

WORKERS' COMPENSATION BOARD OF B.C.

**PUBLIC HEARING**

**OCCUPATIONAL HEALTH AND SAFETY REGULATIONS**

Richmond, B.C.  
March 25, 2004

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**TRANSCRIPT OF PROCEEDINGS**

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**PANEL:**

Margaret Eckenfelder  
David Young  
Mark Powers

Chair  
Vice-Chair  
Legal Counsel

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Richmond, B.C.  
March 25, 2004

1 PROCEEDINGS COMMENCED AT 8:55 A.M.

2 THE CHAIR: Good morning and welcome. This  
3 is the fourth in our series of public hearings on the  
4 Proposed Amendments to the Occupational Health and Safety  
5 Regulations. We have been in Prince George, Nanaimo and  
6 Kelowna. I would just like to let you know that the  
7 transcripts from the Prince George and Nanaimo sessions are  
8 now available on our website and transcripts from today  
9 will be ready within about a week and will also be  
10 available on our website.

11 The purpose of this public hearing is to  
12 give you the opportunity to comment on proposed amendments  
13 to the Occupational Health and Safety Regulations regarding  
14 Occupational Environment Requirements; Workplace Conduct  
15 and Violence in the Workplace; Noise, Vibration, Radiation  
16 and Temperature; Fall Protection; Ladders, Scaffolds and  
17 Temporary Work Platforms; Agriculture, and a number of  
18 miscellaneous sections in the Occupational Health and  
19 Safety Regulation. In addition, we are here to listen to  
20 comments on proposed policy amendments related to  
21 Occupational Exposure Limits for Chemical Substances.

22 We are here today to listen to your remarks.  
23 To ensure that we proceed in a timely manner we ask that  
24 you keep your presentation to the time that you've been  
25 assigned. Richmond has a very full agenda, all the spots

THE CHAIR  
(Introductory remarks)

1 have been taken and we'll give you a one-minute sign when  
2 you're nearing the end of your allotted time.

3 A transcript of your comments will be made.  
4 If you do have additional written material to leave with  
5 us, please do so. Both oral and written submissions will  
6 form part of the public hearing record. The deadline for  
7 receipt of any written materials is 4:30 on April 16th,  
8 2004 and we are accepting written submissions whether or  
9 not you actually make an oral presentation here today.

10 Prior to the commencement of the public  
11 hearings the WCB hosted technical information sessions in  
12 eight locations across the province. These sessions were  
13 intended to provide interested parties with an overview of  
14 the proposed amendments and an opportunity to engage with  
15 technical experts to determine potential implications and  
16 possible implementation challenges.

17 I wish to take this opportunity to thank  
18 those of you and your organizations who participated in the  
19 technical information sessions.

20 This public hearing represents the formal  
21 consultation process. Once the hearing process is  
22 complete, written and oral submissions will be examined.  
23 The Board of Directors is the decision-making body of the  
24 WCB and they will have access to all of the submissions  
25 prior to making their final decision on each proposal.

MARK THOMPSON, LINDA KINNEY,  
MILES MUIR  
(SHAPE)

1           Once again, this is your opportunity to be  
2 heard on these important issues. Thank you for your  
3 interest and involvement. We look forward to hearing your  
4 views.

5           Our first speaker this morning is Mr. Mark  
6 Thompson.

7 PRESENTATION BY MR. MARK THOMPSON, MS. LINDA KINNEY AND MR.  
8 MILES MUIR ON BEHALF OF SAFETY & HEALTH IN ARTS PRODUCTION  
9 AND ENTERTAINMENT:

10           MR. THOMPSON: Good morning. My name is, as  
11 you said, Mark Thompson, and I represent SHAPE, Safety &  
12 Health in Arts Production and Entertainment. On my left is  
13 Linda Kinney, who is our General Manager and on my right is  
14 Mr. Miles Muir from Vancouver Civic Theatres, and Miles is  
15 one of our Directors.

16           We are governed by our Directors,  
17 representing workers and engagers in motion picture and  
18 performing arts. The association was formed six years ago  
19 to deal with the special problems for the entertainment  
20 sector identified in the Regulation review of the 1990s.

21           This is not a particularly dangerous  
22 workplace, but there are special problems and SHAPE is the  
23 liaison with the WCB. It does training and prepares safety  
24 materials for the industry and we've brought a few samples  
25 of our training materials for you today so you'll have an

MARK THOMPSON, LINDA KINNEY,  
MILES MUIR  
(SHAPE)

1       indication of some of the work that we do.

2                   This is a pretty big industry. We estimate  
3       45,000 British Columbians are employed: 15,000 in the  
4       performing arts and 30,000 in motion pictures. They  
5       contribute about \$2 billion to the provincial economy each  
6       year.

7                   Now, I'll speak to the special problems of  
8       the entertainment industry. Keep in mind that the purpose  
9       is illusion. We want to transform the audience from a day-  
10      to-day reality into some other area psychologically and  
11      some cases physically. So that regulations designed for  
12      conventional workplaces can destroy the illusion so other  
13      procedures have to be used to protect workers' health and  
14      safety. So that's the general problem.

15                  Now, we have a couple of general comments on  
16      the proposed amendments and then we have a number of  
17      specific comments. We have a full copy of our brief, and  
18      rather than give it to you in writing here today, we'll  
19      submit it electronically so you can mount it on the website  
20      conveniently.

21                  The first general comment we have is that  
22      the reliance on the Guidelines is problematic. We're not  
23      sure of their status. We find regulatory language  
24      transferred from the old Regulations into the new  
25      Guidelines. The use of the word "must" indicates that the

MARK THOMPSON, LINDA KINNEY,  
MILES MUIR  
(SHAPE)

1 Guidelines, in fact, are mandatory or will be taken to be  
2 mandatory. In our view, Guidelines should be just that,  
3 guides to help inspectors and parties interpret the  
4 Regulations.

5 We believe that Guidelines should be  
6 developed in consultation with affected parties and that  
7 Guidelines should be drafted and amended in accordance with  
8 protocols known to the public. As I walked in a few  
9 minutes ago I was handed a new draft Guideline on Violence  
10 in the Workplace. That's the first we knew of it. I  
11 prepared my remarks last night based on the information we  
12 had. That's an example of the problems that can arise.

13 Now, if we're going to use Guidelines, the  
14 new regulatory system presents an opportunity for SHAPE and  
15 the WCB to produce Guidelines jointly that reflect the  
16 special circumstances of the industries. The parties  
17 wanted such recognition in the Regulations and, frankly,  
18 were unsuccessful. If the Guidelines were more flexible,  
19 that means that we can work together. So we recommend that  
20 SHAPE and the WCB collaborate on Guidelines for the  
21 entertainment industry. And many subjects are covered in  
22 the Safety Bulletins for the Film Industry, published in  
23 California and adapted for use in British Columbia. So  
24 that's the raw material of something that we have in mind.

25 The second general comment is that WCB

MARK THOMPSON, LINDA KINNEY,  
MILES MUIR  
(SHAPE)

1 Regulations should avoid duplication of requirements from  
2 other agencies. Looking here at the lunchrooms and  
3 washrooms, there's a risk of double jeopardy for employers.  
4 Moreover, the Occupational Environment Regulations don't  
5 address the special problems of our members, which is  
6 temporary eating areas.

7 Now, several parts of the proposed  
8 Regulations create problems for this industry. The  
9 proposed amendment on Workplace Conduct and Violence, at  
10 least as we understand it as of last night, are too far-  
11 reaching, they are not performance-based, they duplicate  
12 the jurisdiction of other agencies and are too specific.  
13 So, for example, section 4.27, Risk of Improper Conduct,  
14 says:

15 If there is any risk of improper conduct the  
16 employer must do...

17 Et cetera, et cetera. Well, it's hard to imagine a  
18 workplace without "any risk" and that maybe "significant  
19 risk" would be appropriate in that situation, "reasonable  
20 apprehension of risk" or something like that.

21 SHAPE members have policies covering  
22 violence and we support the intent of the Regulation, but  
23 the language raises too many problems, such as calls for  
24 assistance, duplication of responsibilities with other  
25 agencies. So we recommend that the amendment to Part 4 be

MARK THOMPSON, LINDA KINNEY,  
MILES MUIR  
(SHAPE)

1 withdrawn, revised in consultation with the parties and  
2 introduced in a more simple form.

3 Now, there are some specific parts of the  
4 Regulations that create problems for our industry.

5 One is the use of fall protection. The most  
6 obvious issue there is stunts. Many stunts in films and  
7 some in performing arts involve falls or potential falls  
8 and the Fall Protection Regulations would create  
9 difficulties if applied literally.

10 The second one is the use of harnesses or  
11 belts, and here my Directors urged me to have you think of  
12 Peter Pan. You've seen Peter Pan on stage or on film  
13 flying around, and so forth. Obviously, if Peter Pan had  
14 an industrial kind of harness on, the illusion that I spoke  
15 about a few minutes ago would be destroyed. So we need  
16 some flexibility, either in the Regulations or more likely  
17 in the Guidelines, to enable performers to have adequate  
18 fall protection, we're not arguing against that, but one of  
19 a type that's not standard but preserves the illusion.

20 Another one is ladders and scaffolds.  
21 Again, you don't think about it but you've probably seen a  
22 performer standing on a ladder, one foot on the ladder,  
23 singing or emoting in some way. Well, that's a ladder, it  
24 falls under the Regulation. It's not meant to be a work  
25 ladder in the conventional sense, but it is a ladder. It's

MARK THOMPSON, LINDA KINNEY,  
MILES MUIR  
(SHAPE)

1 manufactured on site. They're checked for safety, but some  
2 recognition has to be given of the special conditions.

3 The scaffold could also be a riser that's  
4 used on the stage. Miles puts those in all the time. It's  
5 a different use than the normal scaffold that people use in  
6 construction, let's say.

7 The Regulations on headgear could cover  
8 performers. Things are flying around and, once again, we  
9 don't expect a performer to be wearing a hardhat and so  
10 some recognition has to be even there.

11 And the final issue we have is cranes,  
12 cranes and hoists. They should be distinguished. They're  
13 used very differently in our industry, the two pieces of  
14 equipment. Cranes are rented in the film industry  
15 universally where the producer rents a crane with an  
16 operator. The producer is not qualified to judge the  
17 abilities of the operator to run the crane safely, and at  
18 the moment there is no mechanism for establishing that  
19 competence. Unions tell us they can't do that, although  
20 the language refers to unions.

21 What we would like is for the WCB to  
22 identify training programs or schools, whereby a person who  
23 is operating a crane can be certified as competent to do so  
24 in a safe manner, and then the producer will know that the  
25 crane and the operator are both safe when they arrive on

CATHERINE KIDD  
(Vancouver Coastal Health)

1 the set.

2 I think my time is up and thank you for your  
3 attention. If you have any questions, I'll let Miles and  
4 Linda answer them.

5 THE CHAIR: Thank you very much, Mr.  
6 Thompson.

7 MR. THOMPSON: Okay. Here are the copies of  
8 some of our materials and we will get you an electronic  
9 copy of the full brief, which is quite a bit longer than  
10 this.

11 THE CHAIR: Thank you very much.

12 MR. THOMPSON: Thank you.

13 THE CHAIR: I would just like to take a  
14 moment. I realized when Mr. Thompson introduced his table  
15 that I hadn't introduced my table. My name is Margaret  
16 Eckenfelder and I am the Panel Chair. On my left is David  
17 Young, Vice-Chair, and on my right is Mark Powers, Legal  
18 Counsel and my timekeeper.

19 Our next speaker is Ms. Catherine Kidd.

20 PRESENTATION BY MS. CATHERINE KIDD ON BEHALF OF VANCOUVER  
21 COASTAL HEALTH:

22 MS. KIDD: Thank you and good morning. I  
23 would like to thank you for this opportunity to speak to  
24 the proposed amendments to specifically the Violence  
25 Regulations.

CATHERINE KIDD  
(Vancouver Coastal Health)

1           As you indicated, my name is Catherine Kidd  
2 and I am the Regional Director for Employee and Workplace  
3 Health and Safety for Vancouver Coastal Health. In my  
4 position I am responsible for leading a team of health and  
5 safety professionals to develop programs and advise  
6 managers and staff in all areas pertaining to the health  
7 and safety of our employees.

8           Vancouver Coastal Health has over 24,000  
9 employees engaged in delivery of healthcare services in  
10 Richmond, Vancouver and the North Shore, which includes up  
11 to Powell River and Pemberton. We serve one-quarter of the  
12 population of British Columbia through services provided in  
13 12 hospitals and numerous diagnostic and treatment centres.  
14 We also provide public health and community healthcare  
15 through health centres and home care agencies. Residential  
16 care and rehabilitation facilities are also a large part of  
17 our programming.

18           I am here on behalf of Vancouver Coastal  
19 Health to speak about our concerns regarding the proposed  
20 changes to the Workplace Conduct and Violence in the  
21 Workplace Regulation. I would like to provide some  
22 recommendations regarding those proposed changes.

23           First of all, I would like to underscore and  
24 emphasize that violence in the workplace is of deep concern  
25 for our health authority. Violence of any nature is

CATHERINE KIDD  
(Vancouver Coastal Health)

1 unacceptable and control measures and management of risks  
2 relating to workplace violence and aggressive behaviour is  
3 a prime objective of our organization. We support any  
4 efforts to reduce the risk of violence.

5 Our concerns are, however, that the proposed  
6 regulatory changes will not in any way reduce the risk of  
7 violence and will, at best, divert attention and activities  
8 away from control measures known to work and, at worst,  
9 will create uncertainty and may even increase the risk of  
10 violence. Some of our major concerns regarding the  
11 proposed changes are as follows:

12 While the intent of the proposed changes is  
13 to reduce the risk of violence in the workplace, we fail to  
14 find any evidence to support a conclusion that the proposed  
15 changes will reduce the risk of violence.

16 The proposed changes were precipitated by  
17 the recent Kamloops Coroner's jury report. However, the  
18 jury's recommendations pertain to one specific and very  
19 tragic incident. We believe that it is not inappropriate  
20 for the Board to extrapolate those recommendations to all  
21 industry in B.C., especially in the absence of any evidence  
22 of their efficacy in reducing the risk of violence. In  
23 reviewing the Kamloops case, it appears that even if these  
24 Regulations had been in place and adhered to, the tragic  
25 events in Kamloops would not have been prevented.

CATHERINE KIDD  
(Vancouver Coastal Health)

1           The proposed Regulation introduces a  
2 requirement to complete risk assessments and violence  
3 control plans based only on a perception of a threat of  
4 violence. This requirement will render the Regulation  
5 ineffective, we believe, as it is not possible to reduce  
6 risk based solely on perception. We believe that the  
7 proposed changes would place the Board and employers in an  
8 impossible situation of trying to assess, control and  
9 regulate perceptions.

10           The proposed Regulation seeks to regulate  
11 behaviours, which are already regulated under other  
12 agencies and agreements. For our industry this includes:  
13 Human Rights, the *Criminal Code* and our Collective  
14 Agreements. Employers such as Vancouver Coastal Health  
15 already have policies that regulate harassment and  
16 inappropriate behaviour. There is also extensive language  
17 in the collective agreements that govern activities around  
18 these issues. Adding increased regulations around worker-  
19 to-worker behaviours can only cause increased confusion and  
20 chaos as these matters are managed in the workplace.

21           VCH is concerned that the inclusion of  
22 worker-to-worker violence and mandatory reporting  
23 requirements will pit worker against each other and may  
24 hinder workers from reporting their concerns.

25           A further concern regarding the mandatory

CATHERINE KIDD  
(Vancouver Coastal Health)

1 incident reporting is the very definition of violence. In  
2 healthcare we treat many patients and residents who are  
3 cognitively impaired. For example, long-term care  
4 facilities have an ever-increasing number of residents with  
5 dementia kinds of conditions. These residents may display  
6 aggressive behaviour of a non-deliberate sort to many  
7 individuals many times in a day. Does this constitute a  
8 threat of violence? Is it appropriate for an employer to  
9 submit what could be thousands of added incident reports to  
10 WCB, especially in relation to a threat of violence? We  
11 do not believe that this will in any way reduce the risk of  
12 violence or make a meaningful contribution to the safety of  
13 healthcare workers. As employers, we are working with our  
14 staff to assess, control and reduce risk of injury in  
15 situations such as this in order to insure our staff  
16 safety.

17 We are also concerned with the use of  
18 Guidelines, as they seem to be prescriptive rather than  
19 actually being used as "guidelines" in the true sense of  
20 the word. And I would just like to support the comments of  
21 the previous speaker in relation to the use of Guidelines.  
22 In our reading of the Guidelines, which I haven't had a  
23 change to review the changes to them, there are examples of  
24 social situations, which according to the Guidelines may  
25 result in behaviour that requires the employer to do an

FRANCES KERSTIENS  
(HEABC)

1 assessment and control plan. Expanding the mandate beyond  
2 the actual workplace places the employer and the Board in  
3 an untenable situation.

4 In summary, Vancouver Coastal Health's very  
5 strong recommendation is that the proposed regulatory  
6 requirement be withdrawn and reviewed. There has been no  
7 evidence put forth by the Board that the current Regulation  
8 is ineffective. And we submit there is no evidence that  
9 the proposed amendments will in any way reduce the risk of  
10 violence.

11 Thank you.

12 THE CHAIR: Thank you very much.

13 The next speaker is Frances Kerstiens.

14 PRESENTATION BY MS. FRANCES KERSTIENS ON BEHALF OF HEALTH  
15 EMPLOYERS ASSOCIATION OF B.C.:

16 MS. KERSTIENS: Good morning. Can I go  
17 ahead?

18 THE CHAIR: Certainly. I was just going to  
19 do a volume check. Can people hear it in the back of the  
20 room all right?

21 MS. KERSTIENS: Is this okay?

22 THE CHAIR: Yes.

23 MS. KERSTIENS: Great, thank you very much.

24 Well, good morning, Panel. My name is  
25 Frances Kerstiens and I am here representing the Health

FRANCES KERSTIENS  
(HEABC)

1 Employers Association of British Columbia. HEABC  
2 represents a diverse group of over 350 publicly funded  
3 health care employers and this includes the entire spectrum  
4 of health care employers from acute care, long-term care,  
5 community, public and mental health and includes  
6 approximately 100,000 employees throughout the Province of  
7 British Columbia.

8 At the outset I would like to say how  
9 pleased I am to see representatives from Vancouver Coastal  
10 Health, the Province Health Services Authority and the  
11 Healthcare Safety Professionals Association in the audience  
12 today. I believe that their presence here is a real  
13 testament to the importance of the regulatory review  
14 process, as well as the importance of the specific  
15 regulatory amendments before the Board and this Panel.

16 The submission which I am about to present  
17 has been prepared with the co-operation and the support of  
18 the six regional health authorities, as well as the  
19 Healthcare Safety Professionals Association.

20 I will be forwarding a full written  
21 submission with respect to all of the proposed regulatory  
22 amendments, with the exception of Agriculture. However,  
23 due to the time limitations of this presentation, I will be  
24 addressing my remarks primarily to the proposed amendments  
25 to Part 4 of the Regulation pertaining to Workplace Conduct

FRANCES KERSTIENS  
(HEABC)

1 and Violence in the Workplace.

2 With respect to the provisions of Hazardous  
3 Conduct, it is our recommendation that the proposed changes  
4 be deleted or withdrawn and that they revert back to the  
5 original Regulation, as this is written that:

6 A person must not engage in any conduct,  
7 including horseplay, practical jokes,  
8 unnecessary running or jumping, that may  
9 create or constitute a hazard to workers.

10 It is impossible to define "unnecessary" and we submit that  
11 it's appropriate to delete this and use what you had  
12 before.

13 With respect to the Violence Regulation, I  
14 want to say that HEABC fully supports the Board's attempt  
15 to reduce the risk of injury due to violence in the  
16 workplace and to echo Catherine Kidd's statements in that  
17 regard.

18 We are, however, extremely concerned about  
19 the process used to develop the proposed Regulation, as  
20 well as the Regulation itself. Now, the intent of the  
21 proposed amendment is presumably to reduce the risk of  
22 injury through violence in the workplace and, as stated, we  
23 are fully in support of this objective. However, the Board  
24 has not made it clear or offered any evidence as to why  
25 this aim cannot be accomplished within the current Violence

FRANCES KERSTIENS  
(HEABC)

1 Regulation. The proposed Regulation is extremely vague and  
2 mandates a process of reporting, assessment and control of  
3 violence, based largely on the perception of a potential  
4 for violence or threats thereof, both in the workplace, but  
5 of particular concern to employers, outside of the  
6 workplace and outside of the employment relationship. We  
7 don't support that.

