and clarification of the issues, questions and answers, and stakeholder feedback. They were scheduled as follows:

- May 3: Initial presentation of issues
- May 11: Clarification, questions and answers
- May 17 Feedback session for workers
- May 18 Feedback session for employers

The consultation team held two additional meetings, both with the Government of Yukon. They made a presentation to the senior management of the Public Service Commission on June 15, and another to deputy ministers on June 21.

Some stakeholders requested more time to provide feedback. The YWCHSB responded by extending the deadline for comments from June 24 to August 15, 2005.

CONSULTATION FEEDBACK

Formal Submissions

A number of organizations submitted position papers to the YWCHSB. They included:

- Yukon Federation of Labour;
 - PSAC North;
 - Government of Yukon;
 - Whitehorse Chamber of Commerce;
 - Yukon Construction Safety Association
- One medical provider, occupational physician Dr. Tony de la Mare, also submitted a letter.

On the specific issue of environmental tobacco smoke, submissions also came from:

- Canadian Cancer Society BC and Yukon Division;
- a Dawson City bar owner;
- Physicians for a Smoke-Free Canada;
- Yukon Lung Association;
- Heart and Stroke Foundation of B.C. & Yukon, and the B.C. Lung Association (joint submission).

The City of Whitehorse did not make a formal submission. However, the mayor wrote to the YWCHSB during the time period of the consultation and stated that the City would be in full support of an initiative to investigate potential smoking regulations for Yukon workplaces.

A member of the public also sent an e-mail on an indoor air quality issue.

Consultation Sessions

The following groups and businesses were represented at the consultation sessions:

- Corporate Health & Safety, Government of Yukon;
- Yukon Federation of Labour;
- YWCHSB Stakeholder Advisory Committee (labour);
- Health & Safety Committee, PSAC;
- Energy Solutions Centre Inc.;
- Safety & Emergency Services, City of Whitehorse;
- Trans North Helicopters;

- Zral Safety Services;
- Yukon Construction Safety Association;
- Whitehorse General Hospital;
- Town of Faro (by telephone);
- Liard First Nation (by telephone);
- Teslin Tlingit Council (by telephone).

An individual worker and an advocate on the issue of multiple chemical sensitivities also attended.

PREVENTION

Questions Asked in Issue Paper

The paper provided background on the importance of worker health and safety for employers, workers and their families, and the community at large. It outlined the worsening Yukon record on workplace injuries and the steps needed to set up an effective safety management system for small businesses. These included developing a health and safety policy, regularly monitoring the workplace to eliminate hazards, familiarizing workers with health and safety regulations, determining the causes of any accidents, maintaining a health and safety record book, and reviewing the program annually.

Stakeholders were asked:

- Which of the above steps could you implement in your workplace?
- What special barriers do you face?
- How can the YWCHSB work with you to achieve the goal of safer workplaces for everyone?

Formal Submissions

Government of Yukon

YG stated its full support for the YWCHSB in its goal of prevention. Its submission included employee responses from YG departments to the question "What do we expect prevention to look like?" It presented an extensive series of strategies under the headings of motivation, communication, promotion, evaluation, empowerment, education, and enforcement. Overall the document supported a focus on a "safety first" culture in order to help motivate workers to improve their safety behaviours.

Yukon Federation of Labour

The YFL was very supportive of the Board's commitment to a prevention

strategy. It stated that the key to reducing the number of injuries and fatalities in the workplace will be to change the workplace culture in the Yukon. It applauded the Board's support of the Certificate of Recognition (COR) program and Passport to Safety, and encouraged the Board to lobby the Yukon Government to make the COR program a requirement for companies bidding on government contracts. It also emphasized the need for training programs such as COR for all employees, including managers. Executive Director Doug Rody stated: "... a prevention strategy is the single most important undertaking that this Board will tackle."

PSAC North

PSAC stated that the consultation was "a step in the right direction" and hoped to see an action plan developed from the recommendations. It recommended that all summer students hired under the Student Training and Employment Program be required to take the Passport to Safety on-line test. They also recommended providing financial support for workplace health programs.

Whitehorse Chamber of Commerce

The Chamber strongly supports the safety and prevention initiatives, and agreed that a focused program in the workplace would help reduce assessment rates. Its main recommendations were that:

- the Yukon Construction Safety Association (YCSA) continue to be the driving force behind safety and prevention, and that it be expanded to include employer groups outside the construction industry.
- the Prevention Fund support the creation of a safety program designed specifically for small to medium size businesses.
- the YWCHSB partner with the Chamber in developing such a program.

