



VISION

The B.C. Road Builders and Heavy Construction Association is the recognized advocate for a balanced safe transportation system and infrastructure development that sustains and promotes economic growth.

MISSION

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B.C. Road Builders & Heavy Construction Association

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May 5, 2006

Ms. Roberta Ellis
Vice President, Regulations and Policy
WorkSafe BC
PO Box 5350 Stn Terminal
Vancouver, B.C. V6B 5L5



Dear Ms. Ellis:

I am writing on behalf of the BC Road Builders and Heavy Construction Association (BCRB&HCA) to express our disappointment that WorkSafe BC is going forward with a change to Regulation 14.34 Cranes and Hoist, and to register our strong opposition to the draft as it is currently written.

The BCRB&HCA does not deny that there may be a legal precedent for changing regulations when they refer to a specific institution such as the ITAC that no longer exists. We do not dispute that the apprenticeship model has undergone significant adjustments with the introduction of the Industry Training Authority (ITA) and its Industry Training Organization (ITO) model. In fact, the BCRB&HCA was an early supporter of the ITO concept and has embarked on an ambitious training and certification initiative for our industry, none of which is reflected in your current draft.

Nor does the BCRB&HCA take issue with the need for "qualified" persons operating cranes. We are aware of the inherent risk associated with lifting devices and therefore are spending considerable time in our curriculum development to ensure that our competency based training prepares the workers for the risks they will face.

Of particular concern is the emphasis on the BC Association for Crane Safety (BCACS). We don't fault the WorkSafe BC Board of Directors seeking to establish an industry managed process, but believe it is an unrealistic assumption that the currently constructed BCACS represents the industry. The BCRB&HCA was never contacted during its formation, we have no representation on its board and our ITO Committee was not involved in any of the individual focus groups. Consequently, our approach to the competency based training is not reflected in their deliberations or outputs.

Another concern surrounds what wasn't expressed in the draft Regulation but in the explanatory notes that followed the proposed amendment document.



Business Council
of British Columbia



CANADIAN
CONSTRUCTION
ASSOCIATION



L'ASSOCIATION
CANADIENNE DE
LA CONSTRUCTION

The draft Regulation discusses a “certificate issued by a person acceptable to the board”. The presumption is that WorkSafe BC would hold an open and transparent process to determine the most appropriate certifying body or bodies. But in the Notes it states “The BCACS would be an acceptable person ...” It leaves one to assume that an industry such as ours would have to bend to the wishes of the BCACS as they will be the main and potentially the only player, which is unacceptable to the BCRB&HCA.

The described model of certification relies on the principle of competency-based examination. We agree that this is an appropriate model for our industry. However any good work done by shifting to competency-based examination is undone by the suggestion that the industry would have to adopt the Learner and Restricted Use Certificates approach. This throwback to the now largely rejected apprenticeship model would be totally unworkable in the largely mobile construction industry that is heavy construction, road building and road maintenance.

Not noted in the draft regulation but presented at the February public meeting was the concept that external examiners would be used to provide the practical examination. Each individual is tested alone. The BCACS and WorkSafe BC’s own numbers indicate 6,000 individuals will be tested before July 2007. This will require an army of external examiners. We question where these individuals will come from.

The heavy construction industry employs many different types of lifting devices, some specific to our industry. The heavy construction, road construction and road maintenance industry has taken on the responsibility for developing training standards for heavy equipment operators. Standards or best practices for rigging and lifting are and will remain a cornerstone of our program. The BCRB&HCA member companies are the experts in this field and are adamantly opposed to handing over any responsibility for setting best practices and standards of competency to the BCACS. The lack of definition of what is a regulated crane leaves this door wide open. Are “deer” or “tire” cranes to be included? We cannot support or accept regulations that do not clearly define their scope. Regulations that require field interpretation have time and time again caused a breakdown in cooperation between WCB and the industry.

With all these issues, one must wonder when all of these details will be addressed. As anyone in construction can tell you, if you build without a clear plan, structural failure is almost inevitable. **We request that you amend the proposed regulations by adding to 14.34 “Specialized equipment used for heavy construction, road construction and road maintenance operations is exempt from the requirements of section 14.34.1 Operator Certification.”**

Another area of trust is the cost. Nowhere is the issue of certification cost discussed in either the draft Regulation or the Explanatory Notes. It is safe to assume though that the individual tested at the worksite model is the most costly approach to examination. In the deliberations of the BCACS working groups, there is just a vague reference to using WorkSafe BC funds. Those funds will have to come from our member companies and we

would not be carrying out our fiduciary duties to the industry if we were to accept a Regulation and ensuing implementation strategy without a detailed costing.

