



ASSOCIATION OF CONSULTING
ENGINEERING COMPANIES
BRITISH COLUMBIA

June 12, 2020

Louise Kim

Senior Manager – Policy, Regulation & Research Division – WorkSafeBC

Via Email: to policy@worksafebc.com

Re: Adding diseases caused by communicable viral pathogens, including COVID-19, to Schedule 1 of the Workers Compensation Act

Dear Ms. Kim –

The Association of Consulting Engineering Companies British Columbia (ACEC-BC) represent 80 consulting engineering firms who collectively employ more than 9,500 British Columbians in communities across the province. Our members work in all sectors, regions and in job sites ranging from remote wilderness to high technology laboratory facilities and all manners of construction.

Background

As providers of non-health essential services, our members' work directly contributes to the preservation of life, health, public safety and basic societal function. During the COVID-19 state of emergency, member firms worked together with their colleagues in construction, natural resources and infrastructure management to prioritize the safety, health and welfare of the public, and to ensure the health and wellness of their team members at home, in the office and on site.

This letter provides response to the Discussion Paper: Adding Diseases Caused by Communicable Viral Pathogens, including COVID-19, to Schedule 1 of the Workers Compensation Act ("Discussion Paper") on behalf of the member firms of ACEC-BC. Additionally, some of our member firms identified their intention to directly submit comments and others – whether through individual or other Association membership – are included under the Employers' Forum response to the Discussion Paper, which we broadly support.

Intention to Respond

Upon learning that the Board of WorkSafeBC initiated the addition of COVID-19 (or potentially more broadly, coronaviruses or respiratory communicable diseases) to Schedule 1 under an expediated process and that there was planned a public consultation on the change, we proactively submitted a letter to Ms. Guiton outlining our concerns regarding the application of an expedited process in the face of an extremely complex determination.



General Comments and Response from ACEC-BC

Definition of Schedule 1 disease:

The WorkSafeBC website provides guidance on the purpose and means test for Schedule 1 as

“a described process or industry wherever it is satisfied from the expert medical and scientific advice it receives that there is a substantially greater incidence of the particular disease in a particular employment than there is in the general population”¹.

Considering the rapid emergence of COVID-19 and the limited scientific understanding of the disease (including but not limited to transmission, prevention and underlying factors affecting outcomes), we are concerned that inclusion of the disease on Schedule 1 does not meet the underlying test of the legislation regarding satisfaction of experts AND substantive increase in risk relative to the general public. Indeed, the Discussion Paper’s Summary conclusions support this concern with reference to limited understanding of the disease and inconsistency of occurrence with specific occupations².

Frustrating Employers – Description of Disease:

Section 8.1 of the Discussion Paper reasonably identifies that COVID-19 may be too narrow a description for inclusion on the Act³. However, we are concerned that the Policy, Regulation & Research Division’s (PRRD) recommended subjects – specifically the *state of emergency provisions* – do not respond to a primary conflict of policy.

For example, today the Province of British Columbia remains under a *state of emergency*. At the same time, the provincial government, the Provincial Health Officer and WorkSafeBC are supporting businesses to safely re-open offices and other workplaces. Inclusion of the provision for *state of emergency* may discourage employers from re-opening at a time when they may reasonably do so safely. The inclusion of *state of emergency* insufficiently narrows the description of risk for workers to justify inclusion in Schedule 1.

Options and Implications

The Discussion Paper recommends two options: *Status quo* and *Amend Schedule 1 and Add a Presumption*⁴. Consistent with the response of the Employers’ Forum, and in consideration of the inability to provide sufficiently compelling evidence of substantive increase in risk, ACEC-BC strongly supports **Option 1: Status quo**.

¹ WorkSafeBC, Law & Policy, Workers Compensation Law, “Schedule 1 of the Workers Compensation Act”, retrieved from: <https://www.worksafebc.com/en/law-policy/workers-compensation-law/schedule-1>

² WorkSafeBC, “Discussion paper - Adding Diseases Caused by Communicable Viral Pathogens, Including COVID-19, to Schedule 1 of the Workers Compensation Act”, Appendix A Summary

³ WorkSafeBC, “Discussion paper - Adding Diseases Caused by Communicable Viral Pathogens, Including COVID-19, to Schedule 1 of the Workers Compensation Act”, Section 8.1 Schedule 1, Column 1 – Description of Disease

⁴ WorkSafeBC, “Discussion paper - Adding Diseases Caused by Communicable Viral Pathogens, Including COVID-19, to Schedule 1 of the Workers Compensation Act”, Section 10, OPTIONS AND IMPLICATIONS



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Consulting engineering companies provide expert, technical advice that requires credibility gained through extensive practice. The recommendations of consulting engineering companies are remunerated based on the risk assumed by regulated practitioners whose decisions directly impact the safety, health and welfare of the public. We deeply understand risk management including identification of risk, application of mitigation strategies and ultimately the adoption or presumption of a degree of risk that cannot be mitigated. With this perspective and with respect to the fluid nature of the COVID-19 pandemic and our limited understanding of the disease, we believe management of the disease appropriately lies with the Provincial Health Officer and the Province of BC and it would not be appropriate to presume infection has occurred in the workplace at this time.

We appreciate the opportunity to offer our feedback and perspective. Please do not hesitate to call on us now or in the future to support the formation of regulations impacting safe work practices in BC.

Kind regards,

Caroline Andrewes, P.Eng, CPA, CMA
President & CEO

CC: ACEC-BC Members, Employers' Forum