Dr. Tony de la Mare

Dr. de la Mare provided three suggestions for working toward prevention:

- More emphasis needs to be put on training young workers just entering the workforce. The voluntary program is a good start but needs "beefing up."
- Supervisors and journeymen need to be held responsible for inexperienced workers in their care, with more investigation of accidents and all serious accidents investigated under oath, if necessary.
- Drugs and alcohol are a serious problem in on-the-job accidents.

Comments from the Consultation Sessions

"One of the major roles of the Board is to create an environment for prevention. The Board should be the provider of the education and the training programs to accomplish this environment." - Blaine Rapp, City of Whitehorse

"If everybody on the job is more educated, more of the violations can

be caught and reports made. Education should be the main focus." - Kevin Wood, attendee concerned about multiple chemical sensitivities

" ... the Yukon is small enough that partnerships should be able to be formed with other professional groups.... The health care industry should be brought into compliance with more of a structured educational prevention program." - Myrielle Cooper, occupational health nurse

"The possibility that there may be a Prevention Fund is welcome news.... Many employers with small numbers of employees cannot afford to have a person away taking safety training, and that would be where the Prevention Fund could be used to good advantage." - Doug Rody, YFL

ECONOMIC INCENTIVES

Questions Asked in Issue Paper

The paper linked the issue of economic incentives to prevention and noted that employers had asked for some type of incentive program to be introduced before subsidies to their assessment premiums end. The paper described and compared the two main types of incentive programs -- experience rating and best practices -- and outlined the challenges of setting up an appropriate incentive program in a small jurisdiction like the Yukon. It provided information on the experience of three other small jurisdictions: Newfoundland, NWT/Nunavut and Prince Edward Island.

Stakeholders were asked:

- In order to achieve our goal of safe and healthy workplaces, should we reward workplace results (e.g., low claims costs) or workplace practices that give those results (e.g., an audited safety program)?
- Should an incentive program be voluntary or should it be compulsory for certain employers?
- Should an incentive program be available to all employers or just larger employers?
- Should an incentive program provide an advantage for employers with excellent safety practices when bidding on public sector contracts?
- Should an incentive program be revenue neutral?
- What are your thoughts on how we should proceed?

Formal Submissions

Government of Yukon

YG suggested that a continued focus on prevention programs such as COR would be more effective in the Yukon than specific incentive programs.

Yukon Federation of Labour

The YFL is strongly opposed to an incentive program based on experience rating/merit rebates. Experience rating makes the compensation system more

adversarial and departs from the fundamental principle of collective liability. The Federation suggests that the Yukon's small size could be used to advantage by "effectively targeting specific industry groups with specific programs." One example would be an incentive program focused on return-to-work programs. It also suggests some form of wage subsidy as an effective incentive for small businesses to enroll their employees in the COR program.

Yukon Construction Safety Association

The YCSA strongly encourages the YWCHSB to provide an economic incentive for firms that achieve COR certification (accreditation) through a recognized program supported and endorsed by the YWCHSB. This endorsement reflects the feedback the YCSA received during its industry consultation tour in 2004, when the most frequent question was what incentives would be available to participating companies. Given the considerable investment required to achieve certification, the YCSA believes that the most effective way to encourage firms to participate would be through a rebate program, with an actual rebate cheque rather than a discount for companies that achieve certification. The YCSA states: "We believe that this economic incentive will be a catalyst, encouraging firms to create and implement a quality safety program ..., resulting in a fundamental shift toward a positive safety culture."

Comments from the Consultation Sessions

"Labour would likely support financial assistance to smaller employers to take part in programs that would assist them in providing training and in buying safety equipment, etc. The target should be safety programs." - Doug Rody

"Labour would like to see assessments drop. They are not entirely opposed to incentive programs; they are just opposed to certain ones...." - Doug Rody

" [I am] totally against incentives for the employer, because it sends everything underground. Employees are strong-armed not to report, employers don't report accidents that happen." - Liz Reichenbach

"For the employer who does well, there has to be some positive recognition; for the employer who does poorly, there has to be some form of punishment as an incentive for them to do better." - Blaine Rapp

"We have to believe that safety and prevention is going to lower costs. It may not in all years, but overall we have to believe that. Employers should pay for the cost of [a safety program]. But if the program is successful, the employers should reap the rewards. The reward should be based on practice and performance." - Arden Meyer, Trans North Helicopters

"Government is really concerned about measurables. ... there is uncertainty as to how effectively the Board can assist employers and workers to measure the system consistently and annually." - Terry Demianenko, Corporate Health & Safety, Government of Yukon

INDOOR AIR QUALITY/ENVIRONMENTAL TOBACCO SMOKE

Formal Submissions

Government of Yukon

YG noted that it has had smoke-free workplaces for many years, and observed that it was difficult to comment on the issue without a specific proposal and implementation plan. It suggested that additional public consultation is needed on a specific proposal or recommendation.