Finally, the date for implementation is bothersome. Using the BCACS and WorkSafe BC's own numbers of 6,000, the date of July 1, 2007 is totally unworkable. Coupled with the geographical distribution of the workforce, no system can be established, tested and introduced in the very few months between the Regulation being formally adopted and July 1, 2007. The logistical challenge must be factored into any new Regulation requirement.

In conclusion, we want to assure WorkSafe BC that the BC Road Builders and Heavy Construction Association has and does take the issue of workplace safety very seriously. We were at the forefront of the creation of the Construction Safety Network. We have integrated safety training into all levels of our ITO developed competency based training, including any training related to lifting. However, with no assurance that our work will be recognized, forced to accept an organization's view we had no role in shaping, and at a cost that's unknown, means we have to state that we are unequivocally opposed to the draft Regulation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jack Davidson', with a long horizontal line extending to the right.

Jack Davidson
President

Enclosure – BC Road Builders and Heavy Construction's Training and Certification Programs matrix.

cc: Honourable Kevin Falcon, Ministry of Transportation
John Dyble, Deputy Minister of Transportation
Brian Clewes, Industry Training Authority
Stan Weismiller, Chair Construction Safety Network
Stephen Torrence, Construction Safety Network
Don Nelson, Industry Services Manager, Construction WorkSafe BC
Fraser Cox, BC Association of Crane Safety
Philip Hochstein, Independent Contractors & Businesses Association

WorkSafeBC - Regulation Review PART 14 CRAINS & HOISTS

The BC Road Builders and Heavy Construction Association recommends that **WorkSafeBC not go forward with the proposed changes to Regulation 14.34 Cranes and Hoist**. Also, we wish to register our strong opposition to parts of the current draft. And we recommend that after full consultation with industry, when all the questions have been answered, should you still decide to go ahead with changes, that; you amend the proposed regulations by adding to 14.34 **“Specialized equipment used for heavy construction, road construction and road maintenance operations is exempt from the requirements of section 14.34.1 Operator Certification.”**

The BC Road Builders and Heavy Construction Association representing 100+ employers and 70% of the work in the heavy construction, road construction and road maintenance industry does not deny that there may be a need for changing regulations. Nor do we take issue with the need for “qualified” persons operating cranes. But, with the introduction of the Industry Training Authority and its Industry Training Organization ITO model the apprenticeship model for training and certification is undergoing significant adjustments. In fact, the BC Road Builders and Heavy Construction Association has been an early supporter of Industry Training Organizations and has embarked on an ambitious training and certification initiative for our industry. We are aware of the inherent risks to our workforce associated with lifting and lifting devices and therefore we are spending considerable time in our curriculum to ensure that our competency based training prepares the workers for all the risks they may face. None of this is reflected in the current draft regulation.

Our heavy construction industry employs many different types of lifting devices, some very specific to our industry. The heavy construction, road construction and road maintenance industry has taken on the responsibility for developing training standards for heavy equipment operators. Standards or best practices for rigging and lifting are and will remain a cornerstone of our program. The BC Road Builders and Heavy Construction Association member companies are the experts in this field and are adamantly opposed to handing over responsibility for setting best practices and standards of competency to the BC Association for Crane Safety. The lack of definition of what is a regulated crane leaves this door wide open. Are “deer cranes” or “tire pickers” to be included? We cannot support or accept regulations that do not clearly define their scope. Regulations that require field interpretation have time and time again caused a breakdown in cooperation between WCB and the industry.

Because we are developing our own training and certification programs and because we have the expertise to develop the programs our industry needs, we request that you amend the proposed regulations by adding to 14.34 **“Specialized equipment used for heavy construction, road construction and road maintenance operations is exempt from the requirements of section 14.34.1 Operator Certification.”**

Another concern surrounds what wasn't expressed in the draft Regulation, but, in the explanatory notes that followed the proposed amendment document. The draft Regulation discusses a "certificate issued by a person acceptable to the board". The presumption is that WorkSafeBC would hold an open and transparent process to determine the appropriate certifying body or bodies. But, in the Notes it states "The BC Association for Crane Safety would be an acceptable person " leaving us to assume that an industry such as ours would have to bend to the wishes of the BC Association for Crane Safety as they may be the main and potentially the only player, which is acceptable to the board.