8 The Board, in developing the proposed  
9 Violence amendments has stated that they arise out of the  
10 Kamloops Coroner's jury report and we submit that the  
11 Board's reliance on this report is completely  
12 inappropriate. The Kamloops jury's recommendations were  
13 provided by a panel of laypersons in response to a very  
14 specific event precipitated by a very specific set of  
15 circumstances.

16 The event, obviously, which occurred in  
17 Kamloops is extremely tragic for those involved. However,  
18 what happened is a rare occurrence and it is inappropriate,  
19 in our view, to implement the findings of the jury to the  
20 entire employment community in British Columbia. This is  
21 especially so, given that the WCB's own accident  
22 investigation report into the events of Kamloops concluded  
23 that there was no violation whatsoever of any Health and  
24 Safety Regulation, nor was there any specific evidence that  
25 the subject of the investigation ever verbally or

FRANCES KERSTIENS  
(HEABC)

1 physically threatened anyone with violence prior to the  
2 horrible events which unfolded.

3 HEABC strongly submits that the Board has an  
4 obligation as a health and safety regulatory agency to  
5 develop proposed Regulation on the basis of the best  
6 available evidence. In review of the other proposed  
7 amendments to the Regulation, which are before you today,  
8 it is clear that the Board has relied on the best objective  
9 available evidence in proposing amendments to other  
10 regulations, such as CSA and ACGIH, to name a few.

11 Unfortunately, with respect to the proposed  
12 Violence Regulation, the Board has not used an evidence-  
13 based approach and has not provided any documentation to  
14 support that the proposed amendments will have any use or  
15 effect in reducing the risk of injury due to violence. It  
16 has simply adopted and even expanded on the Kamloops  
17 recommendations.

18 Again, we strongly submit that the Board has  
19 an obligation to propose regulatory change based on the  
20 best available evidence of injury prevention and reduction,  
21 and this has not occurred with respect to the proposed  
22 changes to the Violence Regulation.

23 Regulatory development and amendment must be  
24 based solely on health and safety considerations relating  
25 to reduced risk of injury, not on political considerations.

1           We are also concerned with the extremely  
2 vague nature of the proposed Regulation as it pertains to  
3 Improper Conduct and Threat of Violence, the definitions of  
4 which are murky and based on an individual's subjective  
5 perception or belief that an activity may escalate to  
6 violence, or threat of violence. And consistent with the  
7 two previous speakers, it's our position that such  
8 definitions, which are so unclear, place employers in a  
9 situation of trying to assess and control perception. And  
10 this is an impossibility; one cannot do that.

11           Given the lack of clarity around these  
12 definitions, it is our position that the resultant  
13 uncertainty may, in fact, lead to an increased risk of  
14 injury from violence. We need clarity in this process and  
15 it doesn't exist in the proposed Regulation.

16           In our opinion the proposed Regulation  
17 assumes that all behaviour can be predicted and controlled,  
18 and we know from the horrible experiences of Kamloops and  
19 Mission Hospital and Surrey Hospital, that this is  
20 incorrect. It is important in regulation to have clarity  
21 in both definition and process for assessment and exposure  
22 control.

23           A further concern is that the Regulation  
24 uses the term, "at or arising out of the workplace".  
25 According to the proposed Violence Guidelines, from pre

1 last night, the proposed Regulation is intended to "cover  
2 behaviours that are related to the workplace but do not  
3 necessarily occur at the worksite", such as social  
4 situations. This expansion of definition is inappropriate,  
5 as neither the Board nor the employer have the jurisdiction  
6 or ability to regulate all social or personal behaviour  
7 outside of the workplace.

8 Furthermore, the term "at or arising out of  
9 the workplace" is inconsistent with other sections of the  
10 *Workers Compensation Act*, such as section 5(1), which  
11 provides compensation for personal injuries which arise  
12 both "out of and during the course of employment". And it  
13 is inappropriate for a regulation to be inconsistent with a  
14 provision of the *Act*.

15 Furthermore, the *Workers Compensation*  
16 *Amendment Act* 2002 states that mental stress caused by a  
17 decision of the worker's employer relating to the worker's  
18 employment is not compensable. However, the amendment  
19 proposes to regulate perception of threat relating to a  
20 worker's employment and again this leads to contradictory  
21 provisions between the *Act* and the Regulation.

22 The proposed Regulation places the Board in  
23 a situation where it is expected to investigate situations  
24 which are primarily labour relations or human resources in  
25 nature. And unfortunately we have seen the somewhat

1       disastrous consequences of that within the Discriminatory  
2       Action provisions of the Act and we don't want to see a  
3       repeat in these Violence Regulations. So we strongly  
4       request that the language pertaining to at or arising out  
5       of the workplace be amended accordingly to reflect section  
6       5(1) of the Act or be deleted altogether.

7               The proposed amendments seek to regulate  
8       behaviours, as the previous speaker also submitted, which  
9       are clearly regulated under other pieces of legislation by  
10      other bodies: the *Criminal Code*, Human Rights, collective  
11      agreements. The Board has not provided any evidence that  
12      it has the resources or the expertise to investigate  
13      perception of misconduct or potential threats of violence  
14      within the context of a labour relations problem or a human  
15      resources problem. And again we've seen that unfortunate  
16      example in the Discriminatory Action provisions.

17              Sections 4.29 and 4.30 provide for mandatory  
18      worker reporting of threats of violence, violent acts and  
19      witnessing of violence. This has the unfortunate potential  
20      to pit worker against worker and we believe it could result  
21      in underreporting of threat or violence, which would lead  
22      to an increased risk of injury due to violence.

23              These sections also mandate that an employer  
24      file injury reports for all threats of violence and acts of  
25      violence to the Board. Again, as has been alluded to

1 earlier, this will result in a significant increase in the  
2 number of reports being forwarded to the Board and, I ask,  
3 for what purpose? Does the Board have the resource  
4 capacity to deal with such an influx of reports? And I  
5 believe that it does not.

6 Furthermore, in healthcare, as again was  
7 stated earlier, many patients and residents suffer from  
8 serious cognitive impairment. That situation is  
9 increasing, especially in our long-term care sector. And  
10 this kind of impairment can result in unintentional  
11 aggressive or inappropriate behaviour, and does the Board  
12 consider this violence? And, if so, how would it expect  
13 healthcare employers and workers to respond? It is  
14 counterproductive to require mandatory reporting to the  
15 Board, especially when the definitions of "threats of  
16 violence" and "violence" are so vague. And again I ask the  
17 question: Where is the evidence that the mandatory  
18 submission of all incident reports will reduce the risk of  
19 injury due to violence? There is no such evidence. We see  
20 it as simply an exercise in paperwork and nothing more.

21 Section 4.30(2) mandates that the employer  
22 provide debriefing to workers, however provides no specific  
23 definition of "debriefing". This section assumes that  
24 debriefing always yields a positive result. We have  
25 evidence, which we will be submitting in our written

1 submission, that that isn't always the case and that, in  
2 fact, there can be negative consequences of debriefing for  
3 the parties involved, which is something we obviously want  
4 to avoid.

5 So why would the Board include a mandatory  
6 provision, which could have negative consequences for  
7 workers? Where is the evidence to support the benefit of  
8 mandatory debriefing? It just doesn't exist.

9 Section 4.31 requires employers to maintain  
10 confidentiality. This is contradictory to the requirements  
11 of sections 4.28, 4.28.1 and 4.30 of the proposed Reg,  
12 which require consultation with joint committee members  
13 when completing violence risk assessments. How does an  
14 employer maintain confidentiality, especially in a worker-  
15 to-worker situation when there are consultation  
16 requirements with joint committees?

17 It's not that we are against consultation  
18 with the joint committees. However, in this case you have  
19 a contradictory piece of regulation, which has the  
20 confidentiality provision, and rightly so, but then turns  
21 around and says but you have to consult with people.

22 Again, we believe this places both the  
23 employers and workers in an impossible situation, which  
24 again could dissuade people from reporting threats of  
25 violence, and that is counterproductive to the basis of

1 this Regulation.

2 One of the things in healthcare that we deal  
3 with anecdotally is a belief throughout the industry that  
4 there is a significant under-reporting of violent incidents  
5 because of the nature of the patients and clients that we  
6 serve, and there has been a move in recent years to  
7 increase the awareness for our workers so that they do  
8 report and action can be taken appropriately. We don't  
9 want to see a Regulation that's going to possibly dissuade  
10 people from reporting.

11 And finally, we are concerned about the  
12 complete lack of policy development with respect to the  
13 proposed Regulation. The Board has developed Guidelines,  
14 however they do not constitute published policy of the  
15 Board, so they are not subject to stakeholder input, nor  
16 are they valid during any appeal process. In effect, the  
17 Board has no official guiding policy with respect to the  
18 implementation of the proposed Regulation, which we believe  
19 simply adds to its vagueries (sic) and makes compliance and  
20 enforcement impossible.

21 So it is our very strong recommendation that  
22 the proposed Violence Regulation be withdrawn. The current  
23 Violence Regulation effectively addresses the goal of  
24 reduced risk of injury and violence and perhaps can be  
25 worked on as one of the previous speakers alluded to.

FRANCES KERSTIENS  
(HEABC)

1       However, the proposed amendment before you, in the absence  
2       of any supporting evidence, will not reduce the risk of  
3       injury due to violence and will only serve to create  
4       uncertainty about this issue for workers, employers and  
5       Board Officers, and again we believe this could actually  
6       increase risk of injury due to violence.

7               Now I'm going to switch topics.

8               With respect to the Radiation proposals. We  
9       will be preparing a fairly lengthy submission for you on  
10      this, but just for the purpose of the record here, I would  
11      like to state that we are generally in support of the  
12      proposed changes. Again, we will be giving you a little  
13      bit more detail.

14              With respect to Part 7, Noise, Vibration,  
15      Temperature, we don't have any particular comment on the  
16      proposed changes. Although there are concerns that the  
17      sections on Heat Exposure and Cold Exposure provide little  
18      information that we feel would be of use. And again, given  
19      the vagueries (sic) of this section, we are concerned about  
20      how an officer would measure compliance with the  
21      regulation.

22              And finally, with respect to Confined  
23      Spaces, HEABC supports the inclusion of the phrase "except  
24      as otherwise determined by the board" in the definition on  
25      "confined space". We have some concerns with some of the

FRANCES KERSTIENS  
(HEABC)

1 other wording and we will be addressing those in detail in  
2 our written submission, but generally we support the  
3 Regulation.

4 And that's it. We'll get you a written  
5 submission, probably in the next week. Any questions?

6 THE CHAIR: Thank you very much.

7 MS. KERSTIENS: Thank you.

8 MR. POWERS: Actually I do have a question  
9 for you.

10 MS. KERSTIENS: Certainly.

11 MR. POWERS: It may be that I just missed  
12 part of the presentation. If I understand correctly, you  
13 said that there is significant underreporting of violent  
14 incidents or threats of violence as it comes from patients?

15 MS. KERSTIENS: We believe there is, yes.

16 MR. POWERS: And then you have indicated  
17 that you thought the proposed Regulations would discourage  
18 reporting?

19 MS. KERSTIENS: Yes.

20 MR. POWERS: What is it about the  
21 Regulations or why do you see that they're going to  
22 discourage reporting even further?

23 MS. KERSTIENS: A number of reasons. One is  
24 the worker/worker provision.

25 MR. POWERS: But that wouldn't apply where

FRANCES KERSTIENS  
(HEABC)

1 it's patients.

2 MS. KERSTIENS: Not with patients. Okay.  
3 So for with patients the proposed Regulation as it is  
4 before you is extremely vague in terms of its definition.  
5 And with the mandatory reporting, I don't see that many  
6 healthcare workers are going to take the time out to be  
7 filling in reports on people, on their patients who they  
8 have an affinity for, who are cognitively impaired or  
9 physically impaired, and who perhaps lash out or  
10 demonstrate whatever type of behaviour. They're going to  
11 not do that. If the removal of the "mandatory" and the  
12 inclusion of some guidelines on when to report those kinds  
13 of instance, then I think we would have a better  
14 opportunity to have an increase in the number of reports.

15 MR. POWERS: Thank you.

16 MS. KERSTIENS: So it's a definition and  
17 people don't like "mandatory" and they're not going to do  
18 it. So I don't see that this is going to contribute to an  
19 increase. What we're trying to do is to educate staff, to  
20 allow them to report, provide opportunities for them to  
21 report, also to define what is violence.

22 You know, in the past in our industry and in  
23 the social service industry it was considered part of the  
24 job. Well, we're saying it's not part of the job and  
25 working trying to set up mechanisms in our health

MIKE CLARKE  
(BCGEU)

1 authorities with the Occupational Health and Safety Agency  
2 for Health Care, which has been established, to educate  
3 people and provide them the permission to report. This  
4 won't do it, especially if it's mandatory, and if it's  
5 being done on patients.

6 Does that answer your question a bit?

7 MR. POWERS: I believe so, thank you.

8 MS. KERSTIENS: Okay.

9 THE CHAIR: Thank you very much.

10 MS. KERSTIENS: Thank you.

11 THE CHAIR: Our next speaker is Mike Clarke.

12 PRESENTATION BY MR. MIKE CLARKE ON BEHALF OF THE B.C.  
13 GOVERNMENT AND SERVICE EMPLOYEES' UNION:

14 MR. CLARKE: Good morning. Members of the  
15 Panel, ladies and gentlemen, I am here on behalf of 58,000  
16 members of the B.C. Government and Service Employee's  
17 Union. Brother Heyman, who was scheduled to appear before  
18 you, is unable to do so due to pressing and urgent  
19 business, which I apologize for, and he has asked me to  
20 make the union's presentation in his place.

21 My name is Mike Clarke and I am a Vice-  
22 President of the BCGEU. One of my responsibilities is to  
23 chair the union's provincial executive Occupational Health  
24 and Safety Committee, which is responsible for developing  
25 the union's views in this policy area.

MIKE CLARKE  
(BCGEU)

1           We come to address the proposed changes to  
2 Part 4 of the Regulation. First we would like to discuss  
3 the proposed sections 4.24 through 4.31. These deal with  
4 what the proposed Regulation calls Hazard Conduct and  
5 Violence in the Workplace.

6           Our interest in this portion of the  
7 Regulation should come as no surprise in light of the  
8 workplace murders and suicide which occurred in Kamloops at  
9 the Ministry of Water, Land and Air Protection in October  
10 2002. The overwhelming number of workers impacted,  
11 including one of the murder victims, were or remain members  
12 of the BCGEU. The event was a tragedy for the workers and  
13 the families involved, a source of sorrow and apprehension  
14 for the community and a trigger for some of the changes  
15 which are proposed.

16           Since then, there have been public reports  
17 of other acts of violence by supervisors upon subordinates  
18 in the public service. While these have been less  
19 injurious, they serve to keep the issue of violence among  
20 workers before us.

21           We're also concerned with the changes made  
22 in the Regulation because a growing proportion of our  
23 members work in healthcare and various forms of social  
24 services. These are both occupational areas where a high  
25 proportion of B.C.'s workplace violence occurs.

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(BCGEU)

1           The media model of workplace violence is  
2 that of a disgruntled worker carrying out acts of great  
3 violence upon co-workers. The actual norm for violence  
4 related to work involves a client, a patient or a customer  
5 assaulting or abusing a social worker, a home support  
6 worker, a retail worker, a nurse or a nurse's aide.

7           Data collected in Europe shows that nearly  
8 half of all violence at work occurs in the health and  
9 social service sectors. Canadian data shows much the same  
10 thing.

11           It is against this background that we have  
12 evaluated the proposed changes to what was called in the  
13 past "Workplace Conduct" and "Violence in the Workplace".

14           There would appear to be one overriding  
15 concern in the drafting of all the recently proposed  
16 changes to the Regulation. That is the adoption of a  
17 performance-based as opposed to a prescriptive mode of  
18 regulation.

19           The preference for performance-based  
20 regulation is expressed in the treatment given to risk  
21 assessments and to preventative measures to the proposed  
22 Regulation. Gone are the existing Regulation's requirement  
23 that violence risk assessments meet certain specific tests  
24 and that preventative procedures and policies meet certain  
25 specific goals. In their place are vague generalized

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(BCGEU)

1 requirements for assessments of an unspecified character  
2 and prevention plans without objectives.

3           There is reference in the explanatory notes  
4 to Guidelines that will specify the appropriate components  
5 for violence risk assessments and prevention plans. These  
6 changes demonstrate what is wrong with the preference for  
7 performance-based regulation in the occupational health and  
8 safety realm.

9           The proposed language is opaque. Its  
10 meaning is unclear unless you know the special meaning of  
11 the terms used. What is "an assessment of the risks..."?  
12 If they don't already know, neither workers nor managers  
13 can find the answer out from the Regulation itself.  
14 Instead, as it's written, it is impossible to know that  
15 there is even such a thing as a proper assessment as  
16 distinct from an inadequate one.

17           In the workplace a well-written regulation  
18 is a like recipe in a cookbook. It tells, in plain words,  
19 what the ingredients are for acceptable health and safety  
20 practice. It eliminates the arguments between workers and  
21 managers about how much is enough.

22           Performance-based regulation, such as that  
23 exemplified by 4.28, will simply feed argument or promote  
24 confused silence and muddling through.

25           The claim in the explanatory notes that

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(BCGEU)

1 additional information will be available in the Guidelines  
2 glosses over the difference between an enforceable  
3 regulation and an unenforceable guideline. Workers and  
4 employers are seeking information about what they must do,  
5 not what they might do. This section of the proposed  
6 Regulation fails to provide that certainty for both workers  
7 and employers. In the absence of certainty there will be  
8 dispute and there will be repeated occurrences of post-  
9 traumatic stress, injury and harm.

10 Abandoning the performance-based mode and  
11 retaining the prescriptions set out in the existing  
12 Regulations will prevent those occurrences and those  
13 disputes.

14 While the proposed Regulation pays little  
15 attention to how risk assessments should be carried out or  
16 what preventative plans must include, it focuses a great  
17 deal upon obligations to report and obligations to respond  
18 to reports.

19 In general, safety regulation is about  
20 preventing injury in the future. That means identifying  
21 the hazards, developing preventative practices and harm  
22 reduction strategies. The proposed Regulation's focus on  
23 report and response at the expense of risk assessment and  
24 proper prevention plans appears to be better suited to  
25 ascribing the blame for failure to report than to

1 identifying the hazards and preventing future harm.

2 The proposed Regulation largely restates  
3 much of what is in the existing Regulation 4.24 through  
4 4.31. However, it contains two novel features. The first  
5 is the requirement found in the proposed section 4.30(2)  
6 requiring the employer to inform workers who are subject to  
7 violence or who witness it, of the availability of  
8 debriefing.

9 This is a welcome addition to the  
10 Regulation. Critical incident stress debriefing is a  
11 valuable tool for reducing injury to the psyche of workers  
12 who have been exposed to violence, intimidation and threats  
13 of violence. Without its inclusion in the Regulation, many  
14 employers and workers remain ignorant of its remedial  
15 powers.

16 This is a good example of how the Regulation  
17 can be an instrument for educating workers and employers on  
18 the best health and safety practices. This new addition to  
19 the Regulation is like many of the statements, which have  
20 been cut out of various parts of the existing Regulation  
21 through the changes that have been proposed or made in the  
22 last two years. It places an obligation on the employer  
23 while at the same time pointing the employer and the  
24 workers towards means of meeting those obligations.

25 What is regrettable about the process is

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1 that in order to get one step forward, we are asked to take  
2 several steps back.

3 The second novel feature concerns the  
4 proposed section 4.31, which gives the employer the  
5 discretion to hold information confidential with respect to  
6 investigations into improper conduct, threats of violence  
7 and violence. We believe that this provision, as written,  
8 will not do anything to enhance the safety of workers. The  
9 focus on confidentiality from persons other than the  
10 employer addresses the wrong end of the problem.

11 Protection from retaliation by the employer,  
12 supervisors, co-workers and others is a proven mechanism  
13 for ensuring forthright reporting, when it is vigorously  
14 enforced by the workplace parties and the Board.

15 Placing the discretion about disclosure in  
16 the employer's hands undermines the effective operation of  
17 the bipartite structure at the heart of the occupational  
18 and safety prevention system.

19 If there is a case for confidentiality in a  
20 particular situation, the determination should be made by a  
21 prevention officer, rather than one of the parties whose  
22 decision could appear to be biased or self-serving.

23 The various investigations made into the  
24 Kamloops incident disclosed that it was fear of retaliation  
25 by the employer that caused workers to be reticent about

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1 reporting abusive managerial practices. In that light it  
2 is hard to see how giving the employer the power to  
3 withhold information from the worker representatives on the  
4 health and safety committee would have encouraged more  
5 forthright reporting.

6 The drafters of the proposed Regulation have  
7 made a distinction between potential, threatened and actual  
8 use or attempted use of physical force so as to cause  
9 injury. At the same time they have lumped together the  
10 conduct of supervisors, co-workers, customers, clients and  
11 patients. In the process they have obscured an important  
12 distinction, one which we believe is critical to developing  
13 effective violence prevention.