PSAC North

PSAC provided three specific recommendations:

- Eliminate smoking in all workplaces.
- Apply the recommendations from the Yukon Employees Union Indoor Air Quality Survey. [Note: This survey did not include second-hand smoke.]
- Prohibit minors from selling tobacco products. [Note: This latter suggestion is a legislative one and not within the mandate of the Board.]

Yukon Lung Association

The Association asked that all sources of poor indoor air quality, not just tobacco smoke, be addressed by the Board. It submitted an extensive background report, prepared in 2004, on the adverse effect of particulates, including tobacco smoke, on indoor air quality. It also submitted additional material developed since that date, including a physicians' website article on the 2004 Report of the US Surgeon General. This report found that smoking causes disease in nearly every organ of the body and is conclusively linked to diseases such as leukemia, cataracts, pneumonia, and cancers of the cervix, kidney, pancreas and stomach.

Canadian Cancer Society BC and Yukon Division

The Cancer Society supports a complete ban on smoking in all workplaces in the Yukon. It argues that the YWCHSB's mandate is to protect the health and safety of all Yukon workers, and that a ban is the only effective means to prevent the risk of diseases associated with environmental tobacco smoke. It points out that the Yukon is far behind other jurisdictions in regulating environmental tobacco smoke, and that designated smoking rooms provide inadequate protection for workers and customers.

Business owner, Dawson City

This business owner looks forward to the day when smoking is banned in bars as well as restaurants, preferably without provision for designated

smoking rooms. The owner states that "going it alone" on smoking regulations in a small community would jeopardize the business's survival.

Physicians for a Smoke-Free Canada

This organization urges that smoking be banned in all enclosed workplaces in the Yukon, with no exceptions and no designated smoking rooms. The organization submitted scientific evidence of the dangers of second-hand smoke, and evidence that the hospitality industry has not been adversely affected by smoking bans in other jurisdictions.

Heart and Stroke Foundation of B.C. & Yukon/B.C. Lung Association

These two health agencies jointly urged the YWCHSB to implement a regulation banning smoking in all Yukon workplaces, with no provisions for designated smoking rooms, following the approach of the WCB in the N.W.T./Nunavut. These agencies also submitted extensive supporting evidence of the health benefits of a smoking ban.

Liz Reichenbach, worker

Ms. Reichenbach was pleased to note that the YWCHSB is addressing the issue of indoor air quality in the workplace. Her submission was primarily concerned with the larger issue of multiple chemical sensitivities and its relationship to indoor air quality. She also cited the findings of a 2001 report in Nova Scotia, *The Economic Impact of Smoke Free Workplaces*. (www.hpcclearinghouse.ca/tobacco/files/gpi.pdf). Her extract from this report states: "Tobacco smoke, a well-known carcinogen, can trigger asthma attacks, heart disease, respiratory ailments, fetal growth impairment, miscarriages, cervical and breast cancer, and strokes, affecting smokers and secondhand smokers alike. According to standards, there is no safe level of exposure to carcinogens. Smoke particles remain in the air long after the cigarette has been extinguished. Increased ventilation in smoking rooms does not remove air contaminants."

Letter from the City of Whitehorse

As stated earlier, the City of Whitehorse did not make a formal submission. It did, however, send a letter during the time period of the consultation, noting that the BC & Yukon Hotel Association continues to argue for designated smoking rooms, which are permitted in other jurisdictions where the WCB has established workplace regulations. The city bylaw that bans smoking in enclosed public places, including workplaces such as restaurants, bars and lounges, does not permit designated smoking rooms. Mayor Ernie Bourassa stated that the City would be in full support of an initiative by the YWCHSB to look into potential smoking regulations for all Yukon workplaces.