Also to do with certification and not noted in the draft regulation but presented at the February public meeting was the concept that external examiners would be used to provide the practical examination with each individual tested alone, one at a time. The BC Association for Crane Safety and WorkSafeBC's own numbers indicate 6,000 individuals would need to be tested before July 2007. This would require an army of external examiners. **We question where these individuals will come from.**

The date for implementation is also bothersome. Again using the numbers of 6,000 operators, the targeted compliance date of July 1, 2007 is totally unworkable. Coupled with the geographical distribution of the workforce, no system can be established, tested and introduced in the very few months between the Regulation being formally adopted and July 1, 2007. This logistical challenge must be factored into any new Regulation requirement.

I think it is safe to assume that testing each individual at the worksite is the most costly approach to examination. Nowhere is the issue of certification cost discussed, not in either the draft Regulation or the Explanatory Notes. In the deliberations of the BC Association for Crane Safety working groups, there is just a vague reference to using WorkSafeBC funds. Those funds will have to come from our member companies. **We would not be carrying out our fiduciary duties if we were to accept a regulation and ensuing implementation strategy on blind faith, without a detailed costing.**

Another point has to do with the regulation development. We don't fault the WorkSafeBC Board of Directors for seeking to establish an industry managed process, but we do object to WorkSafeBC placing the entire emphasis for stakeholder consultation and standards development with it's newly created BC Association for Crane Safety. It is wrong to think that, as it is currently constructed, the BC Association for Crane Safety represents all the construction industry crane users. The BC Road Builders and Heavy Construction Association was never contacted when WorkSafeBC was putting this association together, we have no representation on its board, and our ITO Committee was not involved in any of the development focus groups. **Consequently, our approach to the competency-based training is not reflected in their deliberations or outputs.**

As anyone in construction can tell you, if you build without a clear plan, structural failure is almost inevitable. We wonder how and when will all of these unresolved details be addressed, our fear is that they will also be resolved unilaterally.

In conclusion, we want to assure WorkSafeBC that the BC Road Builders and Heavy Construction Association has and does take the issue of workplace safety very seriously. We were at the forefront of the creation of the Construction Safety Network. We have integrated safety training into all levels of our ITO developed competency based training, including training related to lifting.

However, with no assurance that our work will be recognized, forced to accept a program we had no role in shaping, and at a cost that's unknown, I have to conclude by restating that we are unequivocally opposed to the current draft Regulation.

**Jack Davidson, President
BC Road Builders and Heavy Construction Association**



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May 17, 2006

Ms. Roberta Ellis
Vice-President, Policy, Investigations and Review
WorkSafeBC
PO Box 5350 Stn Terminal
Vancouver, B.C. V6B 5L5



Dear Roberta:

The BC Road Builders and Heavy Construction Association (BCRBHCA) recommends that WorkSafeBC suspend its proposed amendment to Part 18 (Traffic Control) of the Occupational Health and Safety Regulation for the following reasons:

- 1) The amendment refers to BC's Traffic Control Manual for Work on Roadways, which is being revised and is to be released early in 2007. It is prudent to ensure that no conflicts will occur between the new OHSR and the new Traffic Control Manual for Work on Roadways, so it makes sense to hold off on any amendments.
- 2) There is no clear reason why any housekeeping amendment is critical at this time in any way.
- 3) The proposed amendment is not driven by the need to address any particular safety issue and does not improve safety.

The BC Road Builders, representing more than 100 employers and 70% of the workforce in the road construction and maintenance sub-sector, have thoroughly reviewed the proposed amendment and urge that it be put on hold at this time.

The BC Road Builders do not specifically take issue with the substance of the proposed amendment. The pressing concern is the timing of change, given the absence of any strong reason to make the amendments at all.

The Traffic Control Manual for Work on Roadways is currently being revised and updated by the Ministry of Transportation. The last time it was revised was in 1999 and it is currently being re-drafted for release in early 2007. Both the existing OHSR and the proposed amendment make reference to the Manual for Work on Roadways. The current OHSR includes areas that are in conflict with the Ministry of Transportation's Control Manual for Work on Roadways, and its accepted best practices. For these reasons, it would be prudent to wait to make amendments to the OHSR until the new manual is completed and the information is accurate and current thus avoiding potential further conflicts.



An explanatory note to the amendment mentions that, "It is WorkSafeBC's intention to work with the Ministry of Transportation to, as far as possible, eliminate conflicts between requirements in the OHSR and the Traffic Control Manual..." The implication of WorkSafeBC making these amendments at this time can be viewed as creating conflict rather than eliminating it.

WorkSafeBC should continue to meet with MOT and others to ensure that any amendments are consistent with other information and data. However, amendments should come only after all of that information is available and analyzed. For safety reasons, there must be no conflicts.