14 That distinction is between what health and  
15 safety practitioners in the European Union call internal  
16 and external violence. That is to say, the distinction  
17 between violence among workers, including in this  
18 circumstance supervisors and other managerial personnel,  
19 and violence to workers by those who are not workers in the  
20 meaning of the *Workers Compensation Act*.

21 The distinction is critical because what  
22 we're dealing with is two distinct sets of hazards rather  
23 than a single hazard with many manifestations. Internal  
24 violence has different causes than external violence.  
25 Different risk factors need to be considered when assessing

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1 risks of internal violence than the risk factors to be  
2 considered when assessing external violence. Different  
3 preventative measures are appropriate to internal violence  
4 than those applied to eliminate or reduce external  
5 violence.

6 Internal violence, according to the  
7 literature, is associated with jobs that have high  
8 performance demands and low worker control. That is known  
9 as the "demand-control model". It predicts that for  
10 workers in such high-strain jobs there will be an increased  
11 incidence of violence. Essentially, according to this  
12 model, high demand and low control produces large amounts  
13 of negative stress, which in turn are associated with  
14 increased incidence of bullying, intimidation and the use  
15 of force against co-workers.

16 While there are complex mediating factors,  
17 including social supports, status and the presence or  
18 absence of substance abuse, which enhance the likelihood of  
19 internal violence in the circumstances of high-strain jobs,  
20 there remains a greater chance of internal violence in the  
21 circumstances of high demand and low control jobs.

22 Critical factors in assessing the risk of  
23 violence among workers include things like job design,  
24 interpersonal relationships at work, work organization, the  
25 management of work, staffing levels, workload and

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1 scheduling. A control plan intended to reduce the risk of  
2 violence among workers may include such things as job  
3 enrichment, job rotation, procedures for dealing with work  
4 overload, and development of consistent and transparent  
5 policies and procedures for dealing with workplace  
6 disputes.

7 While internal violence requires the  
8 assessment of distinct risks and development of specific  
9 and particular control plans, external violence, or  
10 violence to workers by clients, patients, customers,  
11 violent criminals and members of the public is by far the  
12 most prevalent form of work-related violence here and  
13 elsewhere.

14 External violence has different risk factors  
15 associated with it than internal violence. These include  
16 the physical environment of the workplace, the  
17 circumstances of the workplace's external environment,  
18 working alone, accessibility of cash and valuables, and  
19 violence-prone client groups, among others. These  
20 different risk factors lead to different control plans,  
21 which may focus on physical organization of the workplace,  
22 procedures for dealing with cash and valuables and the  
23 like.

24 Thus, it can be seen the distinction between  
25 internal violence, violence among workers and external

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1 violence, violence towards workers, is one of the most  
2 significant implications of effective violence elimination  
3 and prevention. The proposed Regulation thoroughly  
4 obscures this distinction and for that reason should be  
5 withdrawn.

6 In summary, it is our view that the proposed  
7 Regulation with respect to Hazardous Conduct and Violence  
8 in the Workplace should be withdrawn. We say this for the  
9 following reasons:

10 (1) The proposed Regulation abandons the  
11 prescriptive risk and control plan requirements which are  
12 now found in the current Regulation.

13 (2) The proposed Regulation adopts  
14 performance-based standards, which will reduce effective  
15 prevention by the workplace parties and increase conflict  
16 over what the standards are.

17 (3) The proposed Regulation's emphasis on  
18 reporting structures will be more useful in after-the-fact  
19 attribution of blame than the prevention of violence before  
20 the fact.

21 (4) The proposed Regulation fails to  
22 provide workers reporting improper conduct, threats of  
23 violence and violence with protection from retaliation.

24 THE CHAIR: Excuse me.

25 MR. CLARKE: Pardon me?

MIKE CLARKE  
(BCGEU)

1 THE CHAIR: One minute.

2 MR. CLARKE: Oh, yeah, okay.

3 THE CHAIR: Your one-minute mark.

4 MR. CLARKE: It fails to provide workers  
5 with protection from retaliation by the employer,  
6 supervisors, co-workers and members of the public. Thus it  
7 makes reporting much less likely.

8 (5) The proposed Regulation abandons the  
9 distinction between internal violence, for example,  
10 violence among workers, and external violence, violence  
11 towards workers.

12 Despite our belief that the proposed changes  
13 are fatally flawed and should not be adopted, we believe  
14 that the existing Regulation on Workplace Conduct and  
15 Violence in the Workplace must be improved and  
16 strengthened.

17 Among the improvements to the current  
18 Regulation that we support are the following:

19 (1) The prohibition of bullying,  
20 intimidation and abuse in the workplace. The proposed  
21 changes do this, but the rest of the changes are so  
22 conceptually flawed that it should not be adopted.

23 (2) Risk assessments and violence control  
24 plans to address the specific hazard of internal violence.

25 (3) Regulatory requirement for access to

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(BCGEU)

1 critical incident stress debriefing. This, too, is in the  
2 proposed changes, but those proposed changes are too flawed  
3 overall to merit our support.

4 (4) Explicit protection from retaliation  
5 for persons reporting improper conduct, violence or threats  
6 of violence.

7 In our written brief we will set out in  
8 greater detail what we believe would be an effective  
9 replacement for the current 4.24 through 4.31.

10 In light of the time constraints we will  
11 save our comments on the proposed changes to the  
12 Occupational Environment Requirements to our written brief.

13 Thank you for your kind attention to our  
14 submission.

15 THE CHAIR: Thank you very much. Questions?

16 Thank you very much.

17 We have now reached the point in the agenda  
18 where we break. The next speaker is scheduled to begin at  
19 10:15. There is coffee available and water at the back of  
20 the room should you wish it. Thank you.

21 --- PROCEEDINGS ADJOURNED AT 9:50 A.M.

22 --- PROCEEDINGS RECONVENED AT 10:14 A.M.

23 THE CHAIR: Good morning. I would like to  
24 take this opportunity to welcome those of you who weren't  
25 here for the first part of the discussion. I would like to

THE CHAIR  
(Introductory remarks)

1 briefly reiterate that this public hearing forms a formal  
2 part of the consultation process into proposed changes to  
3 the Occupational Health and Safety Regulation. Once this  
4 hearing process is complete, all written and oral  
5 submissions will be examined. The Board of Directors is  
6 the decision-making body of the WCB and they will have  
7 access to all of the submissions prior to making their  
8 final decision on each proposal.

9 This is your opportunity to be heard on  
10 these important issues and I would like to thank you all  
11 for your interest and involvement and we look forward to  
12 hearing your views.

13 I would like to reiterate that we are  
14 accepting written submissions. To submit a written  
15 submission you don't have to have made an oral submission.  
16 Our deadline for those is April the 16th at 4:30 p.m.

17 One of the things that we may run into,  
18 although we have people scheduled back-to-back throughout  
19 the day, is gaps in time may open where people speak  
20 awfully fast or where someone doesn't show up. So if  
21 someone who is currently not registered might have an  
22 interest in making an oral presentation of some sort,  
23 should time become available, please talk to Freda in the  
24 front row and we will try to accommodate you throughout the  
25 day and evening on a first-come first-served basis.

WAYNE PEPPARD  
(BCYT-BCTC)

1 Thank you.

2 And with that I'd like to turn it over to  
3 Mr. Peppard.

4 PRESENTATION BY MR. WAYNE PEPPARD ON BEHALF OF THE BRITISH  
5 COLUMBIA AND YUKON TERRITORY BUILDING AND CONSTRUCTION  
6 TRADES COUNCIL:

7 MR. PEPPARD: Thank you very much. You'll  
8 have to excuse me, I came down with a frog in my throat  
9 last night, so...

10 THE CHAIR: Just the timing, right?

11 MR. PEPPARD: Yeah, it's perfect timing,  
12 obviously. And we will be submitting some addendums to  
13 this by the 16th. We were not absolutely complete.

14 The B.C. and Yukon Territory Building and  
15 Construction Trades Council is the umbrella organization  
16 for 15 international unions with 22 locals throughout the  
17 province. Together these affiliated unions represent over  
18 35,000 members in British Columbia. Some of our affiliate  
19 unions have already or will be making their own  
20 presentations to these public hearings, giving their own  
21 unique perspective on the impact of the proposed cuts to  
22 safety regulations to workers practising their craft on  
23 B.C. construction sites.

24 Let me begin by thanking the Board for  
25 agreeing to hold the few public hearings that have been

WAYNE PEPPARD  
(BCYT-BCTC)

1 scheduled. In spite of my criticism of the process, below,  
2 I strongly support public hearings as an opportunity to  
3 provide some comment. For that we are grateful. We just  
4 need more of them and more time to prepare.

5 I also want to begin by recognizing support  
6 for the amendments to Safety Regulations proposed by the  
7 WCB for Occupational Environment Requirements, Workplace  
8 Conduct and Violence in the Workplace, Part 4, and  
9 Agriculture, Part 28. These are overdue and will increase  
10 worker safety in the jobsites where these Regulations  
11 apply.

12 As for the amendments dealing with the  
13 construction industry, the majority of the changes I want  
14 to express my dismay, despair and anger at the Board. The  
15 proposals are overwhelming. You are proposing to wipe out  
16 Occupational Health and Safety Regulations that have been  
17 crafted, refined and updated for over 41 years.

18 The 1963 Regulations were substantially  
19 updated and modernized in 1978. Amendments in 1983 were  
20 made for the construction industry in response to the  
21 fatalities on the Bentall Centre. The Construction  
22 Industry Advisory Council was instrumental in the  
23 development of these Regulations, many of which guide  
24 occupational health and safety activity to this day.

25 In the late '80s a tripartite - Board,

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1 employers and workers - review of the Occupational Health  
2 and Safety Regulations took place. This review witnessed a  
3 drive by employers to move towards performance versus  
4 prescriptive Regulations. The drive then to scrap specific  
5 Occupational Health and Safety Regulations failed.

6 The most recent improvements to the  
7 Occupational Health and Safety Regulations took place in  
8 the mid-1990's. A tripartite review worked from 1994  
9 through 1998 to come up with the current regime.  
10 Occupational Health and Safety Regulations from 1998 have  
11 been modified slightly over the last six years to promote  
12 safer workplaces.

13 Each review introduced or modified  
14 Regulations to redress shortcomings based on actual  
15 experiences. The current Regulations are based on  
16 workplace practices and hazards that have led directly to  
17 specific fatalities and injuries in our province. Today's  
18 Regulations have literally been written in the blood of  
19 B.C. workers killed or injured on the job.

20 The current Regulations have not been  
21 imposed on workers. Our current Regulations have been  
22 adopted after open and full discussion between the WCB,  
23 employers, workers and their representatives. Today's  
24 Regulations are the result of compromise based on a  
25 commonsense approach to enhance worker safety.

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1           The dimension of cuts proposed is  
2           overwhelming. They're also deceitful. Under the guise of  
3           providing employers with more flexibility and simplifying  
4           the regulatory framework, the proposals actually do the  
5           opposite. While the Regulations themselves diminish in  
6           size, the new Guidelines and proposed standards that  
7           accompany the proposed Regulations will more than double  
8           the complexity of the Occupational Health and Safety  
9           regulatory framework. The vagueness and ambiguity of the  
10          proposed "general" Regulations require employers, workers  
11          and Board staff to reference the Guidelines and standards.  
12          How accessible will these Guidelines and standards be?  
13          Will this new mound of Guidelines and standards be made  
14          available in hardcopy with the new Regulations?

15                 And I have a copy of the Regulations here,  
16                 current and proposed. And when this gets put into here, I  
17                 don't assume that it's going to be 30 percent less.

18                 The Guidelines will bog down those employers  
19                 who can afford to hire staff and study the detailed  
20                 supporting documents. For the rest of the construction  
21                 industry, the over 90 percent of construction employers  
22                 with fewer than 20 employees, the new Guidelines and  
23                 standards are difficult to understand. In the end the huge  
24                 burden of paper that is about to be dumped on their  
25                 shoulders will be ignored.

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1           This deceit on the cuts is matched by the  
2 cynicism of the process. This year's public consultations  
3 are only slightly better than last year's pathetic public  
4 review process. Last year the WCB only provided one  
5 opportunity for interested parties and the public to make  
6 presentations. One public hearing for the whole province!

7           Public review processes this year and last  
8 need to be compared with the public review, review process  
9 in 1999. Five years ago the WCB consulted with labour and  
10 employer community for more than a year and a half before  
11 issuing its recommendations for change.

12           At last year's review process the Board  
13 heard near unanimous opposition from employers and labour  
14 groups alike to its plan to water down limits on exposure  
15 to toxic materials. Employers, unions and individual  
16 workers denounced the changes one after another. Only the  
17 Council of Construction Associations supported the WCB on  
18 its drive to weaken the standards and increase exposure  
19 limits for those who work with and around poisonous gas and  
20 materials.

21           With such overwhelming opposition to the  
22 proposals, we believed that the Board would do the right  
23 thing and back down from its recommendations. We were  
24 fooled. While the Board held off for several months, by  
25 September the opposition expressed at large at the spring

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1 public hearings had been forgotten. Last fall the Board  
2 went ahead and approved the new higher exposures limits.  
3 By proceeding with your proposals you sent a message. What  
4 you told us was that the public hearing process is a joke.

5 What good is it to make representations to  
6 you, spend the time researching and writing submissions as  
7 this, when we know that you aren't listening? What good is  
8 it when you are not willing to make changes to your  
9 proposals? What good is it when you are determined to  
10 implement changes based on purely ideological missions to  
11 deregulate, or worse, to pander to friends in industry who  
12 donate millions of dollars to the governing B.C. Liberals?

13 We are making this year's presentation under  
14 duress. Starting from an arbitrary figure of cutting all  
15 government regulations by one-third and applying this to  
16 worker safety is absolutely absurd. Worker safety is not  
17 negotiable.

18 While Safety Regulations are a fundamental  
19 component of a workable occupational health and safety  
20 policy, equally important is a commitment and funding to  
21 enforce the Regulations. Enforcement has always been a  
22 struggle on its own. Over the last five years, however, we  
23 have witnessed a retreat by the Board on enforcement  
24 activity. Staffing levels have been cut and the actual  
25 number of site visits and spot checks are way down. The

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1 hypothetical per employer inspection rate was 9.4 of an  
2 inspection in 1993. By 2002 this hypothetical rate fell to  
3 0.1 of an inspection, a decline of nearly 70 percent.

4 Officials at the WCB counter criticism of  
5 their cuts with the dubious argument that injury rates have  
6 declined over the last five years. In fact, claims  
7 suppression and underreporting are factors ignored in these  
8 statistics. Declining fatality rates are based on more  
9 flimsy numbers. Actual fatality rates have remained the  
10 same when you take into account the increase in registered  
11 employers and the unaccepted claims by the Board.

12 Construction is unlike any other industry.  
13 The unique nature of our industry, short-term project-by-  
14 project work, means that a variety of employers come and go  
15 on the same jobsite. Some employers may only be on the  
16 site for a day, others for a period of months. There are  
17 over 13,000 construction companies registered in B.C. Well  
18 over 90 percent of these employ less than 20 workers. Over  
19 50 percent of the 13,000 employers employ less than five  
20 workers. As a whole, the industry generates over \$16  
21 billion in activity each year. This figure doesn't include  
22 the billions more that are estimated to change hands in the  
23 underground economy.

24 This is a highly competitive industry. Low  
25 bid tendering and bid shopping - the unethical practice of

1 re-tendering jobs after bids have closed - drive down the  
2 final price for construction services. In order to win  
3 binds contractors are forced to cut corners. Safety on the  
4 job, investments in training, equipment and the quality and  
5 safety of the finished product are often sacrificed in this  
6 ruthless marketplace.

7 It is important to give a brief description  
8 of the context of construction jobsites to illustrate the  
9 importance of the safety regulatory framework and  
10 enforcement of Regulations for the industry.

11 New government allowances for substandard  
12 apprenticeship training, weakening safety systems  
13 legislation and standards, cuts to the *Labour Code*,  
14 Employment Standards legislation, auditing for underground  
15 economic activity, and now Occupational Health and Safety  
16 Regulations are all contributing to a decline in jobsite  
17 safety. The many safeguards that have protected the  
18 industry from more accidents are unravelling altogether.

19 Full school training for apprentices has,  
20 over the decades, ensured that workers are exposed to all  
21 aspects of the trade they practice. In order to receive  
22 journey-level certification, workers across the country  
23 must prove that they meet standards set by the national Red  
24 Seal authority. Apprenticeship for fully trained workers  
25 usually takes four years of full-time employment. Fully

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1 trained workers are aware of the proper safety practices  
2 for their trades. Equally and more importantly a fully  
3 trained worker is knowledgeable about, has experience with,  
4 and has often exercised their right to refuse unsafe work,  
5 as defined by the *Workers Compensation Act*.

6 All of this is disappearing. The new  
7 *Industry Training Act* makes full-scope training an option.  
8 In fact, the new apprenticeship regime encourages partially  
9 trained new recruits into the industry. The requirement  
10 for compulsory Red Seal standards has been removed.  
11 Modular, or training for the specific skill sets has given  
12 employers a new shortcut. Partially trained workers will  
13 become the industry standard as employers compete to keep  
14 costs down. Partially trained workers are an accident  
15 waiting to happen on B.C. construction sites.

16 The new *Safety Systems Act* adds to the  
17 collateral changes that will impact safety on the job.  
18 Beginning next week, as of April 1st, municipal building  
19 permits cannot require builders to exceed provincial safety  
20 standards. Standards as defined by the *Electrical Safety*  
21 *Act, Power Engineers and Boiler and Pressure Act, Elevator*  
22 *Devices Act* and *Gas Safety Act* can now be chipped away.  
23 The new omnibus *Safety Systems Act* gives it the authority  
24 to override the existing Safety Acts. Issues such as  
25 ratios of apprentices to journey-level workers, definitions

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1 of qualified workers, inspection of work by new deputized  
2 Field Safety Officers and variances to the existing  
3 standards under Equivalency Standards Agreements will  
4 authorize inexperienced, non-certified and non-registered  
5 apprentices, workers and helpers onto B.C. construction  
6 sites.

7 In conjunction with the new apprenticeship  
8 regime we will witness a growth in the number of ill-  
9 equipped and inexperienced workers handling dangerous  
10 electrical, mechanical and elevating devices. Mixing  
11 inexperience with inappropriate supervision will turn B.C.  
12 construction sites into carnage zones.

13 Changes to the *Labour Code* have outlawed  
14 sectoral bargaining. Sectoral bargaining was one of the  
15 tools available to construction unions to facilitate  
16 organizing in the construction industry. Without sectoral  
17 bargaining, construction unions again face newly organized  
18 employers who refuse to negotiate collective agreements.  
19 These hollow certifications make organizing impossible,  
20 given the nature of the construction industry: short-term  
21 project-by-project work.

22 Studies have shown that union construction  
23 worksites enjoy lower injury rates, fatalities and WCB  
24 claims than non-union sites. Facilitating a decrease in  
25 union market share the *Labour Code* changes have been a

1 negative for job safety.

2 And I'm giving you an overall, because I  
3 think we need to understand the industry itself and the  
4 impacts that these changes are going to have that you are  
5 presenting with them.

6 Changes to Employment Standards legislation  
7 has also impacted job safety. The end to the *Skills*  
8 *Development and Fair Wage Act* and enforcement teams ended  
9 complaint-driven and spot checks on government  
10 infrastructure construction sites. Compliance with  
11 Employments Standards and other regulations, including  
12 OH&S, has been haphazard on infrastructure sites since the  
13 free-for-all regime was established after the 2001 general  
14 election.

15 Under the old *Employment Standards Act*,  
16 children aged 12 to 14 previously required written  
17 permission from an Employment Standards superintendent, a  
18 teacher and a parent or a guardian. After the 2003  
19 amendments, written approval from the Employment Standards  
20 superintendent and teacher was removed. Approval is now  
21 only required from one parent or guardian. In another  
22 amendment, Employment Standards legislation now allows for  
23 workers to be employed for up to 80 hours per week at  
24 straight time, as long as the accumulated total over the  
25 four weeks is less than 160 hours. Allowing younger

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1 workers and longer working hours will add to the risk of  
2 death and injury on construction jobsites.

3 Finally, are cuts to initiatives that  
4 curtailed the underground economy. For over a year prior  
5 to and up to October 2001 provincial Employment Standards  
6 officers joined with federal tax and HRDC officials to  
7 conduct random spot checks at over 1,500 residential  
8 construction sites in the Lower Mainland. Known as the  
9 Joint Compliance Team on the Underground Economy, these  
10 officers limited their mission to taxation, EI and  
11 employment standards education and enforcement.  
12 Nevertheless, the presence of government authorities put  
13 employers on notice. Not wanting to be reported to the WCB  
14 and knowing that a site visit was possible by the Joint  
15 Compliance Team was one more reason for employers to be in  
16 compliance with WCB Regulations. That has gone.