Comments from the Consultation Sessions

"In terms of exposure to liability, there is good reason for the Board to move to address environmental smoke, because there are precedents set in the provinces where claims have been accepted, and the court has ruled that the Board had to accept that claim. There is a potential liability, and it only makes sense to move to mitigate that liability.... The Board is urged to consider moving to ban smoking in all workplaces." - Doug Rody.

[Ms. Reichenbach referred to an article entitled *The Economic Impact of Smoke Free Workplaces, an Assessment for Nova Scotia*, prepared in 2001.]
"There is consensus among most reputable scientific and medical academies and government health agencies on serious health hazards with second-hand smoke. That exposure causes heart disease, lung cancer, nasal and sinus cancer, and respiratory ailments. In Nova Scotia, it causes about 200 deaths per year, and it is considered the leading cause of workplace deaths...." - Liz Reichenbach

"... there is concern with the definition of workplace. If the employer has followed the present bylaw, and allows their workers to smoke outside, no one is smoking in the workplace, and then the workplace is defined as the parking lot, and people have to go across the street to smoke. This creates a whole other safety issue. To add another layer of enforcement is not going to work." - Terry Demianenko

"The Board should be part of a discussion around this issue [workplace smoking]. The Board should have some role with education or facilitating whatever program should be implemented." - Blaine Rapp

"... The Board should stay away from [regulating smoking]. Deal with it as an air quality issue, using a prevention and education approach." - Arden Meyer

SUMMARY OF FEEDBACK

Prevention

All respondents supported the Board's focus on prevention and safety as a priority. There was general recognition of the importance of creating a safety culture in the Yukon and providing safety education programs for all workers. The YCSA was seen by several respondents as the most effective deliverer of such programs. Two respondents emphasized the need for providing safety training for summer students and young workers just entering the workforce. There was also general support for building partnerships with other organizations. The Whitehorse Chamber of Commerce suggested a specific partnership with the Board to develop a safety program for small and medium size businesses. The role of the Board as a leader in creating an environment for prevention was seen as both necessary and welcome.

Economic Incentives

The respondents specifically addressed only two of the questions asked in the issue paper: whether to reward workplace results or, instead, workplace practices that give those results, and whether to give preference to employers with excellent safety practices in bidding on public sector contracts. Responses were divided along labour and employer lines. Labour is adamantly opposed to any incentive program based on experience rating, but might support an incentive program tied to excellent safety practices. Labour argues that "for employers, not injuring their employees should be incentive enough." Employers and management, on the other hand, feel that employers must receive something for their investment in setting up and maintaining a good safety program. One employer felt strongly that an incentive program should be based on both practice and performance. Two employer/managers commended the Alberta model, which uses both merit rebates and best practices.

One respondent felt that "there needs to be more meat as to what it [an incentives program] would look like" before she could respond. Labour suggested that an opportunity for direct dialogue between labour and employers, perhaps extending into the fall, could produce some more creative options for incentive programs.

Indoor Air Quality/Environmental Tobacco Smoke

All those organizations who made a formal submission urged the YWCHSB to ban smoking in all workplaces. Most also urged a ban coupled with no designated smoking rooms, and several suggested following the approach of the NWT/Nunavut WCB. The City of Whitehorse stated its support for an investigation into smoking regulations for Yukon workplaces. The Yukon Lung Association asked the Board to consider the adverse effects of all particulates, including tobacco smoke, on indoor air quality.

In the consultation sessions, the issue again divided along labour/employer lines. The YFL pointed out that the Board is exposed to a significant liability in the long run because of legal precedents established elsewhere with regard to compensation claims for cancer based on workplace smoking, and that the responsible thing to do is to mitigate that liability. One labour group's health and safety committee has endorsed the approach of the NWT/Nunavut Board in banning workplace smoking. Employer/managers, on the other hand, felt that the role of the Board should be in education and prevention rather than regulation.

APPENDIX A – List of Submissions

All submissions can be found at www.wcb.yk.ca under Public Consultations.

Bar Owner, Dawson City
The Lung Association - British Columbia and the Heart and Stroke Foundation of B.C & Yukon
Public Service Alliance of Canada (PSAC North)
Yukon Federation of Labour
Canadian Cancer Society
Physicians for a Smoke- Free Canada
Dr. E.A. De La Mare
Doug MacLean
Yukon Public Service Commission
Marilyn Barreau
The Lung Association –Yukon
Whitehorse Chamber of Commerce
Public Service Commission
Yukon Construction Safety Association
Liz Riechenbach
City of Whitehorse (not a formal submission)



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