There is no clear reason why any housekeeping amendment is critical at this time. There is no political, scientific, or technological change that requires a change in regulation. Nor are there any outdated references that require any amendments to the Traffic Control requirement at this time. No particular safety issues are being addressed at this time and there have been no new discoveries of hazards related to traffic control. Indeed the draft fails to identify how this regulation will make the workplace safer. The amendment does include a requirement for the use of more reflective tape, but this change is incidental and has already been adopted by the industry.

Once again, the proposed amendments include some housekeeping changes and clarification of terms – neither of which are being contested. However, these are not adequate reasons, individually or combined, to proceed with changes at a time when more pronounced changes are being made or are planned for the Manual for Work on Roadways.

The BC Road Builders and Heavy Construction Association's position is that WorkSafeBC should wait the completion of changes to the Manual for Traffic Control before proceeding with the proposed amendment to the OHSR. Once those changes are evident, WorkSafeBC should consider consultation with industry on any potential regulatory changes. This is prudent and will ensure that jurisdictional conflicts do not interfere with the safe operation of our worksites.

Yours truly,

A handwritten signature in black ink, appearing to read 'Jack Davidson', with a long horizontal line extending to the right.

Jack Davidson
President

cc: Don Nelson
Stephen Torrence

WorkSafeBC - Regulation Review PART 18 TRAFFIC CONTROL

The BC Road Builders and Heavy Construction Association recommends that WorkSafeBC suspend its proposed amendments to Part 18 (Traffic Control) of the Occupational Health and Safety Regulation.

The amendments refer to the Ministry of Transportation's Traffic Control Manual for Work on Roadways, which is currently being revised and is to be released early in 2007. It is prudent to ensure that no conflicts will occur between the new OHS regulations and the new MoT Traffic Control Manual for Work on Roadways

The proposed amendments are not driven by the need to address any particular safety issue and do not improve safety. Therefore, there is no reason why these housekeeping amendments need to move forward at this time. It makes sense to hold off on any amendments until these two documents can be reconciled

The BC Road Builders, representing more than 100 employers and 70% of the workforce in the road construction and maintenance sub-sector, have thoroughly reviewed the proposed amendments and urge that they be put on hold. The BC Road Builders do not take issue with the substance of the proposed amendments. But, given the absence of any strong reason to make the amendments at all our concern is the timing of change,

The last time The Traffic Control Manual for Work on Roadways was revised was in 1999. This important best practices guide is currently being re-drafted by the Ministry of Transportation, for release in early 2007. Both the existing OHS regulations and the proposed amended regulations include areas that are in conflict with the Ministry of Transportation's Traffic Control Manual for Work on Roadways and industry accepted best practices. For these reasons, it would be prudent to wait to make amendments to the OHS regulations until the new Ministry of Transportation's manual is completed and the information the new regulations need to be based on is current thus avoiding potential regulatory conflicts.

An explanatory note to the amendment mentions that, "It is WorkSafeBC's intention to work with the Ministry of Transportation to, as far as possible, eliminate conflicts between requirements in the OHS regulations and the Traffic Control Manual. Making these amendments at this time can be viewed as creating conflicts rather than eliminating them. WorkSafeBC should continue to

meet with the Ministry of Transportation' and others to ensure that any amendments are consistent with industry best practices. Amendments should be made to the OHS regulations only after all of the information is available and analyzed.

For safety reasons, there must be no conflicts.

There are no clear reasons why any housekeeping amendments are required at this time. There are no political, scientific, or technological changes that require a change in regulation. Nor are there any outdated references that require any amendments to the Traffic Control regulations. There have been no new discoveries of hazards related to traffic control and, no particular safety issues are being addressed by these amendments. The proponents may argue that the amendment does include a requirement for the use of more reflective tape, but this change is incidental and has already been adopted by industry. In our opinion the draft amendment fails to make the workplace safer

Once again, the proposed amendments include some housekeeping changes and clarification of terms - neither of which are being contested. However, these are not adequate reasons, individually or combined, to risk putting in place regulations that are in conflict with the Manual for Work on Roadways and industry best practices.

To summarize Worker safety is paramount and workers confronted with conflicting regulations will not know what is safe practice. WorkSafeBC should wait for the completion of changes to the Manual for Traffic Control before proceeding with their proposed amendments to the OHS regulations. Once those changes are available, WorkSafeBC should consultation with industry on any potential regulatory changes.

This is prudent and will ensure that jurisdictional conflicts do not interfere with the safe operation of our worksites.

**Jack Davidson, President
The BC Road Builders and Heavy Construction Association**