17 And this brings us to the new round of  
18 proposed Occupational Health and Safety Regulation cuts.  
19 OH&S Regulations are a highlight among the remaining rules  
20 that oversee construction work while it is underway. Given  
21 the cuts to all of the other safeguards outlined above, I  
22 urge the Board to act cautiously before moving ahead with  
23 the proposed changes.

24 The proposed cuts to OH&S Regulations extend  
25 the trend towards an employer-friendly deregulated regime

1 governing the construction industry.

2 Weakened OH&S Regulations will condone the  
3 shortcutting and ad hoc approach to construction safety  
4 that has become the "way to do business" on B.C.  
5 construction sites.

6 We cannot afford and must not abandon our  
7 regulatory and monitoring work.

8 Globalization and international competition  
9 is driving much of the agenda that is behind these changes.  
10 Rather than spiral our standards down to the rest of the  
11 world, we would be doing everyone a favour by holding on to  
12 and improving safety standards. Countries without an  
13 effective OH&S regulatory and monitoring regime should be  
14 brought up to our level. Globalization should not mean  
15 that we need to go down to their level.

16 This oral submission limits its critique to  
17 the cuts to Safety Regulations in Part 11 and 13 of the  
18 Act. While amendments to Part 6, 7, 8, Part 9, 14, 15, 16  
19 and 21 also relate to the construction industry, I have  
20 been unable to allocate sufficient resources to address  
21 them in this oral presentation. I will be providing a  
22 wider critique in our written submission.

23 It can be said, however, that the proposal  
24 for Part 11 and 13 follow a pattern. The pattern is an  
25 increased reliance on the Guidelines. As mentioned above,

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1 relying on the Guidelines to flesh out the ambiguity in the  
2 Regulations is a deceitful way to address Regulation cuts.  
3 In the meantime I am relying on presentations and  
4 submissions by unions affiliated to Building Trades, those  
5 whose trade is directly involved with the respective parts  
6 of the Occupational Health and Safety Regulation to make  
7 their own submissions to you at the public hearings.

8 Part 11, Fall Protection.

9 Amendments to Fall Protection begin with the  
10 repeal of Section 4.57. Work Area Guards and Handrails for  
11 elevated platforms are removed from Part 4 and are now to  
12 be dealt with in Part 11. In the explanatory note, we are  
13 told that the new Guidelines will cover the eliminated  
14 Regulation 4.57.

15 When we go to the Guidelines we are  
16 confronted with a set of sophisticated explanations. The  
17 proposed Guidelines for Part 11 are 28 pages long. Let's  
18 not forget that the current prescriptive Regulations are  
19 just six pages long.

20 Again, the Board seems to have forgotten  
21 that over 90 percent of construction contractors have less  
22 than 20 employees. The vast majority of construction  
23 contractors do not have the resources to put together  
24 specific safety plans for every situation that was  
25 previously covered by section 4.57.

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1           Instead of telling us how the "precise  
2 situation referenced by section 4.57" is to be regulated,  
3 the Guidelines focus on the transfer of authority for  
4 safety from the foreman directly onto the workers  
5 themselves. This is how employers will be able to get  
6 around the sophistication and complications presented by  
7 the Guidelines. Currently foremen are required to plan and  
8 instruct the workers on fall protection equipment and write  
9 the safety plan. In the Guidelines "safety monitors",  
10 i.e., the workers themselves, will take on the  
11 responsibility of implementing the safety plan.

12           The elimination of section 4.57 from the  
13 existing Regulation illustrates the problem with many of  
14 the ensuing proposed Regulations for Fall Protection. The  
15 problem is that they are open-ended and general. Without  
16 specifics on how to regulate fall protection, contractors  
17 and workers are told to reference the Guidelines. Again,  
18 the Guidelines are too sophisticated for the vast majority  
19 of construction contractors. Employers will get around  
20 their duty to plan for fall protection by making blanket or  
21 general plans, or as we discover in G11.3, discussed below,  
22 by making no plans at all.

23           There is also a deceitful side in the  
24 proposed Guidelines. Section G11.2.6 of the Guidelines  
25 gives us a dialogue to justify variances and "other

1 acceptable work practices". These Guidelines are designed  
2 to provide employers with wriggle room around the design of  
3 proper fall protection practices. For years employers have  
4 complained that the risk of tripping over fall protection  
5 lines can be more dangerous than not having any fall  
6 protection at all. These employers don't want to discuss  
7 designing a lanyard line that hangs from above or other  
8 practical alternatives. The dialogue in this Guideline is  
9 just another excuse to allow employers to take a shortcut  
10 on safety.

11 In the same vein, this Guideline gives into  
12 employers by using words like "should". According to the  
13 Guideline:

14 If work on a ladder is likely to exceed 15  
15 minutes at one spot, some form of fall  
16 restraint or fall arrest protection should  
17 be used.

18 The word "should" is too weak. The word "must" needs to  
19 replace "should" in this directive.

20 Later in this Guideline the principle of  
21 worker responsibility is taken to an absurd extreme.  
22 Guideline G11.2.6 ends by referring back to the Industrial  
23 Health and Safety Regulation prior to 1996 that provided an  
24 exemption from the normal fall protection requirements:

25 ...for structural steel erectors or similar

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1 tradesmen experienced in working at heights.  
2 The Guidelines say that the experience of workers and the  
3 work history of the employer in the type of work will be a  
4 factor in devising procedures acceptable under section  
5 G11.2.5. This is ludicrous. What the Guidelines are  
6 saying is that if a structural steel skywalker has  
7 demonstrated that he or she can successfully jump from one  
8 girder to another, without fall protection, that this  
9 practice is acceptable.

10 It's offensive that the Board will now allow  
11 variances on safety regulations based on a worker's  
12 experience. Just because this experienced worker hasn't  
13 had an accident doesn't mean that they are invincible.  
14 Every worker is vulnerable. We should not be weakening  
15 safety regulations just because one worker's experience  
16 doesn't yet include a fatal fall.

17 The fallout from section G11.2.6 will be to  
18 condone a culture in construction that we have strived to  
19 overcome. When we look back to the introduction of either  
20 steel toes or the introduction of hard hats, we ran into  
21 that same mentality. At the time these two changes were  
22 introduced, both employers and employees scoffed at the  
23 position. No one would challenge their need today. Both  
24 of these practices are responsible for a significant  
25 decrease in the type of injuries that they are designed to

1 prevent.

2           The same goes for the introduction and  
3 implementation of fall arrest. In 1996 after the extensive  
4 tripartite discussion on the introduction of fall arrest,  
5 the industry participants entered the 20th Century, kicking  
6 and screaming. The culture, the mentality was that  
7 existing regulations were sufficient to provide for a safe  
8 workplace as long as workers paid attention to what they  
9 were doing.

10           The macho culture is currently in  
11 transition. We are now at least halfway through the  
12 culture shift. Fall arrest systems are now well accepted  
13 in the construction sector. The planning and engineering  
14 stage for new buildings and structures now considers the  
15 need, in advance, to factor in the costs and implementation  
16 of fall arrest systems. Returning to performance-based  
17 regulations will be to reverse the positive trend, all the  
18 good work will be lost, and the culture shift will regress  
19 backwards.

20           Continuing on the issue of how the  
21 Guidelines confuse and complicate planning and  
22 implementation of effective safety plans. Section G11.3  
23 gives some basic and general criteria for the components of  
24 a fall protection plan. Then, incredibly, it says:

25           A fall protection plan is generally not

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1           necessary where other parts of the *OHS*  
2           *Regulation* specify exactly what method of  
3           fall protection...

4           THE CHAIR: You have one minute left in your  
5           time allocation. Thank you.

6           MR. PEPPARD: That's fine. It will be  
7           before you anyway. I'll go straight to my conclusion.

8           The proposed cuts to safety regulations will  
9           not reduce the complications and paperwork facing the vast  
10          majority of construction contractors and workers. The new  
11          guidelines and standards are adding to the regulatory  
12          burden facing workers. The impact of general regulations  
13          backed up by sophisticated new guidelines and standards  
14          raise more alarm bells when coupled with dramatic staffing  
15          cuts at the Board, less enforcement, more employer  
16          influence and moves towards privatization.

17          I am not the only one to seriously wonder  
18          about the future of the WCB in British Columbia. Along  
19          with many other labour organizations and employers, the  
20          Building Trades is convinced that removing prescriptive  
21          OH&S Regulations and replacing them with performance-based  
22          Regulations will increase carnage on construction jobsites.  
23          As a result, employers and the general public will be  
24          forced to shoulder increased costs for health services.  
25          Compensation administration will soar as a variety of

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1 insurers compete against each other for business.  
2 Litigations against employers will open up as the historic  
3 compromise is whittled away by increasing absence of Board  
4 policy and enforcement activity.

5 The new federal *Bill C-45*, the expansion of  
6 jurisdiction for criminal law to cover OH&S-related  
7 fatalities and injuries, places a new responsibility on  
8 employers. What the Board and some employers don't seem to  
9 accept is that the proposed cuts will cost more in the long  
10 run. Sure, there will be savings upfront with less  
11 investment in safe worksite practices, instruction and  
12 equipment. Over the years, however, as the fatalities and  
13 injuries mount, employers and the Board will be faced with  
14 increased costs to cover new claims for compensation. It  
15 will cost more to settle these claims than it would to  
16 maintain clear prescriptive preventive measures up front.

17 Alberta, the only other province in the  
18 country with performance OH&S regulations has moved to  
19 reintroduce prescriptive regulation. In Alberta, the  
20 general and ambiguous approach to OH&S regulations has been  
21 rejected by Safety Officers and Board staff who deal with  
22 the practice and consequences of the general rules.

23 The proposals as presented by B.C. WCB are  
24 going in the wrong direction. Clarity is the only way to  
25 produce safe worksites. Generalities will lead to more

LESLIE SANKEY  
(HEU)

1 carnage.

2 Thank you.

3 THE CHAIR: Thank you very much. Thank you.

4 We now have Ms. Leslie Sankey.

5 PRESENTATION BY MS. LESLIE SANKEY ON BEHALF OF HOSPITAL  
6 EMPLOYEES' UNION:

7 MS. SANKEY: Thank you for the opportunity  
8 to speak before you on the proposed changes to the  
9 Occupational Health and Safety Regulations. I am Leslie  
10 Sankey. I am the co-chair for the Occupational Health and  
11 Safety Committee.

12 I would like to begin by telling you a  
13 little bit about myself. Currently I'm a financial  
14 administrative worker, although for the past ten years I've  
15 worked in various positions with the Community Service  
16 Society, which is located in the Downtown East Side. Due  
17 to the nature of the community, we encounter high-risk  
18 situations on a daily basis. If we were to compare our  
19 incident rates to other worksites with like job  
20 descriptions, we would probably experience in one week what  
21 many other sites experience in a year.

22 I'm very nervous.

23 THE CHAIR: It's okay.

24 MS. SANKEY: Before I speak specifically to  
25 the proposed changes of the Preventing Violence in the

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(HEU)

1 Workplace Regulations, I would like the Board to note that  
2 I am greatly disturbed at your general direction, where  
3 many of these Regulations, such as Noise, Vibration,  
4 Radiation, Temperature, Fall Protection, Ladders and  
5 Scaffolds are gutted and replaced with performance-based  
6 regulations. We believe that the performance-based  
7 regulations are vague laws that only satisfy unscrupulous  
8 employers, and because these employers think that they have  
9 the ability to comply or not comply with the requirements.

10 We are also concerned that for several years  
11 the WCB has reduced inspections and enforcement activities.  
12 Performance-based regulations with little WCB enforcement  
13 will mean more workers will die or get injured.

14 As I have stated, I am a health and safety  
15 committee member. A performance-based regulation will not  
16 give my employer or me the concrete information on how to  
17 comply with the Regulations. Regulations that are  
18 prescriptive provide the necessary specific details needed  
19 to eliminate guesswork. Employers should meet minimum  
20 requirements and it should not preclude us from  
21 experiencing better standards and practices for our  
22 workers.

23 Before giving you a specific incident, I  
24 would like to give you a picture what it's like to walk  
25 through my work environment.

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(HEU)

1           As you look around a full capacity waiting  
2 room for the Financial Administration officers you would  
3 survey various clients that are sent direct from the  
4 Ministry of Human Resources with health and safety alerts.  
5 Health and safety alerts consist of people that have death  
6 threatted (sic) Ministry workers, have thrown objects and  
7 had pulled knives or they would have severe budgeting  
8 issues.

9           You would see a client that is unable to  
10 stay still and needs to stand up, sit down, pace around the  
11 offices. They could be intoxicated, on methamphetamine or  
12 crack. Or another client would be screaming at the top of  
13 their lungs at his or her FAW that they need money now for  
14 their next high. Or in the other corner you would see a  
15 client that's "on the nod", which is a heroin high, another  
16 client rocking back and forth just to cope with the crowd.  
17 As the FAWs open their own office doors, clients rush up  
18 and try to slip ahead of one another and to get quick  
19 answers from their Financial Admin Worker if it's worth  
20 waiting any longer.

21           FAWs are constantly asking clients to come  
22 back on their day or to wait and sit down and take their  
23 turn.

24           As you know, you will quickly realize that  
25 these clients have greater needs and time-consuming issues,

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(HEU)

1 such as severe chronic mental illness, long history of drug  
2 and alcohol misuse, low-level coping and budgeting skills.

3 The reason I have given you the general  
4 milieu of my workplace, and others that work with this type  
5 of population in healthcare, is because not all violence or  
6 potentially violent incidences and occurrences happen in a  
7 vacuum. It is a continual bombardment of the stressors on  
8 the workers that start in the morning and they can escalate  
9 on and off all day.

10 At my worksite, the J.C. Committee currently  
11 struggles to implement WCB regulations. Prior to being co-  
12 chair for the J.C. Committee in January 29003 we did not  
13 have policies or procedures for workers' protection against  
14 violence.

15 AS you know the Prevention for Violence  
16 Regulations came to be in 1993 for workers. Risk  
17 assessment is a part of the requirements for prevention of  
18 violence. The training to management just became available  
19 last week, therefore the risk assessments are only in the  
20 initial stage of development. I believe the key factor for  
21 Preventing Violence training has been due to WCB's worker  
22 enforcement. Without this involvement our workers would  
23 continue to be exposed to the old way of thinking, "You  
24 knew that that was your job, your job was risky when you  
25 hired on, deal with it." It is a relief to have the

LESLIE SANKEY  
(HEU)

1 acknowledgement that the violent situations we work in  
2 every day is unacceptable and WCB will ensure our safety.

3 Enforcement by WCB is extremely vital to the  
4 safety of all British Columbians. I would plead with this  
5 Panel to recognize the need for continued funding to the  
6 enforcement activities of the Prevention Division. The  
7 Prevention Officers' workload is already so that when you  
8 try to contact the officer you may be a three-month wait  
9 for replies. This is unacceptable due to the indispensable  
10 nature of their role.

11 I understand that WCB is doing a major  
12 restructuring of current services that will affect the  
13 North Vancouver Region. I need to know:

14 (1) How this reorganization will affect my  
15 workplace, and

16 (2) How WCB plans on implementing the  
17 changes and then monitoring the compliance.

18 In healthcare, violent incidences are seen  
19 as part of the job due to the type of services we provide.  
20 The Regulations must make it more explicit that policies,  
21 such as withdrawal of services, be implemented into the  
22 control plan. In direct client care, verbal abuse from  
23 clients, patients and their families make workers fearful  
24 to come into work, resulting in low self-esteem of the  
25 worker.

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1           History of violence is not communicated from  
2 one agency to another such as social services to health  
3 care, or within different departments within the same  
4 organization.

5           The Society that I work in has two battered  
6 women shelters, and should a client assault a co-worker of  
7 mine and are evicted from one shelter, they may go to the  
8 other shelter without any communications between co-workers  
9 due to current policy. The Regulations must be directive  
10 to include that such information be obtained and  
11 communicated.

12           Although there is a requirement for  
13 recognition of types of violence, many healthcare  
14 facilities are reluctant to implement a flagging system as  
15 a way of recognizing the potential for violence. This  
16 requirement must be more explicit in the Regulations.

17           To ensure appropriate training, worker  
18 training must be mandatory, meaningful and relevant. The  
19 employer must pay for this cost.

20           Violence in the workplace training must  
21 address the issues that arise from the general public's  
22 dissatisfaction of the current healthcare changes. Long  
23 waiting lists for healthcare surgeries, the increased  
24 waiting line for healthcare beds, the increase of filth in  
25 the healthcare facilities, which causes the general public

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1 to lash out at frontline healthcare workers.

2 The current violence in the workplace  
3 training usually dwells on how the workers approach the  
4 general public, versus acknowledging and providing the  
5 necessary tools to workers that address these problems.

6 Now, can you imagine adding worker-to-worker  
7 violence into the Preventing Violence Regulations at a  
8 worksite that does not already have the current  
9 requirements already in place?

10 I would like to address the proposal to  
11 include worker-to-worker violence into the current  
12 Preventing Violence in the Workplace Regulations. In my  
13 workplace we are working under an incessant strain of  
14 healthcare restructuring, privatization and layoff. The  
15 increased stress brings inevitable deterioration of  
16 interpersonal relations at work, primarily due to the  
17 organizational changes and changes in the workplace  
18 policies.

19 Where I work my co-workers are considered my  
20 back. I rely on them for my safety. If you are to add the  
21 new Regulations, it will compromise this safety aspect by  
22 impinging on the fragile worker-to-worker relationship that  
23 is already targeted by clients and management.

24 There is a need to recognize that not only  
25 physical violence but psychological violence from

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1 management and co-workers is a health and safety issue.  
2 However, we would not contemplate to mingle this  
3 requirement into the current Preventing Violence in the  
4 Workplace Regulation.

5 In my opinion we are closing the barn door  
6 after the horse is already out. We need to address the  
7 source of the stressor, versus the outcome of the stress.

8 The coroner's inquest following the tragic  
9 murder/suicide incident in Kamloops in October 2002  
10 recommended that there should be provisions in the OH&S  
11 Regulations but the recommendation did not articulate that  
12 this requirement should be included in the current  
13 Preventing Violence Regulation.

14 THE CHAIR: You have one minute left.

15 MS. SANKEY: If we need a provision for  
16 worker-to-worker violence, the requirement is best fitted  
17 into the expanded Workplace Conduct Regulations, tailored  
18 along the same lines as Preventing Violence in the  
19 Workplace Regulation, requiring:

- 20 • A clear definition of physical and  
21 psychological violence such as stress;
- 22 • Risk assessment;
- 23 • Development of policies and procedures;
- 24 • Assessing if the new policies,  
25 procedures, workplace practices and organizational

1 restructuring could contribute to an increase of worker-to-  
2 worker violence;

3 • Instruction and training to worker for  
4 dealing with improper behaviour, such as harassment,  
5 intimidation and bullying;

6 • How to respond to these incidents;  
7 • How to obtain assistance; and  
8 • To develop a respectful organizational  
9 solution.

10 In my workplace workers are frequently  
11 reminded that the RFPs are due and they could have no job  
12 come April 2004. This leaves workers that are already  
13 working at a maximum workload from restructuring or  
14 downsizing fearful and short-tempered, thus leading to  
15 discipline which results in increased sick time. The  
16 absence of primary case workers leaves the client feeling  
17 more vulnerable and increases incidents of them acting out  
18 their own behaviours inappropriately. This increases the  
19 risk of violence, not only to the primary workers but also  
20 to the relief workers and other support staff. This has  
21 the potential for making a vicious cycle.

22 In summary, if the Board wants to make any  
23 changes at all, it should be to strengthen the current  
24 Preventing Violence in the Workplace Regulations or leave  
25 it alone. We also urge that the Board increase enforcement

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1 activities.

2 We want the Board to back off from enacting  
3 performance-based regulations until we have evidence that  
4 the performance-based regulations will save workers lives.

5 Despite the objections of workers in the  
6 last round of public hearings in the spring of 2003, the  
7 Board has amended the First Aid Regulations to make it  
8 performance-based. This performance-based Regulation will  
9 become law this year, giving us the opportunity to track  
10 the effectiveness of this move.

11 What is the purpose of rushing into making  
12 these changes? Is this a rational thing to do? Many of  
13 the current Regulations are the outcome of long  
14 consultative processes with employers and worker  
15 communities. We urge the Board to bring back meaningful  
16 consultative process and halt any further attempts to water  
17 down the Occupational Health and Safety Regulations.

18 Thank you.

19 THE CHAIR: Thank you.

20 Next I have Cindy Stewart and Martin Lovick,  
21 are there two of you, or one of you?

22 PRESENTATION BY MS. CINDY STEWART AND MR. MARTIN LOVICK ON  
23 BEHALF OF HEALTH SCIENCES ASSOCIATION OF B.C.:

24 MS. STEWART: Thank you.

25 My name is Cindy Stewart and I am President

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1 of the Health Sciences Association of B.C., and with me  
2 here today is Marty Lovick, who is our Director of  
3 Occupational Health and Safety Programs.

4 MR. LOVICK: Good morning.

5 MS. STEWART: HSA is a union that represents  
6 13,000 members working primarily in the healthcare field  
7 delivering diagnostic, clinical and rehabilitation services  
8 to British Columbians. Our members also work in community  
9 social services, and I appreciate the opportunity to share  
10 some of our members' thoughts and concerns in today's  
11 hearings.

12 It is our belief that we are currently  
13 standing at a crossroads in the evolution of occupational  
14 health and safety protection in this province. We find it  
15 ironic that at a time when science has reached impressive  
16 heights, specifically in the areas encompassed by the WCB's  
17 mandate, the tone and substance of the proposed changes  
18 actually flies in the face of scientific rationale, and  
19 signals a reversal in direction.

20 Directives from the provincial government to  
21 reduce regulations by the seemingly arbitrary ratio of one-  
22 third seems to be the precipitating force behind the  
23 proposed changes. By following this agenda the WCB is  
24 disallowing years of development in the formation of a  
25 Regulation, which was designed to protect workers and

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1 provide employers with the necessary standards and  
2 requirements to ensure a safe workplace.

3 We have some general concerns with respect  
4 to the proposals being considered at this hearing, and I  
5 would like to share some of them with you.

6 Practice Guidelines.

7 The movement away from prescriptive  
8 regulations and towards practice guidelines weakens the  
9 system. It makes it harder for workers and employers to  
10 find the specific information they need to ensure safe and  
11 healthy workplaces. Guidelines are not enforceable and  
12 they can be changed without consultation. One of the key  
13 challenges as a result of such a change will be education  
14 of workers and of employers.

15 Lack of prescriptive regulations, where  
16 rules and consequences are clearly spelled out, will lead  
17 the way to a new cottage industry of trainers and  
18 lobbyists, many of whose efforts will be focussed on  
19 providing interpretations and initiatives to further erode  
20 the system of rights and responsibilities. And that will  
21 be done for profit. Money which could legitimately be  
22 spent on health and safety programs will be diverted.

23 Inconsistency.

24 The need to constantly refer to external  
25 standards will lead to inconsistency of application. That

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1 which was once technically complex, yet available for easy  
2 reference in the Regulation, is now open to interpretation  
3 and "spin" in terms of its applicable context.

4 External Standards.

5 The WCB here and across the country has  
6 generally held to a pure science-based model in  
7 establishing its standards. We caution you against moving  
8 from that model to one which relies upon standards from  
9 other jurisdictions, where the science can be influence by  
10 external factors such as litigation, lobbying and political  
11 interference.

12 The Information Vacuum.

13 Reduced access to the information previously  
14 held in the Regulation will cause more inquiries to be made  
15 to the WCB. OF course, this will frustrate and slow down  
16 the process because the WCB has closed offices and laid off  
17 staff who normally handle those requests.

18 Lack of Scientific Support.

19 There is a lack of scientific rationale  
20 provided for many of these proposed changes. Many of the  
21 changes are contrary to the leading science as practised in  
22 other jurisdictions, particularly in Europe, occupational  
23 exposure levels being one example.

24 The leading science should be the most  
25 influential factor in proposed changes and the changes need

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1 to be applicable to the particular industries and relevant  
2 to the people who work in those industries.

3 The Need for Review.

4 We are in favour of genuine regulation  
5 review. Such scientific process is of course very common  
6 in the technical areas where so many of my members work. A  
7 tried and true edict states that "That which can be  
8 measured can also be improved." And any valid regulatory  
9 system should have a healthy ongoing review process.  
10 However, the process in which we are presently engaged does  
11 not meet the basic requirements of a science-based review.

12 These last points may seem familiar to you.  
13 They should be familiar because the labour movement has  
14 made them before. However, the WCB seems disinclined to  
15 reflect on the question that is consistently posed: Where  
16 is the science?

17 In our final written submission we will make  
18 references to a number of more specific concerns regarding  
19 the proposed changes to Part 4 and Part 7 of the  
20 Regulations. However, I will comment today on two areas of  
21 importance.

22 In explaining the proposed changes to Part  
23 4, the WCB makes reference to the workplace violence in  
24 Kamloops that cost three people their lives. However, the  
25 proposed changes in the criteria and specific requirements

1 for violence risk assessments do not provide enough clarity  
2 to ensure the maximum reduction of the risk to injury or  
3 even death due to workplace violence.

4 Leaving such a crucial area up to the  
5 employers to determine outside of a prescriptive regulation  
6 is too great a risk for workers and, we submit, too great a  
7 liability for employers. In short, it is HSA's submission  
8 that the regulation must be definitive and unequivocal if  
9 it is expected to protect people from being victims of  
10 violence at work.

11 A situation which a layperson might see as  
12 an innocuous change to the Occupational Environment  
13 provisions of Part 4 is an example of some of the concerns  
14 that we have with the Regulations.

15 For example, it is left to the employers to  
16 determine whether workers should have a washroom separate  
17 from clients and customers. This is an issue that clearly  
18 demonstrates substantial risk for some of our members,  
19 particularly those working in the field of family  
20 counselling. Many of our members are involved in sensitive  
21 and emotionally charged situations with clients who are  
22 prone to outbursts and potential violence. A lack of  
23 specific direction in determining that separate washrooms  
24 are required could easily lead to workers being in captive  
25 environments such as a washroom with an irate client.

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1           A further example of issues that concern us  
2 is related to our members who work with and around  
3 radiation. Again, a cursory review demonstrates that a  
4 proposal such as the reduction and regular inspections is  
5 short sighted with no definable benefit. However, the  
6 possibility of increased risk to workers is considerable.  
7 This is a perfect example of a topic, which should have  
8 engaged valuable tripartite communications between labour,  
9 employers, and the Board. But the WCB no longer encourages  
10 or even allows for meaningful joint discussions. Instead  
11 we find ourselves having to respond to what is likely a  
12 fait accompli.

13           I refer to the published resolution of the  
14 WCB Board of Directors and note their comments that new  
15 regulatory amendments were anticipated to result in, and I  
16 quote:

17                   Positive implications for British  
18                   Columbians' economic competitiveness.

19 This same document states that performance-based  
20 requirements could encourage, quote:

21                   Innovation, which may lead to cost  
22                   reductions and improved safety standards.

23           These statements are an affront to the  
24 members that I represent. The standards that govern their  
25 health and safety should not be about where the cost

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1 savings are. It should be about their confidence that  
2 their day ends at home and not in the morgue. I can only  
3 interpret those statements as a message from the Board of  
4 Directors that it has lost sight of the fact that the  
5 safety for workers was to be the primary consideration when  
6 the *Workers Compensation Act* was first framed.

7 I would like to turn the tables somewhat and  
8 ask three questions of the WCB with respect to those  
9 statements from the Board.

10 First, where is the evidence that cost  
11 reductions and increased safety for workers are likely to  
12 occur as a result of these changes? If jurisdictions exist  
13 that provide examples of this serendipitous situation,  
14 surely the WCB would want us to know about them.

15 Second, for the record, let's be clear again  
16 that the role of the WCB is to protect worker safety and  
17 with that clearly stated where is the evidence that the  
18 current system is in fact inordinately costly and renders  
19 companies not competitive?

20 Finally, how can a WCB in good conscience  
21 allow its mandate of protection to be so obviously co-opted  
22 by a political agenda at such risk to workers and such  
23 liability to employers?

24 I have a quick math quiz.

25 THE CHAIR: You have one minute.

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1 MS. STEWART: Okay.

2 THE CHAIR: Thank you.

3 MS. STEWART: It is quick. The existing  
4 Part 7 of the Regulation containing specifics on Noise  
5 Levels, Vibration, Radiation, Heat and Cold Exposures is 12  
6 pages long. The proposed changes that take out most of the  
7 specific references to the requirements regarding  
8 measurement, moving them to Guidelines, it reduces the 12  
9 pages to eight pages, a one-third reduction of four pages.  
10 The new Guidelines total 70 pages. If we subtract the four  
11 pages of savings from the new 70 pages, we've actually got  
12 a net gain of 66 pages. You've eliminated four pages of  
13 specific levels that protect workers' health, and you've  
14 replaced it with 66 pages of things employers might want to  
15 consider as they decide on their own things that they might  
16 be doing to safeguard against occupational accidents and  
17 disease. Sixty-six pages. Well, the math is clear and the  
18 outcome is indefensible.

19 Of course, maybe these 66 pages have escaped  
20 the radar screen of the page counters in Victoria. We  
21 already know that the Guidelines are unenforceable and  
22 difficult to access, so the only real reduction here is  
23 worker safety.

24 We contend that the very nature of the  
25 historical compromise, which gave birth to the WCB may be

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1       irrevocably damaged by this shortsighted change in  
2       direction.

3                   It's ironic that we are here today  
4       discussing the weakening of protection for workers with  
5       April 28th just around the corner. This year marks the  
6       20th anniversary of the day of mourning where the labour  
7       movement, the WCB participate in ceremonies remembering and  
8       honouring those who have died as a result of workplace  
9       injuries in B.C. In the past 33 years some 6,500 workers  
10      have died, a figure roughly equivalent to the entire  
11      population of Hope. In this same time period some 94,000  
12      have been permanently disabled, roughly the equivalent of  
13      the population of Kamloops.

14                   I challenge the WCB to demonstrate real  
15      leadership and acknowledgment of the true risk to safety in  
16      the workplace and, in honour of those killed and maimed, I  
17      implore you to rethink these proposals, seriously assess  
18      the Regulation review process as a whole. HSA stands ready  
19      with the rest of labour to participate in constructive  
20      dialogue to advocate for science-based regulations in order  
21      to protect workers. We invite employers to do the right  
22      thing and protest the inherent dangers of these changes to  
23      their most valuable assets, their employees.

24                   We at HSA are confident that a safe  
25      workplace protected by applicable science-based regulations

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1 is actually the best assurance of a sustainable productive  
2 economy. Tell the Liberal government you don't support  
3 dismantling this system. Do the job which you are obliged  
4 to do. Stand up for safe and healthy workplace. That is  
5 your mandate.

6 Thank you.

7 THE CHAIR: Thank you.

8 Susan Zander...?

9 PRESENTATION BY MS. SUSAN ZANDER, MS. CINDY McQUEEN AND MR.  
10 MIKE HOCEVAR ON BEHALF OF CANADIAN UNION OF PUBLIC  
11 EMPLOYEES, B.C. AND CUPE LOCAL 389:

12 MS. ZANDER: Good morning. My name is Susan  
13 Zander. I am the chair of CUPE BC Health and Safety  
14 Committee and I have with me Cindy McQueen, who is the  
15 President of CUPE Local 389, North Vancouver District and  
16 the local represents schools, municipalities, health,  
17 community service, a number of jurisdictions, and Mike  
18 Hocesvar, who is also from CUPE 389 who is a health and  
19 safety activist in the local.

20 What I will be doing is the presentation - I  
21 have shortened it a bit - from CUPE BC, and Mike will be  
22 doing a presentation from the local, if that's all right.

23 THE CHAIR: I think you have 25 minutes.

24 MS. ZANDER: Yes, exactly. Yes. We've got  
25 time.

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1 THE CHAIR: Thank you.

2 MS. ZANDER: So we are here today on behalf  
3 of the 67,000 workers across B.C. represented by the  
4 provincial division of the Canadian Union of Public  
5 Employees. Our members work in diverse environments  
6 ranging from education in both schools, university and  
7 colleges, municipalities, community services, social  
8 services, libraries and our members face a wide range of  
9 issues that have to be addressed under the Occupational  
10 Health and Safety Regulations.

11 Before we give our comments on the amended  
12 sections of the Regulation, we have some questions as to  
13 why the specific sections were chosen to be reviewed, as  
14 well as the procedure that the Board has followed to get us  
15 here.

16 The first question is what evidence or  
17 documentation did the Board use to help determine which  
18 sections would be selected for change? And which interest  
19 groups did the Board speak with to help determine the  
20 sections in question? We again, as other unions, have  
21 questioned the practice of not having a bipartite committee  
22 involvement prior to these public hearings. And the last  
23 one is the effect of federal *Bill C-45*, what will it have  
24 on these proposed changes and previous changes that have  
25 already taken place within the Health and Safety

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1 Regulations? And in our report we've got an attachment of  
2 what that bill is.

3 We've been unable to get consistent answers  
4 on how the Board determined which sections would be  
5 reviewed. And on the issue of the bipartite participation,  
6 it is shown in the past to be effective when addressing  
7 changes to the *Workers Compensation Act* and the  
8 Regulations. We question why the practice does not  
9 continue as what happened in previous reviews of the  
10 Regulations.

11 And *Bill C-45*, known as the "Westray Bill",  
12 became law on November 7, 2003 and must be considered by  
13 the Board when reviewing these amendments. The intent of  
14 the bill is to hold employers criminally responsible when  
15 they have failed to protect workers. Failure to consider  
16 C-45 causes us to question what the intent of the Board's  
17 changes are here and whether or not this was considered.

18 I would like to comment generally on the  
19 amendments, the proposed amendments, and that they seem to  
20 promote less enforcement and more self-regulation.

21 We have statistics taken from the  
22 *Backgrounder*, that's also in our document, titled "Recent  
23 Trends in Enforcement". It was distributed at a recent  
24 B.C. Federation of Labour Health and Safety Conference  
25 showing that from 1993 to 2002 the number of employers

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1 registered with the Board increased by 51 percent and the  
2 number of Prevention Officers increased by 21 percent. In  
3 2003 while the number of employers stayed the same, the  
4 number of officers decreased by 11 percent.

5           Within the same document it shows over the  
6 same period consultation activities increased by 122  
7 percent. Inspecting worksites fell by 13 percent,  
8 investigation of accidents increased by 400 percent and  
9 over that same time period inspection reports dropped by 47  
10 percent, orders written were down by 56 percent, warning  
11 letters down by 41 percent and penalties imposed down by 29  
12 percent.

13           Within the *Backgrounder* in support of these  
14 numbers the rate of inspections per employer in 1993 was  
15 averaging 0.4 and by 2002 the rate had fallen to 0.1, a  
16 decline of nearly 70 percent, which should be a concern to  
17 everyone.

18           In our view, more consultation and less  
19 enforcement equals worse results.

20           In the past the Board was proud to be  
21 independent from the government of the day. Today we  
22 witness a Board that has fallen in line with the present  
23 government's mandate of removing one-third of regulations.  
24 As an example of this, earlier this year while speaking to  
25 the Vancouver Board of Trade, the Chair of the Workers'

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1 Compensation Board, Doug Enns, was quoted as saying:

2 We have eliminated more than 7,000  
3 requirements or regulations: that's 20  
4 percent reduction from the original 35,000.  
5 We've approved the reduction of another  
6 2,400...to take effect in April of 2004.  
7 That's a total reduction of 27 percent.

8 This clearly shows that Mr. Enns is following the Liberals'  
9 mandate and is not independent of today's government.

10 We are here today to go on record that what  
11 the Board is doing through these hearings is a major step  
12 backward in their mandate of protecting workers in the  
13 Province of B.C. And to support our statement we have to  
14 look at the attendance of the public hearings. While there  
15 is good attendance in Richmond the other ones around the  
16 province have not had good attendance.

17 Just an overview of the proposals. Again,  
18 we'd like to comment on the dependence on using practice  
19 guidelines to augment sections within the Regulation and  
20 that it's unacceptable because unless requirements form  
21 part of a section, it is unenforceable. We have witnessed  
22 in other jurisdictions practice guidelines can be changed  
23 without any consultation of the parties affected.

24 I would like to now comment just generally  
25 on a few of the proposed amendments and Part 4 of the

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1 Occupational Environment.

2           The general comments here are that they will  
3 downgrade the requirements for basic provisions of  
4 lunchrooms, washrooms and change areas. The provisions in  
5 their current state are outdated and do need broadening to  
6 reflect all workplaces. However, repealing most of them  
7 and moving them to a practice Guideline is not appropriate  
8 and will undermine the intent. It does nothing to  
9 safeguard health and safety and wellness in the work  
10 environment. Under Hazardous comments, while we agree  
11 questions for the Coroner's recommendation be addressed  
12 within this Regulation, it is our view it is inappropriate  
13 to attempt to address the issue under the section Violence  
14 in the Workplace when, in fact, if it is to be included, it  
15 should be under the Workplace Conduct section due to the  
16 situation in Kamloops. And this is the addition of worker-  
17 to-worker in the Violence Regulations.

18           It is our opinion that by including worker-  
19 to-worker within the Health and Safety Regulation the Board  
20 has now removed responsibilities from an employer and  
21 placed the onus onto a Workers' Compensation representative  
22 to address the issue. In addition, we see them as separate  
23 because worker-to-worker violence has different causes,  
24 strategies, and ways of prevention and should be separated  
25 in the Regulation.

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1           Currently within the work environment of  
2 school districts and social services, the issue of violence  
3 has been a constant issue that has not been taken  
4 seriously. Faced with constant cutbacks and the attitude  
5 of "You knew what kind of work you were getting into when  
6 you started," labour has been forced to address the issue  
7 through different avenues.

8           We have attached a summary report from  
9 Community Social Services that was put forward or funded by  
10 the Ministry for Children and Families, and I will just  
11 quote one small part of it:

12           From 1997 to 2000 CSSEA members had  
13 257...claims due to acts of violence.  
14 Nearly 10,000 workdays were lost, with  
15 direct claims costs over \$1,000,000. Only  
16 about 1 out of every 100 violent incidents  
17 in CSSEA facilities becomes a...claim. This  
18 ratio is consistent with other research...  
19 The violence to CSS workers is  
20 characteristic of the risks document in  
21 health care, teaching, and social services.

22 This supports the same concerns we have within school  
23 districts. There was a survey done by Simon Fraser  
24 University on teachers showing that more than 80 percent  
25 had had experienced violence at some point in their career.

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1 Further supporting our concerns are two  
2 orders attached with school districts and Coquitlam.  
3 Within one school in Surrey for one month orders were  
4 issued:

5 There were 63 aggressive incidents with  
6 peers...30 aggressive incidents with adults  
7 (parents) mostly 29 with the primary  
8 SEA...between September 15...and October  
9 15... This information was gathered on a  
10 behaviour record with no evidence that these  
11 incidents were being assessed for the degree  
12 of risk to workers.

13 And in Coquitlam the issue was the failure to share the  
14 appropriate information so workers could protect  
15 themselves.

16 The B.C. Federation of Labour Health and  
17 Safety Committee, of which we are a member, reviews both  
18 the sections with the Regulation and by combining the  
19 section the committee recommends that the sections on  
20 Hazardous Conduct and Violence in the Workplace should read  
21 -- and we have presented that.

22 There's just a couple of details in there on  
23 page 8 of our submission under Violence in the Workplace we  
24 agree that "bullying, intimidation or abuse" should be  
25 added to this section, but we also say that as well as

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1 physical injury, psychological injury should be in there.

2 Under Threats of Violence on our page 9, we  
3 believe that the reference to the *Workers Compensation Act*  
4 should be referred to when reporting of improper conduct or  
5 threat of violence.

6 On our page 10, Critical Incident Stress  
7 Management Program, we feel that it's necessary to have a  
8 definition and a section saying that there should be a  
9 management program with regards to critical incident  
10 stress. And a workplace emergency response program  
11 designed to respond to incidents affecting the emotional  
12 well being of workers appropriately and effectively. And  
13 this allows effective management of critical incidents with  
14 clear policies and procedures.

15 It is our view that if these incidents are  
16 dealt with in a timely manner, recovery is quicker and  
17 there is less incidence of post-traumatic stress syndrome.

18 I won't go into the details on our comments  
19 on Radiation Exposure or Heat Exposure.

20 Just a comment on Agriculture. While it has  
21 been a long time in coming, we would like to commend the  
22 Board for finally introducing these amendments on  
23 Agriculture. We hope it will give workers within that  
24 environment the protection they deserve. Again, while we  
25 see the intent as positive, the main areas are in

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1 Guidelines, not in Regulation.

2 Amendments to Chemical and Biological  
3 Substances. We support the submission presented by the  
4 United Food and Commercial Workers on this, and that is our  
5 Schedule "E".

6 To conclude, to review the Occupational  
7 Health and Safety Regulations on an ongoing basis is  
8 commendable, but the requirement of the affected parties to  
9 be fully participating prior to the public hearings through  
10 a bipartite process we feel is necessary. In order to have  
11 the interests of safety to workers, representatives of  
12 labour need to participate in the review prior to the  
13 hearings. The failure of the Board to go through that  
14 process shows what we have in front of us in the proposed  
15 amendments. It makes us question the Board's commitment  
16 and mandate. If it is to reduce the protection of workers,  
17 as we have already witnessed, and the recent changes within  
18 the *Workers Compensation Act*, maybe it is time that workers  
19 in British Columbia need to take a serious look at the  
20 original compromise agreed to in 1917 and see if we prefer  
21 the right to sue our employers.

22 Thank you. And, Mike. How many minutes  
23 have we got left?

24 THE CHAIR: Ten. It's important that you  
25 get the gold one, as well, because that's the transcript.

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1 MR. HOCEVAR: Thank you.

2 CUPE Local 389 is in North Vancouver and we  
3 have almost 2,000 members. We work for nine different  
4 employers with ten different bargaining units and as Susan  
5 indicated earlier, a broad range of services providing. We  
6 have municipal, we have recreation, health, social  
7 services, schools and so on. We have people who operate  
8 equipment, people who work with people who are special  
9 education needs and that kind of thing. We're right there  
10 in the field. On a day-to-day basis, we know what goes on.  
11 We work with our employers and we take pride in developing  
12 an excellent relation with our employers in North  
13 Vancouver. And so we work very cooperatively and  
14 collaboratively wherever we can on issues of mutual  
15 interest, including health and safety.

16 Health and Safety, we have made some great  
17 progress with our employers over the years to establish  
18 health and safety programs and to encourage our members to  
19 be involved.

20 What happens now, though, with the exercise  
21 we're going through this very moment that we sit before you  
22 is our members look and say, well, what kind of credibility  
23 does the Workers' Compensation Board have when they're  
24 taking all the efforts that have been made in the last ten  
25 years between government, business, unions and other

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1 employers to come up with what is a workable Regulation.  
2 So that the citizens of British Columbia can not only go to  
3 work in a positive manner, but come home safe and sound and  
4 with their lives.

5 Because what we're seeing here it appears to  
6 be that the WCB has taken all the stuff that's gone out of  
7 the Royal Commission, and the new Regulations resulted, and  
8 it's just saying, well, hmm, let's do what's happening  
9 elsewhere in government, let's reduce one-third of the  
10 Regulation for no good and apparent reason, really, other  
11 than to say that we're just like the government of the day,  
12 and that has to worry us all.

13 We support what you just heard from Susan on  
14 behalf of CUPE BC and the B.C. Federation of Labour, and  
15 we're going to follow up with a written brief on behalf of  
16 my membership in Local 389, but I do want to make a few  
17 comments.

18 This converting the specifics to Guidelines,  
19 it worries us in Local 389. We have a lot of members who  
20 have English as a second language and we have actually seen  
21 where that has become an issue. And North Vancouver, you  
22 know, compared to other municipalities in the Greater  
23 Vancouver region, doesn't have the same numbers of English  
24 as a second language people, other than, you know, you  
25 could talk about our huge Iranian population, 20,000

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1 members on the North Shore.

2 But specifically I want to mention in our  
3 school board, we had an issue where there was an asbestos  
4 contractor come into the schools and we were uninformed  
5 about that. And we had members, Filipinos, who, yes, they  
6 speak English, but it's their second language and they  
7 weren't given the proper notification and the instructions  
8 were not clear and that kind of thing. So we've been  
9 dealing with the school district for quite some time on  
10 that. We are encouraging them and asking them to take into  
11 account that kind of a thing, and particularly for an  
12 organization that's education and that nature, to get on  
13 with that.

14 If you reduced the Regulation, taking out  
15 specifics to have Guidelines, it becomes an issue of  
16 workplace dispute between the union and the employer as to  
17 what that really means, how far does that mean you go? I  
18 mean, if you were to take away the specifics about a ladder  
19 and how high it has to be for a certain size ladder and  
20 when is a ladder to have to be thrown away because  
21 something's damaged on it or not, and that kind of thing.  
22 We don't need that. That's lost production for all of us.  
23 It's an anxiety level. It's a morale issue and it really  
24 is working counter all to the efforts that we jointly,  
25 business, government and labour, have done in the last few

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1 years.

2 We're also concerned about our workplace  
3 facilities, lunchroom, for example. Many of our -- because  
4 we're mostly public employers in North Van and our  
5 experience is that in some cases you've got situations  
6 where we don't really see that that's a nice thing to have  
7 to share a washroom with the public.

8 Some of the issues that happen at a public  
9 workplace are stressful. They involve interaction with the  
10 public, gangs of kids, unstable clientele, this kind of  
11 thing. But we believe there's not only some sanitation  
12 issues that could arise out of common washroom facilities,  
13 but possibly safety issues, as well. You know, I hate to  
14 think what in places like Downtown Eastside and that kind  
15 of thing where there's other security concerns that could  
16 arise, could amount to in this kind of a situation.

17 The other thing about what's happening at  
18 the workplaces. Unbelievable the conflicts that are going  
19 on, the pressures on people with just living life. If you  
20 do wellness surveys, what you'll find one of the first  
21 things that will come up is people will say, "We want to  
22 know more about nutrition and stuff, how to take care of  
23 ourselves." The second thing that comes is "How do we cope  
24 with ordinary life, running our kids to soccer and every  
25 other darn thing. On Monday mornings we need a weekend now

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1 because we're overwhelmed." And at workplaces we're  
2 seeing reductions in staffing, delays in posting vacancies,  
3 and it's a workload issue and stress and uncertainty about  
4 job security in a lot of public employers. So with all of  
5 that, at least can we go to a lunchroom that's nice and  
6 quiet and properly equipped to have that break? And in  
7 fact, let's go a step further. Let's actually have some  
8 timeout room where you can go and lay down for five minutes  
9 for a catnap or de-stress for a few minutes. So we're  
10 asking that we don't tamper with regulations about that.

11 There's a lot of things and we're going to  
12 put it into a brief before the deadline.

13 But I think maybe just one more thing to  
14 mention is regarding the violence issue, and I personally  
15 have been in those situations at the workplace. We're  
16 frontline workers, not the managers. It's us who are out  
17 in the field working with the public and the clientele.  
18 Where we have to talk about preventative measures: Is  
19 there a possibility something could happen here? Should we  
20 get the Community Policing to come in and tell us how to  
21 identify possible risks, and those type of things? Well,  
22 let's build that kind of stuff. Let's specify and spell it  
23 out, rather than Guidelines saying well, if there might be  
24 risks at your workplace, do something about it. That's not  
25 good enough, okay?

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1           The other part is the what happens if there  
2 is that? You need to specify that we have a procedure in  
3 place. Do we phone the police? Do we do this, or what?

4           MS. McQUEEN: I just want to tag some things  
5 on Violence in the Workplace.

6           MR. HOCEVAR: Okay. And so that's what I'll  
7 just mention. Cindy McQueen is our President. She works  
8 in the school district and she has been involved with our  
9 Executive Board for many years and on the health and safety  
10 committees, as well. She'd like to make a couple of  
11 comments, and thank you very much.

12           THE CHAIR: Three minutes.

13           MS. McQUEEN: Three minutes? I can do  
14 plenty in three minutes. Thank you so much.

15           With the Violence in the Workplace the  
16 Regulations do not go far enough. We have a constant  
17 struggle with our employers in the school district. Our  
18 members that work, our special education aides and  
19 assistants that work with violent autistic children, we've  
20 had our secretaries being pulled by the hair, we've had  
21 most recently a member was knocked so hard in the face that  
22 it completely exposed all the flesh on her cheek by a 200-  
23 pound violent 12-year-old girl. And she is still  
24 suffering. The member today is still suffering from  
25 massive headaches from that incident. But the most

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1 important part is the trauma that comes from that. We do  
2 not have procedures in place under the Regulations in WCB.

3 If a citizen of this province faces a trauma  
4 and an incident, the RCMP will come in and debrief them.  
5 Victim services will come in and do that. In the school  
6 system, because we're bound by WCB Regulations, there's not  
7 a process for that. This member is emotionally traumatized  
8 from that incident. There is no way to go in and debrief  
9 that member. That member has to go back to the workplace  
10 as soon as possible so that the trauma isn't lifelong.

11 We've had our members in Social Services  
12 with the issues of washrooms, where they have been at  
13 knifepoint in the washrooms in Community Social Services.  
14 Again, there's not that debriefing process.

15 The Violence in the Workplace has to have  
16 procedures in place. What do people do in the event of -  
17 and it's not about contacting the police - if they're found  
18 in those situations where they are at risk, what do they  
19 do?

20 I personally was working in a school where I  
21 was broken into at nighttime, and that's all I'll go into.  
22 But ten years later today I cannot be alone. I cannot go  
23 into the washroom alone at nighttime, these kinds of  
24 things, because there wasn't a debriefing period, because  
25 the employer kept me in that facility where I was

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1       traumatized by.

2               So we have to do more and I'm shocked that  
3       these Regulations are going to be reduced.     Prevention  
4       takes a lot of work and we cannot leave the responsibility  
5       up to our employers.     The unions have a constant struggle  
6       with the employers to make the procedures and to do the  
7       risk assessment, and they go back and see how that worker  
8       will not be re-injured again.

9               The woman who was struck by the violent  
10       child?     The employer simply removed her from working with  
11       that child, put that child in with another worker in a  
12       confined and moved that child out of the classroom in the  
13       rest bay area, and put them in a four-by-six cubbyhole,  
14       which would be an intimidating atmosphere in itself.     We  
15       had to continually be on that employer's back non-stop to  
16       make sure the incident happened to this worker and it's due  
17       to the child and you have to protect future workers working  
18       with that child.

19               The employers don't get this stuff.     They're  
20       not opening up their wallets.     They're not opening up their  
21       resources to come and help workers.

22               We know the reason why WCB is here is for  
23       the prevention and the safety of workers.     The employers do  
24       not share that same view.     It's a constant struggle.     If we  
25       struggle as labour activists, God help those non-union

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(COCA)

1 working people who have no activists fighting for them.  
2 They depend on you and it is your mandate and your  
3 responsibility to protect all workers and we ask you to,  
4 please, not take away from the Regulations but have input  
5 to strengthen the Regulations.

6 That's about it. Thank you.

7 THE CHAIR: Thank you very much.

8 Grant McMillan, is he here?

9 MR. McMILLAN: I guess they're all live?

10 THE CHAIR: No.

11 MR. McMILLAN: That one's not?

12 THE CHAIR: Is that too close?

13 MR. McMILLAN: This one sounds like it is.

14 THE CHAIR: Yes, that's it. The other one  
15 goes to the reporter.

16 PRESENTATION BY MR. GRANT McMILLAN ON BEHALF OF COUNCIL OF  
17 CONSTRUCTION ASSOCIATIONS:

18 MR. McMILLAN: All right. Well, thanks for  
19 the opportunity of being here this morning.

20 I represent the Council of Construction  
21 Associations, or COCA. COCA is composed of 20 associations  
22 in the construction industry with members that do more than  
23 90 percent of the work of construction that's done in B.C.  
24 COCA focuses on Workers' Compensation issues on behalf of  
25 the construction industry.

1           We're an industry basically of largely of  
2 small and mid-sized businesses. About 97 percent of our  
3 companies have 20 or fewer workers, so we're very much the  
4 small business sector of the industries.

5           Regulation has a huge impact on both the  
6 workers and employers in our sector and both must deal with  
7 a variety of aspects of the business, not just the WCB and  
8 the owners in particular have to deal with a blizzard of  
9 regulations from provincial and federal and municipal  
10 authorities. They also have to do this on a tight  
11 timeframe because they're basically charged with putting up  
12 buildings on time.

13           So we wanted to say in general that we  
14 support the direction the WCB has taken to improve the  
15 Regulations. It's been a long ten years of adding to the  
16 Regulations and adding to complexity, and we think that  
17 more needs to be done, however, to make these Regulations  
18 less complex and more flexible.

19           We think that Regulations have to be first  
20 of all read and understood, not just by people such as  
21 those in the room here today, who are specialists in the  
22 area from either employer or worker side, but the actual  
23 workers and the actual supervisors and employers. And the  
24 more user friendly you make those Regulations, the more  
25 likely they are to be read and understood by the workers

1 and the employers who actually have to deal with them on a  
2 day-to-day basis, rather than theoreticians who think that  
3 they can use social engineering to change things in the  
4 workplace.

5 So what follows are our recommendations for  
6 improvements to some of the Regulations now under review.

7 We have some specific comments on Violence  
8 in the Workplace. It's not largely a construction issue,  
9 but it's something that many other associations face and we  
10 think that it's going to complicate matters in the  
11 workplace because it's basically an employee relations  
12 issue and should be dealt with by other authorities, not by  
13 the WCB. We don't think the WCB entrance into this area  
14 has improved things, and we think it's made it more complex  
15 for both the workers and employers. We think other  
16 agencies, such as the Human Rights Branch are the proper  
17 place for many of these complaints, and we also think that  
18 the *Criminal Code of Canada* is there to deal with people  
19 who offend the law and that the police are there to enforce  
20 the law.

21 We also note that the Regulation, as it's  
22 currently worded, and as the Guidelines provide, would  
23 apply whether or not the employee was actually at work. We  
24 think it's inappropriate and unreasonable to have  
25 Regulations apply to situations where workers are not

1 working, but they may be at a pub or a bowling alley or  
2 otherwise engaged in some social activity on their own  
3 time. The employer has no control over these situations.  
4 We think that for employer-sponsored social events the  
5 established workplace protocols would apply.

6 All of the Violence in the Workplace  
7 requirements involve a risk assessment. We think the  
8 emphasis should be instead to educate the employer to do  
9 this risk assessment, and if necessary contact the proper  
10 authority, usually the police. We also think the WCB  
11 General Duty Regulation already covers situations of  
12 violence in the workplace. We don't think there's any  
13 technical value or any human value added by this  
14 Regulation.

15 A new portion of the Regulation requires the  
16 employer to somehow deal with what is called "improper  
17 conduct". This is defined by the WCB as:

18 Activity or behaviour by a person, such as  
19 bullying, intimidation or abuse, at or  
20 arising out of the workplace that gives a  
21 worker reasonable cause to believe that the  
22 activity or behaviour may escalate to  
23 violence or threats of violence against that  
24 worker.

25 We think this is an unreasonable requirement, which is

1 especially difficult for the small contractor or other  
2 small businesses to manage.

3 Small businesses, and many medium size  
4 businesses as well, lack the resources to handle the  
5 complexities of investigating allegations of improper  
6 conduct and determining when privacy concerns should  
7 prevail over complaints about perceived threats. Our  
8 industry, as I've said earlier, is very much a small  
9 business industry, and they just don't have the necessary  
10 ability and the background to deal with the complexities of  
11 this regulation.

12 We would also like to talk about the  
13 Regulation dealing with Vibration. We suggest that there  
14 be a requirement added that the supplier must supply  
15 equipment which complies with the Regulation. There  
16 should also be an implementation period of two years,  
17 similar to what was done when the Roll Over Protective  
18 Structures or ROPS were introduced, and also when chain saw  
19 brakes were introduced. There should be a grandfather  
20 clause for existing equipment because it is often  
21 difficult, if not impossible, to convert the existing  
22 equipment to the proposed vibration standard.

23 We note that the proposed Guideline of  
24 Agriculture Regulations already suggests that there should  
25 be a phase-in period and we'd like to see the same kind of

1 phase-in period for the Vibration Regulations.

2 We think that the Regulation dealing with  
3 Radiation, 7.22, which has the phrase "acceptable to the  
4 Board" should be replaced with "that meets CSA or ANSI  
5 standards" or some other appropriate standard, as in other  
6 areas of the Regulation.

7 Under Thermal Exposure we think the  
8 Regulations for both Heat Stress and Cold Stress are still  
9 too complicated, and won't serve to protect employees. We  
10 recommend that these Regulations be deleted and replaced  
11 with Guidelines that are simple and easy to understand and  
12 which clearly explain how to protect employees from heat  
13 and cold extremes. We're one of the very few jurisdictions  
14 anywhere that has Regulations this complex dealing with  
15 heat and cold.

16 And it's worth noting that some of the  
17 American states which face real heat, such as Arizona,  
18 their city of Phoenix has an easy-to-understand preventive  
19 method that they use, and that's available through the  
20 Internet. And basically the Phoenix, Arizona method  
21 provides for four things you need to do to avoid sun  
22 stress: drinking water; eating a healthy diet; wearing  
23 caps or other suitable clothing, and working in the cool  
24 hours of the day or evening when heavy work is to be done.

25 Those are things that we could probably

1 write down and remember or verbally pass along to workers  
2 and have them remember and actually do, as opposed to  
3 dealing with the complexities that are in the current  
4 Regulations and the Guidelines.

5 We think the same thing should be done for  
6 the Cold Regulations, that there should be Guidelines here  
7 that deal with essentially safe work practices, such as the  
8 effects of cold, the need for proper supervision, the  
9 wearing of suitable clothing and suitable rest breaks and  
10 shelters. Those are the things that will make a difference  
11 in the workplace, not a vast complexity of things like wet  
12 bulb thermometers and tests that require industrial  
13 hygienists to carry them out. We don't have enough  
14 hygienists in the province to do that. We think that the  
15 other methods are far simpler and far more effective.

16 We have a proposal on 11.5, where the Board  
17 proposes to delete the Regulation. We think the  
18 Regulation, however, should be left because it makes the  
19 process clear for guardrail removal and acts as a safeguard  
20 against accidental misunderstanding.

21 With the Scaffold Regulation, we agree that  
22 the proposed Scaffold changes are appropriate. We think  
23 that the move to generic requirements for scaffolding makes  
24 a lot of sense. Our members have looked at this closely  
25 and we think that complying with the manufacturing

1 instructions is the best safeguard we have. Rather than  
2 have the Board get into a detailed description with lengthy  
3 diagrams about what it thinks to be the safe approach, the  
4 manufacturers have already figured this out and we think  
5 that the generic changes you're proposing are very good and  
6 very solid changes.

7 Moveable Work Platforms. We also support  
8 the changes to generic requirements and the move to provide  
9 specific helpful information in the Guidelines.

10 With Personnel Hoists, we think that these  
11 changes are also beneficial and we would suggest that,  
12 however, 13.35(d), which is a clause that states:

13 (d) the hoist, its location and its  
14 operation must be satisfactory to the board.

15 We suggest that if the other conditions are met, whereby  
16 it's maintained, whereby it's located suitably, whereby the  
17 hoist is capable of transporting the injured workers, if  
18 those other conditions in (a), (b) and (c) are met, we  
19 don't need (d), it's redundant.

20 Finally, we support the changes that are  
21 recommended to Regulation 14.34. These proposed changes  
22 for the crane operator and training for the operator, and  
23 we believe that these changes are positive and that they  
24 will provide for the necessary training. The previous  
25 Regulation was not only out of date, it was unenforceable

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1 because the conditions for securing the training were no  
2 longer available in the province. So we think the new  
3 Regulation addresses the need for training in the  
4 appropriate manner, and we would encourage you to continue  
5 along those lines.

6 In general, we think that the WCB has made  
7 some significant strides forward in improving Regulations  
8 and safeguarding workplaces and workers. We'd like to see  
9 you continue along those lines at an accelerated pace,  
10 because the pace has been somewhat slow. But we appreciate  
11 that the kind of consultation that has been done, using the  
12 Internet, using that in place of the previous committee, we  
13 think is a more effective way of dealing with Regulation  
14 review. And so we would encourage the Board to continue  
15 along those lines.

16 With the exceptions that I noted in my  
17 submission, we support the Regulations that are being  
18 proposed for draft changes.

19 Thank you very much.

20 THE CHAIR: Thank you. Questions?

21 MR. POWERS: Just in relation to the Phoenix  
22 rules or guidelines that you talked about for heat  
23 exposure, are you suggesting that those become a Regulation  
24 or a Guideline?

25 MR. McMILLAN: I'm suggesting that they

JOHN BONNET  
(BCPSEA)

1 become a Guideline by way of a safe work practice and that  
2 the Board put it on its website, both for the use of  
3 workers and employers, and for the sake of getting clear  
4 information out to people so that when the summer season  
5 comes, workers who do work in extreme temperatures don't  
6 suffer sun stress because of the exposure. That's  
7 something I believe you could do right now, with or without  
8 a Regulation review. So our recommendation is whatever  
9 else you may do, add those pieces of advice to your  
10 website. And so I'm providing you with a website address  
11 for the Phoenix area, so that you can, if you choose,  
12 download and use that information. We'll also be making  
13 the same recommendation directly on a day-to-day basis to  
14 the division that handles this information. So we're not  
15 asking for a new Regulation on that.

16 MR. POWERS: Okay.

17 THE CHAIR: Thank you for that.

18 MR. McMILLAN: Okay.

19 THE CHAIR: Thank you very much.

20 MR. McMILLAN: Thank you.

21 THE CHAIR: So our last scheduled speaker  
22 for the morning is Mr. John Bonnet.

23 PRESENTATION BY MR. JOHN BONNET ON BEHALF OF B.C. PUBLIC  
24 SCHOOL EMPLOYERS' ASSOCIATION:

25 MR. BONNETT: Thank you for the opportunity

JOHN BONNET  
(BCPSEA)

1 to contribute to the amendment process.

2 This submission has been prepared by the  
3 B.C. Public School Employers' Association with the  
4 assistance and support of 60 public school districts in  
5 British Columbia. This submission has been distributed to  
6 all of the school districts to provide assurance that the  
7 thoughts expressed in this submission reflect their views,  
8 and we are continuing to receive comment from school  
9 districts and will include those in a later written  
10 submission.

11 BCPC was established as an employers'  
12 association in 1994 and was constituted as the accredited  
13 bargaining agent in the K-to-12 sector under the *Public*  
14 *Sector Employers Act*. The Association is governed by a  
15 Board of Governors with elected representation from school  
16 districts and appointed representation from government.  
17 The Association is required by the *Public Services Act* in  
18 addition to collective bargaining, is mandated to foster  
19 consultation between the Association and school districts  
20 on human resource practices and that would include  
21 occupational health and safety.

22 Currently, the 60 school districts employ  
23 about 45,000 teachers, 24,000 support staff, 3,400 exempt  
24 employees, and provides education programs and services to  
25 about 560,000 students in 2,100 locations. The rate group

1 is one of the largest in the province, accessible payroll  
2 is 2.9 billion and the assessments collected is about 23  
3 and a half million. The injury rate is 1.9 and it's  
4 continuing to decline since peaking in 2001.

5 We have three areas that we are going to  
6 comment on and I'll take them in order as they appear in  
7 the Regulations. Two of the sections essentially are just  
8 one-line comments and with an extensive, I guess, comment,  
9 and to no surprise, I suppose, would be on the Violence and  
10 Workplace Conduct Regulations.

11 The first comment is on the Occupational  
12 Environment Regulations. We would generally support the  
13 changes that are being made. However, we would suggest  
14 that the Guidelines be reduced to reflect only issues that  
15 pertain to Health and Safety. We note that particularly  
16 with language regarding lunchrooms that there is, in our  
17 view, excessive language there that isn't necessarily  
18 required or contributes to health and safety.

19 Workplace Conduct, Violence in the  
20 Workplace.

21 School districts do not support the proposed  
22 changes. We support full retention of the existing  
23 Regulations coupled with a public education program to  
24 increase awareness among workers and employers in B.C.

25 Proposed changes in part are purported to

1 flow from the Coroner's inquest into the double murder and  
2 suicide in Kamloops 18 months previous. The proposed  
3 language purportedly expands the definition of violence to  
4 include implied threats to workers and poses a requirement  
5 to report incidents and creates an obligation to deal with  
6 offsite incidents.

7 While the WCB investigation report concluded  
8 that there was no evidence that the perpetrator, Richard  
9 Anderson, ever verbally or physically threatened anyone,  
10 the testimony at the inquest indicated that Anderson on  
11 several occasions did threaten suicide and harm to other  
12 workers. However, these comments appear to have been  
13 treated as not representing a real threat by both staff and  
14 management. Even so, some testimony was provided at the  
15 inquest to indicate that in addition to the formal  
16 performance interviews done earlier in Anderson's career,  
17 Anderson did receive some later comment on his behaviour  
18 with staff. Consequently, given the nature and the  
19 response to these reports being either "No" or a very  
20 limited response, it's difficult to accept that the  
21 proposed language now being presented for violence  
22 prevention would have produced a different outcome to this  
23 event -- to this tragic event.

24 So what could have changed? What could have  
25 been changed all to the outcome? The WCB investigation

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1 reports concludes that it was the act of being fired that  
2 precipitated the tragic events that followed.

3 Information in the WCB investigation report  
4 and testimony provided at the inquest indicate that the  
5 termination was poorly planned and the affair badly  
6 managed. Anderson's file already contained enough  
7 information to warn the manager and the Ministry staff that  
8 termination would be troublesome.

9 Both Anderson's manager and the counsellor  
10 were also familiar with Anderson's employment history, and  
11 for that reason had already concluded the termination  
12 meeting with Anderson would be difficult and likely would  
13 not be completed without incident.

14 The investigation reports contained  
15 reference to prior arrangements being made on the safety of  
16 staff and on the security of the building. Even if  
17 Anderson's file had contained documentation on the more  
18 recent incidents reported to have occurred, it seems  
19 unlikely that the meeting plans would have been changed,  
20 inasmuch as the information would only have confirmed what  
21 was already known. Simply scheduling that termination  
22 meeting to the close of the business hours would have  
23 dramatically decreased the chance of violence that  
24 subsequently followed.

25 The proposed amendments require workers to

1 report conduct by a person that may lead to a subsequent  
2 act of violence at some later point. Would reports of this  
3 nature have identified the need for some intervention that  
4 could have prevented Richard Anderson from taking the  
5 action he took? Given that his personnel file and  
6 employment history provides a relatively continuous history  
7 of problematic interpersonal behaviour, a conclusion of  
8 this nature seems doubtful. Richard Anderson did not make  
9 his wife aware of these incidents. If he hid these  
10 incidents at home, it seems like he would hide them at  
11 work, if this was made a requirement of his employment.

12 Intervention by employers and WCB staff in  
13 these kinds of situations may just lead to silence. Not  
14 giving voice to an implied threat is not an indication that  
15 a problem does not exist.

16 Working with information provided from  
17 school districts we estimate that there are about 1,400  
18 incidents every year that involve actual or threatened  
19 violent behaviour. The existing language defining violent  
20 behaviour is sufficiently broad that incidents with no  
21 intent to harm and those committed without premeditation  
22 are included. Over 90 percent of those 1,400 reports  
23 involved no injury and most are committed by students in  
24 elementary schools. Most of these incidents are dealt with  
25 in the courts with the OH&S Regulation requirements and

1 only about five percent of those incidents, 60 or so each  
2 year result in time loss.

3 Each of these 1,400 incidents would need to  
4 be reported to the WCB to satisfy the proposed requirements  
5 on reporting. With respect, school districts do not  
6 consider that the participation of WCB officers in these  
7 1,400 incidents will lead to some benefit that offsets the  
8 additional work.

9 At the present time school districts need to  
10 comply with eight codes and standards, 15 manuals, Ministry  
11 of Education initiatives and 150 collective agreements that  
12 for the most part contain provisions dealing with violence  
13 in the workplace. The *B.C. Human Rights Code* identifies 13  
14 grounds under its legislation. The *School Act* requires  
15 that students comply with school rules, Board policies and  
16 a Code of Conduct, and contains provision to enforce these  
17 matters. The *School Act* also contains a separate provision  
18 to remove persons from school district property and  
19 prohibit their return without permission. The  
20 approximately 150 collective agreements in our sectors with  
21 both teachers and support staff already for the most part  
22 contain extensive provisions to deal with training,  
23 reporting, investigation and resolution of harassment,  
24 sexual harassment, intimidation and discrimination  
25 allegations.

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1 School districts have already developed  
2 violence prevention programs, policies, procedures and  
3 training in accordance with the existing Regulations and  
4 initiatives and district programs. School districts are  
5 also required to recognize the *Constitution Act*, the  
6 *Official Languages Act*, the *Multicultural Act*, the *Child*  
7 *and Family Community Services Act*, the *Youth Criminal*  
8 *Justice Act* and the *Criminal Code* when dealing with  
9 violence prevention issues. The changes now being proposed  
10 simply add another layer to existing legislation and  
11 regulation and I think inevitably will lead to a period of  
12 confusion.

13 Then there is labour relations. Proposed  
14 expansion of the definition of violence and the  
15 introduction of a role for WCB officers as intervenors and  
16 adjudicators in reported incidents of violence creates the  
17 opportunity for issues that should be dealt with in the  
18 labour relations arena and not moved to another arena. We  
19 believe that WCB officers are ill equipped to deal with  
20 labour relations issues. How would a WCB officer  
21 differentiate between allegations of bullying from one side  
22 and coaching on the other side when dealing with a dispute  
23 between a principal and a teacher over how the education  
24 program is conducted in the classroom?

25 Dealing with such issues in two arenas --

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1                   THE CHAIR:    You're at the one-minute mark.  
2    Thank you.

3                   MR. BONNET:  Yes.

4                   -- increases complexity throughout.  We view  
5    the proposed Regulation changes as being complex,  
6    unnecessarily burdensome, while providing no discernible  
7    gain to worker health and safety.  The existing Regulations  
8    already provide for intervention to incidents which may  
9    lead to violent behaviour at some later time.  The existing  
10   Regulations already deal with worker-to-worker violence.  
11   The existing Regulations already require that a worker who  
12   experiences or witnesses workplace violence be advised of  
13   counselling.  The existing Regulations already call for  
14   policies, procedures, documentation, worker education and  
15   administrative and engineering arrangements to reduce the  
16   risk of violence.

17                  We conclude that no information has been  
18   presented to indicate that the existing Regulations are  
19   inadequate or that the proposed Regulations will add a  
20   needed element.  If it ain't broke, don't fix it.

21                  The existing Regulations have been in place  
22   for some time.  Understanding of these Regulations  
23   continues to improve.  Districts have shared many aspects  
24   of their programs with other districts so the uniformity of  
25   policy and practice between districts continues to develop.

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1           At this stage, rather than change the  
2 Regulations we would strongly recommend that the WCB  
3 undertake a public awareness program to increase workers'  
4 and employers' understanding of their rights and  
5 obligations under this section of the Regulations.

6           The WCB investigation report on Kamloops  
7 concludes that there were no violations. It's also  
8 possible to conclude that the existence of Regulations by  
9 themselves does not provide assurance that such incidents  
10 will not happen again. We should also realize that the  
11 work environment that led to this tragedy no longer exists.

12           Increasing a worker's knowledge of the  
13 hazards of their employment, their rights and entitlements  
14 under existing legislation enables the worker to make those  
15 decisions that best protect their well being and the well  
16 being of others. Knowledge is a far more powerful tool  
17 than prescribed behaviour.

18           A quick comment on Temperature, and I think  
19 I would reiterate what Grant has already told you. We see  
20 the existing Regulations as being unnecessarily complex,  
21 confusing, difficult to understand. We have no idea how  
22 Board officers are going to enforce those Regulations. We  
23 would suggest that the use of a rectal thermometer is a  
24 contravention of the Violence Prevention Regulations.

25           We suggest, strongly urge the Board to

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(Introductory remarks)

1 develop a code of simple instructions to workers to enable  
2 them to appreciate when they may be encountering either  
3 heat stress or cold stress, and at that point perhaps  
4 develop something if a risk exists to enable workers to  
5 deal with it more fully. Thank you for your time.

6 THE CHAIR: Thank you very much.

7 It being just shy of twelve o'clock the  
8 hearing will adjourn now until two o'clock this afternoon.

9 --- PROCEEDINGS ADJOURNED AT 12:00 P.M.

10 --- PROCEEDINGS RECONVENED AT 1:55 P.M.

11 THE CHAIR: My name is Margaret Eckenfelder  
12 and I am the Panel Chair. On my left is David Young. This  
13 is for you who can't read this far. David Young, who is  
14 the Vice-Chair and Mark Powers, who is Legal Counsel.

15 We are resuming the Richmond session for the  
16 public hearings into proposed amendments to the  
17 Occupational Health and Safety Regulation. This public  
18 hearing represents the formal consultation process on the  
19 proposed amendments. Once the hearing process is complete,  
20 all written and oral submissions will be examined. The  
21 Board of Directors is the decision-making body for the WCB  
22 and they will have access to all of the submissions prior  
23 to making their decisions on the various different  
24 proposals.

25 This is your opportunity to be heard on

1 these important issues. We have a full agenda for the  
2 afternoon, so that we ask you to stay within the time  
3 that's been allotted to you. I will give you a one-minute  
4 sign when you are one minute within reaching the end of  
5 your time allotment.

6 We will take a break this afternoon at three  
7 o'clock, I think?

8 MR. YOUNG: At 3:30.

9 THE CHAIR: At 3:30, and then resume at  
10 3:45.

11 So without anything further, I would like to  
12 call Ms. Derksen.

13 PRESENTATION BY MS. DERKSEN:

14 MS. DERKSEN: Good afternoon. I want to  
15 start by saying I'm here specifically to speak about the  
16 Workplace and Violence Safety Regulations that you're  
17 working on and although I haven't read them in the last  
18 couple of days, I was actually quite happy to read a lot of  
19 what has been done. I'm not saying it's perfect or  
20 anything, but I think a lot of thought has been put into it  
21 and I hope to address that later in a written statement.

22 The reason I wanted to appear today is to  
23 kind of talk a little bit further about what came up in the  
24 Technical Information sessions that I went to, and that is  
25 my concern based on my own personal experience is the

1 implementation of what you've written.

2 I think even prior to the changes, there was  
3 stuff there that could be used to help workers in various  
4 situations. Because the reality is it states that these  
5 are safety issues and not everything is covered, that it  
6 always goes back to is there a safety issue or is there  
7 not? And just because it is not expanded and written in  
8 detail doesn't mean it's excluded from the Workers'  
9 Compensation Board. So obviously there needs to be some  
10 thinking involved by employers and various people because  
11 there is no way to cover absolutely everything in advance  
12 in every particular scenario.

13 But getting back to my own personal  
14 experience, without getting into all the details, I think  
15 it is pertinent to give a little bit of a background.  
16 Because I think it is, in my opinion particularly, a tragic  
17 event. However, it could have been a lot worse. And I am  
18 very hopeful that a lot has been learned from it and  
19 perhaps more will be learned from it so that other people  
20 aren't going to have to go through what I did.

21 And that is I started a new position back in  
22 1996 and within a very short period of time I started to be  
23 harassed by a male employee. This was witnessed by my  
24 supervisors, as well as my employer. It was clear to  
25 everyone, and I spoke directly to them, that I considered

1 this inappropriate behaviour, but I didn't make a huge deal  
2 about it because unfortunately I tend to work in a male-  
3 dominated industry and whether it's right or wrong, it is  
4 part of the territory and it didn't actually affect me  
5 personally as far as the discrimination goes.

6           However, things proceeded very quickly, and  
7 I'm talking a matter of weeks, where this co-worker's  
8 behaviour became very bizarre. It wasn't directed as  
9 harassment towards me, it was just very bizarre and  
10 inappropriate behaviour and it became clear that there was  
11 something more going on. And I went to my employers and my  
12 supervisors and they were well aware of the situation. And  
13 again they decided they were going to do nothing because,  
14 as they put it, it was my personal problem.

15           Because of my concern and particularly  
16 because of a letter I received from this co-worker, I ended  
17 up going to the police. And the police said what was  
18 happening to me at work was very inappropriate, it was not  
19 fair, it wasn't right, but there was nothing they could do.  
20 And several years later when I spoke to these police  
21 officers, they again said - and I think this is very  
22 important for these hearings - "That happened at your  
23 workplace. We are not going to tell your employer how to  
24 run his company."

25           Now, this goes a little bit back to, I

1 think, that, you know, we're not going to go into a  
2 household and tell a husband how to treat his wife, which I  
3 think is really sad. But if the police are not going to  
4 want to get involved, what is an employee supposed to do?  
5 Well, I guess we're supposed to know to go to a safety  
6 committee. But what happens if you don't have a safety  
7 committee or you've never worked for a large company or  
8 maybe, for whatever reason, because you're a new immigrant  
9 or you don't have, you know, you're not very educated in  
10 the way these things work, you don't necessarily always  
11 know your rights.

12 Right now it's set up that the employer is  
13 responsible to let you know what your rights are. That  
14 he's supposed to have these information sessions. He or  
15 she is supposed to have notices posted. There's supposed  
16 to be safety committee meetings. There's supposed to be a  
17 member of the employee's staff on these committees. If  
18 there's an investigation for something and you don't like  
19 it, you're supposed to know that you can say, "I'm not  
20 happy with this. I want another review of it." And if  
21 that doesn't work, you're supposed to be able to go to the  
22 WCB and complain. But again, what happens if your  
23 employer doesn't do any of that and you don't know what's  
24 your right? Most likely you're going to do what I did or  
25 what some other people do is you're either going to stay

1 there and put up with it or you're going to find another  
2 job.

3 Now, in Ontario a woman went through  
4 something very similar to what I did and it is referred to  
5 as the "Sears Canada Vince Davis Tragedy". This woman  
6 reported the harassment of her co-worker and Sears Canada  
7 didn't really do a lot. And I'm not going to get into  
8 that, because there was an Ontario Coroner's request and  
9 everything. Because what ended up happening is she decided  
10 to quit and at work her co-worker shot and killed her and  
11 then he killed himself.

12 Now, because there was an actual death, the  
13 Coroner's inquest was done and they came out with a lot of  
14 recommendations. And my understanding is it's quite  
15 precedent setting in that within a year the majority of  
16 those recommendations were put in place.

17 Now, it would be nice if we could learn from  
18 that before something similar happened here. Except  
19 similar stuff has happened here. When people with mental  
20 health issues react at work and injure co-workers or  
21 employers or clients, and that is what happened in my case.

22 It turns out this man wasn't interested in  
23 me because he wanted a date or that he was in love with me,  
24 which is what everyone stressed, because that's how it  
25 started. He had a mental illness. It took years to find

1 this out, four court cases, death threats against me, tires  
2 slashed, acid on my car, repeated threats, my mother  
3 getting threatened, me changing my job, moving, having my  
4 life destroyed. And it's because no one really  
5 investigated. I was never given that opportunity.

6 The police are not interested in what causes  
7 what happened to you. They are interested in arresting the  
8 man and getting him to court. Crown counsel's  
9 responsibility is to convict of what he did. If you've got  
10 the guy there, you've got the destroyed property, they  
11 don't have to spend a lot of time as to why did he do this.  
12 They just convict him. He gets put in jail, which this guy  
13 went to jail for six months the first time. He got  
14 deported because it turns out he was here illegally in the  
15 first place. He wasn't legally even working, but of course  
16 this is a no-fault system so that doesn't even matter. He  
17 comes back -- ah, it's just I'm really going to try not to  
18 get into the details because it's an eight-year horror  
19 story.

20 I think the Regulations do need to  
21 specifically make it clear somewhere for everyone to know,  
22 and I guess it's up to you whether to decide, but this is  
23 my personal opinion. If your co-worker has a mental  
24 illness as well as a propensity to act violently, how can  
25 that not be a safety issue? And I want to make it very

1 clear, I have worked with mentally and physically disabled  
2 people in the past. This was not the case in this  
3 situation. But I want to make it very clear. From  
4 everything I've read and understand, mentally disabled  
5 people are no more likely to be violent than so-called  
6 normal people. But the reality is when you get a normal  
7 person or a mentally ill person involved in alcohol or  
8 drugs, it drastically increases their violence.

9 In this case this man not only was mentally  
10 ill, he had a mental illness that affected his perception  
11 of events. He was paranoid. He had been using IV cocaine  
12 since he was a teenager. At this time he was 45. He would  
13 then take alcohol on the weekends to mitigate the damages  
14 of the cocaine. You know, if he had a drug test at any  
15 point, I don't know if he would ever appear sober. There's  
16 absolutely no way that couldn't have been affecting his  
17 performance at work.

18 For me to be told that's my personal  
19 problem, which is what I've been told, right now I've been  
20 denied my claim repeatedly, and right now it's because this  
21 is my personal problem, which makes no sense. I have been  
22 given no reason for it. If someone with TB or some  
23 contagious illness comes into my employment and infects me,  
24 my understanding is I'm covered. That is their personal  
25 problem, that is a safety issue when it is at work. I have

1 no control over it. The employer has no control over it.  
2 But control of the situation isn't what determines whether  
3 or not you necessarily get help.

4 My understanding is now that smoking is now  
5 covered. That is a co-worker's personal problem coming  
6 into the workplace and it's in fact in the court. It's a  
7 safety issue, but it's dealt with by WCB. If someone has a  
8 mental illness or a disability that affects the safety of  
9 the other people, I can't see how it can be ignored. We're  
10 not going to start hiring blind people to drive taxis. If  
11 we did and they caused an injury, you know, just nothing  
12 makes sense to me any more and I'm not getting any  
13 explanations as to why it isn't covered.

14 THE CHAIR: You're in your last minute.

15 MS. DERKSEN: Oh, thank you. I had a  
16 feeling this would happen.

17 I am concerned as well about inconsistent  
18 information. I've been told sensitive claims is just --  
19 no, I'm not going to get into that.

20 As far as the personal problem goes, just to  
21 kind of follow this procedure. I have done everything I  
22 can to find out what's going on and I want to make it very  
23 clear in a situation like this WCB may consider it my  
24 personal problem but no one else does. I have no access to  
25 this guy's medical records. I have no access to his

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1 criminal history. I have only access to what is made  
2 public record in criminal courts, and recently I received  
3 information that says:

4 In reply to your request to determine what  
5 Citizenship and Immigration Canada have done  
6 to protect you from this certain individual.  
7 We must advise you that pursuant to section  
8 10(1)(b) we cannot confirm or deny the  
9 existence of any such information.

10 That is the sort of thing I get every single  
11 time. I am not allowed to know anything. This has  
12 absolutely nothing to do with me except when it comes to  
13 WCB and I just find it grossly unfair.

14 Thank you for your time.

15 THE CHAIR: Thank you.

16 PRESENTATION BY MR. MARK THOMPSON, MR. BRUCE JOHNSON AND  
17 MR. PARAM GREWAL ON BEHALF OF FARM AND RANCH SAFETY AND  
18 HEALTH ASSOCIATION:

19 MR. THOMPSON: Good afternoon. I am back  
20 for a second time and this occasion I am here representing  
21 FARSHA, the Farm and Ranch Safety and Health Association.  
22 I am the Chair of the Board. And on my left is Bruce  
23 Johnson, who is our General Manager, and on my right is  
24 Param Grewal, who is a member of our Board of Directors  
25 appointed by the Canadian Farmworkers' Union. The brief

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1 that I am going to speak to today is a consensus document  
2 agreed to by all directors and stakeholders represented in  
3 FARSHA, and we have provided a written copy and an  
4 electronic copy of the brief for your perusal.

5 FARSHA originated over ten years ago and it  
6 was created by the Workers' Compensation Board at the time  
7 that the Regulations for Agricultural Operations were  
8 adopted, the RAO, as we call it. And that was the first  
9 set of Occupational Health and Safety Regulations in the  
10 history of Canada written specifically for farmworkers,  
11 farm operations. And WCB was to do the enforcement of the  
12 RAO and FARSHA was created to do education and promotion of  
13 safe work practices and observance of the RAO. So we have  
14 been working ever since.

15 Now we find ourselves in a situation where  
16 the regulatory framework is going to change.

17 I would like to remind you that agriculture  
18 is a large industry in British Columbia. It employs about  
19 34,000 British Columbians and it generates about \$2.3  
20 billion in what are called Farm Gate Sales, that is the  
21 value of the product. That said, we have one director who  
22 is a cattle rancher and another one who raises chickens, so  
23 we are fully aware of some of the problems that agriculture  
24 is facing today.

25 But agriculture is unique in that it's the

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1 only industry affected by this review process which will be  
2 covered by the Occupational Health and Safety Regulations  
3 for the first time. What the WCB is proposing to do is to  
4 remove the RAO, basically, and put us under the full array  
5 of Occupational Health and Safety Regulations.

6 Moreover, it's an industry which is made up  
7 predominantly of small employers. You've heard that  
8 before, but in this case I think we trump them all.  
9 According to the WCB 89 percent of agriculture employers  
10 have fewer than five employees. So therefore this makes  
11 enforcement and training especially challenging.

12 Now, employers and employees have been  
13 satisfied with the RAO, which they helped draft, but we  
14 accept that the time has come for broader protection for  
15 workers. So what I want to do today is to identify a few  
16 of the problem areas arising from this new regulatory  
17 framework, and then suggest some ways of dealing with those  
18 problems.

19 The first problem area we have identified is  
20 Risk assessments. The Regulations require risk assessments  
21 on a whole range of subjects and because farmers and  
22 ranchers are new to this, they are not going to feel  
23 competent to make a risk assessment. They don't know the  
24 terminology and they have already expressed their concerns  
25 that they may not be able to do this in a way that the

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1 Regulations require.

2 Another area that is of concern is Working  
3 Alone or In Isolation. We have a number of large ranches  
4 in British Columbia beyond the range of normal  
5 telecommunications. So people go out for hours or days at  
6 a stretch, working. The way ranchers have dealt with the  
7 hazards of working alone is to have work routines. A  
8 person goes out. He agrees to meet at a certain spot by a  
9 certain time and if he's not there, then help is sent.  
10 Now, we don't find this represented in the Regulations and  
11 so what we're really looking for is some assurance that  
12 that would be acceptable.

13 Ergonomics is another area that's new to  
14 agriculture. Now, FARSHA has programs to prevent  
15 musculoskeletal injuries, mostly in the Lower Mainland and  
16 Vancouver Island, but now all agriculture all through the  
17 province is going to be covered by the Ergonomics  
18 Regulation and farmers are going to need some help with  
19 that.

20 A Hearing Test will be required for the  
21 first time. This is not something that's well understood  
22 in agriculture and we're concerned that in rural areas it  
23 can be expensive or difficult to obtain.

24 Confined Spaces is an area of concern in  
25 agriculture. It was contained in the RAO. The new

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1 Regulations will be more complicated. And one aspect of  
2 that that's of concern to us is the role of the first  
3 responders. It's not clear how that's supposed to work.  
4 In many areas people are working there are volunteer fire  
5 departments. What does it mean to have somebody rescue at  
6 the ready.

7 So those are some of the issues that we've  
8 identified. So how do we propose to deal with them?

9 The preferred means under the new regulatory  
10 framework seems to be Guidelines. There are draft  
11 Guidelines issued for agriculture and they're a start. We  
12 don't quarrel with that. But what we're proposing is that  
13 FARSHA work with the WCB to develop more Guidelines which  
14 are tailored to the industry, much as the RAO was tailored  
15 to the industry.

16 The second way of dealing with these  
17 problems is an implementation strategy. As I've said, the  
18 Regulations will be a new experience for agriculture. And  
19 just simple things like a copy of the Regulations, it's  
20 required that every employer have a copy of the  
21 Regulations. We can assure you if you're expecting a  
22 farmer to keep all those books on a shelf and actually look  
23 at them, it's not going to happen. So we have to come up  
24 with a way the farmers can be pointed to the Regulations  
25 that matter to them in a user-friendly fashion.

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1           So we don't know what the WCB plans are for  
2 transition to the new Regulations, but we think that extra  
3 time may be needed for agriculture because of the  
4 conditions we mentioned earlier.

5           And the final matter is funding. FARSHA has  
6 been around for over ten years. We have something in the  
7 order of 75 publications and training programs based on the  
8 RAO, all funded by assessments on the classification units  
9 in agriculture. Bruce has a sample of these publications  
10 and what I asked him to do was to go through some of those  
11 publications and identify the ones that are going to have  
12 to be changed to accommodate the new regulatory framework.  
13 So he's done that and that can be a little reading for you  
14 tonight after the hearing is over, and I'm sure you'll find  
15 them fascinating.

16           But what we're saying is that FARSHA will,  
17 and undertakes, to review all these publications and to  
18 bring them into compliance with the new Regulations, but we  
19 feel that extra funding will be necessary and we don't feel  
20 that this should be charged against the agriculture  
21 classification units because it wasn't anything arising out  
22 of their activities.

23           So, in conclusion, FARSHA will work with the  
24 WCB to improve health and safety in agriculture. The  
25 special conditions of this industry make the Guidelines

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1 especially important and we would like to see expanded  
2 Guidelines for agriculture drafted jointly by FARSHA and  
3 the WCB. A transition period which considers our situation  
4 will be helpful, and we would like some extra assistance  
5 from the WCB to bring the long list of programs and  
6 publications we have into compliance with the new  
7 Regulations.

8 Thank you. If you have any questions, we'd  
9 be happy to take them.

10 THE CHAIR: Thank you very much.

11 MR. THOMPSON: Okay.

12 THE CHAIR: Mr. Frank Donaghy and David  
13 Backeland...?

14 Larry Spouler and Isabel, are you ready to  
15 go, since we seem to be missing the next speakers.

16 PRESENTATION BY MR. LARRY SPOULER AND MS. ISABEL KRUEGER ON  
17 BEHALF OF COAST MOUNTAIN BUS CO.:

18 MS. KRUEGER: I am Isabel Kruger. I'm the  
19 Manager of Corporate Safety from Coast Mountain Bus Co. and  
20 to my right is Larry Spouler, who is one of our Safety  
21 Officers. Larry Spouler will address the issue of Fall  
22 Protection first, and then I will address the issue of the  
23 Violence in the Workplace.

24 MR. SPOULER: Yes, good afternoon. We  
25 attended the technical session in February and, as such, we

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1 had some issues with some of the proposals and were  
2 directed to attend today to make them part of the public  
3 record and that's what brings us forward today.

4 Just quick points under the Fall Protection  
5 Regs and section 11, the reference under 11.6 to "vertical  
6 lifelines", that the word "vertical" be struck. It's  
7 probably a typo as it was mentioned then, but it still is  
8 in the application, so that that word be struck and just  
9 the word "lifeline" be left.

10 The other application is under 11.3 for a  
11 "fall protection plan" that would be required from any use  
12 of fall protection equipment other than guardrails. That  
13 the 25-foot limit not be relevant because of the  
14 requirement that under 11.2 that procedures must be  
15 developed, training and instruction is to be given to  
16 workers, all is part of the plan anywhere, and the 25-foot  
17 limit really doesn't exist. That once you're using fall  
18 protection, a plan would be required.

19 Those things we just wanted to make part of  
20 the record.

21 MS. KRUEGER: I will be speaking on the  
22 Workplace Conduct and Violence in the Workplace, and I do  
23 want to go on record as saying I think they are necessary.  
24 But there is one particular aspect that is rather onerous  
25 for us as a corporation.

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1           To just put it in perspective, the type of  
2 work or the industry that we do demands that we work with  
3 as you are calling now in these Regulations, non-workers.  
4 We service or provide bus service to approximately four  
5 million passengers per week. These are the non-workers  
6 that our workers are exposed to.

7           In addition to the regular people, and  
8 that's a poor choice of word, but to the regular commuter,  
9 the school people who use our service we also tend to be  
10 the service provider or the person mover for the down-and-  
11 outers, the homeless, the drunks and, yes, we'd rather have  
12 them on our buses than in their cars. So we do provide  
13 service to those individuals and they are known to be more  
14 belligerent than your usual individual person.

15           We also incredibly take home people who are  
16 arrested the night before and they're now released from  
17 court for the next court date and they're given a ticket to  
18 take a ride and to get home on our transit system. We have  
19 no means of knowing what they were arrested for or how  
20 violent that act may have been. So it puts our particular  
21 workforce at a significant risk in the industry.

22           We have 2,500 bus drivers, about 140  
23 community bus drivers and just to put that into  
24 perspective, we have a very good record when it comes to  
25 our workers succumbing to violence. In 2003 to date there

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1 have been 13 accepted WCB claims and four are still  
2 pending. So it's a relatively small number of situations  
3 that occur.

4 The problem that I have in the way that  
5 these are written is in the definitions. Under the  
6 Guidelines the definition of a person who must not engage  
7 in improper conduct is very ambiguous. To suggest that in  
8 a heated discussion vague threatening statements are  
9 sometimes made but without any actual intent. However, the  
10 second person in the discussion may not realize the threat  
11 is no more than a statement of emphasis.

12 Probably 20 percent of the passengers will  
13 use a heated statement for emphasis when asked for a fare  
14 they don't wish to pay. So that leaves us wide open to  
15 what you'd call "improper conduct" and it's very hard for  
16 us to investigate each one of those on an individual basis.  
17 Many times the worker does take them in stride, whether  
18 that's right or wrong, and they do not even report these  
19 incidents.

20 On page 6 of the Guidelines it goes on to  
21 say that:

22 ...workers may be faced with customers or  
23 clients who are abusive or who attempt to  
24 intimidate... While the incidents may not  
25 involve actual violence or a...threat of

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1 violence.

2 So it becomes very unclear as to what improper conduct  
3 versus threat of violence versus violence and it's  
4 difficult for us to determine that work with it on a daily  
5 basis. It's more difficult for the worker himself to  
6 determine.

7 On page 7, on the last line of page 7 in the  
8 Guidelines, it also goes on to say that:

9 The intent of the perpetrator -- whether  
10 they appear to act wilfully or deliberately,  
11 or unintentionally.

12 Leaves it wide open to a huge area of interpretation and I  
13 think these need to be clarified. And then it says:

14 However, if the inquiry shows that there was  
15 no reasonable cause to believe that the  
16 incident had the potential to escalate into  
17 violence or a threat of violence, then the  
18 behaviour is not improper conduct...

19 But we've earlier just had a definition that improper  
20 conduct is simply a statement that may not even have been  
21 intended to be a threat. It just could be something that  
22 somebody whips off in the heat of the moment.

23 ...by section 4.25 and may be dealt with  
24 through other personnel procedures if  
25 necessary.

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1 So I think we need to clearly define what improper conduct  
2 is. It's too contradictory.

3 In 4.29 it says that:

4 (2) The employer must notify the board of  
5 any occurrence of a threat of violence.

6 Again, this become very onerous in our industry especially  
7 where the definitions are not clearly defined. Because if  
8 the person is subjected to improper conduct, that he  
9 perceives to be improper conduct or possibly threat of  
10 violence, who makes that determination? It's not clear.  
11 And if the worker, again, is that supposed to be reported  
12 daily, monthly, annually? How is that to be reported?  
13 There's no Guidelines for that.

14 Just to give an indication of some of the  
15 areas where I don't believe the transit environment was  
16 considered when these Guidelines or Regulation was put in  
17 place, if you look on page 8 of the Guidelines it says:

18 When improper conduct involves a worker  
19 being confronted by a non-worker, control  
20 measures may include:

- 21 • Warning the non-worker about their  
22 behaviour.

23 We see almost four million passengers a week. We cannot  
24 warn them about their improper conduct. It is not  
25 possible. If we're lucky to catch them and lay charges,

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1 we're lucky. They disappear very quickly.

- 2 • Calling the manager or another staff  
3 person if the non-worker returns.

4 Possible potential we can call a supervisor should they re-  
5 identify that person, we can swear out a warrant.

- 6 • Directing the worker not to serve the  
7 non-worker.

8 There's something called the *Transit Act*, which does not  
9 allow us to refuse service to anyone, whether they can pay  
10 a fare or not. So that is not an option for us.

- 11 • Refusing service to the non-worker.

12 And the next one:

- 13 • Banning the non-worker from the work  
14 area.

15 Even should the courts issue what's called a "no go" for  
16 repeated acts of violence against our workers, and that's  
17 where the courts say that these people may not use the  
18 transit system, they still allow them the transit system to  
19 get to and from work. So we can't even refuse them access  
20 to our transit buses, even if they have been convicted  
21 repeatedly for violence against our workers. It's not an  
22 option open to us when the court says they can access our  
23 service to get to and from work. And:

- 24 • Calling the police.

25 That works fine if an assault does occur. But

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1 unfortunately the police jurisdictions are very over-  
2 utilized and understaffed and having police arrive is  
3 something that doesn't readily happen.

4 So I wanted to give this Panel an  
5 opportunity to see violence in the workplace from our  
6 perspective and understand how some of these may not fit  
7 every industry.

8 We thank you for your time.

9 THE CHAIR: Thank you very much.

10 MS. KRUEGER: Do you have any questions for  
11 us?

12 MR. POWERS: Do you have any suggested  
13 solutions for some of those problems? You say the  
14 Guidelines themselves don't provide anything.

15 MS. KRUEGER: Well, we have a number of  
16 solutions that we have put in place. We have trained our  
17 workers. We've developed procedures. We have Violence in  
18 the Workplace Committees strictly that only looks at issues  
19 of violence. We allow those workers to be booked off on  
20 company time to speak to other operators about issues, find  
21 out what they are, so that we can become as proactive as  
22 possible. But we'll never be able to stop them entirely.

23 Our goal is to have zero acts of violence.  
24 Will we get there? Maybe not, but we can get pretty close.

25 MR. POWERS: Is your concern with the

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1 proposed Regulation or the Guidelines?

2 MS. KRUEGER: Well, the Guidelines which  
3 tend to clarify the Regulations, in fact, only tend to  
4 confuse. Number one, because they are contradictory in  
5 terms of improper conduct, the definition of improper  
6 conduct versus then saying if you determine it not to be  
7 improper conduct it doesn't apply. But that was based on  
8 the employer doing the assessment. Whereas it says earlier  
9 in the Guideline that if the employee interprets it to be,  
10 then it is. So I think we have a contradiction within the  
11 Guidelines themselves.

12 But we do need a Guideline to clarify and  
13 define what is improper conduct. So I think we need a  
14 Guideline, I'm just not sure that these ones are as clear  
15 as they need to be.

16 MR. POWERS: As I take it your answer is  
17 that your concerns are with the Guidelines and not such  
18 much with the Regulation itself?

19 MS. KRUEGER: Yes. I think that would be  
20 accurate. The only part of the Regulation that even needs  
21 a Guideline or better clarification is how are they  
22 reported and on what basis, timeframes. Obviously we're  
23 not going to pick up the phone every time somebody is  
24 subjected to improper conduct, or we may as well just keep  
25 the line open, okay, I mean...

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1 MR. POWERS: Thank you.

2 MS. KREUGER: All right.

3 THE CHAIR: Thank you.

4 MS. KREUGER: Thank you.

5 THE CHAIR: We are going to stand down for a  
6 couple of minutes. We have some missing speakers.

7 --- PROCEEDINGS ADJOURNED AT 2:30 P.M.

8 --- PROCEEDINGS RECONVENED AT 2:34 P.M.

9 THE CHAIR: We have Jim Sinclair.

10 PRESENTATION BY MR. JIM SINCLAIR ON BEHALF OF B.C.  
11 FEDERATION OF LABOUR:

12 MR. SINCLAIR: They say in life timing is  
13 everything, eh?

14 THE CHAIR: That's right. Thank you for  
15 agreeing to go a little bit early.

16 MR. SINCLAIR: Thank you.

17 First of all, just the Federation represents  
18 550,000 people in the province and of course we work in  
19 every sector of the economy. And we have submitted a  
20 written brief that will summarize and give more detail on  
21 what we have to say today.

22 First of all let me just start by thanking  
23 you for listening to some of our concerns about the public  
24 hearing process. Last year there were two hearings. This  
25 year there are more. You know, we believe it's critical

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1 that workers have a chance to come forward and make  
2 presentations. And so let's start with the good news,  
3 thank you, and we hope that this practice will continue.

4 The other thing I want to congratulate the  
5 Board on is it is the 21st Century and it's time that  
6 agriculture workers are treated like the rest of the  
7 workers in the province and I think the decision by the  
8 Board to include them in the Occupational Health and Safety  
9 Regulation is a good one. It's long overdue and we really  
10 support that that be done and that those workers have the  
11 same level of regulation and protection as workers in the  
12 other sectors of the economy.

13 The other thing is that we also want to make  
14 sure that because of the nature of the industry that  
15 they're enforced and that when you introduce wholesale  
16 changes into regulations to an industry, I think you need a  
17 plan, a transition plan to bring that into place, including  
18 education for employers and workers about what those  
19 standards mean, how they apply to that industry. Every  
20 industry looks at things differently. And so we would  
21 really encourage that to happen. We think that if this is  
22 going to be successful, it's education and enforcement.  
23 It's no different than any other industry.

24 The other issue is that of course in this  
25 industry we know that child labour is a fact of life. We

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1 do know that the regulations controlling child labour have  
2 been weakened in British Columbia and so it even makes it  
3 doubly important that these are enforced because we do know  
4 that child labour is used especially in the picking  
5 industries of the agriculture sector.

6 We also want to talk a little bit about  
7 Workplace Conduct and Workplace Violence. The Board has  
8 addressed some of the Coroner's recommendations regarding  
9 the Kamloops shooting last year. That tragic event should  
10 not be allowed to happen again in those circumstances at  
11 all, or in any circumstances, and it's necessary to address  
12 improper workplace conduct more adequately.

13 We do not however agree that the two issues,  
14 Workplace Conduct and Workplace Violence should be merged  
15 into one Regulation. Worker-on-worker violence is a very  
16 different hazard with different causes and different  
17 prevention strategies than other types of externally  
18 generated workplace violence. It's important that both  
19 Workplace Conduct and Workplace Violence are dealt with in  
20 the proper manner and that requires two separate  
21 Regulations.

22 Furthermore, it is important that the  
23 Workplace Conduct Regulation address issues such as work  
24 organization and psychosocial work environment. These are  
25 known to be the root cause of a great deal of worker abuse,

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1 intimidation and bullying.

2 Also, the proposed changes to the Workplace  
3 Violence Regulation remove the specifics of the risk  
4 assessment that are in the current Regulation and replaced  
5 them with the Guideline.

6 It is critical that the specifics of the  
7 risk assessment, as well as the control plan, investigating  
8 and reporting, and instruction to workers are stated in the  
9 Regulation, not simply as Guidelines. Again, and I'll deal  
10 with this later, we do not support moving more and more of  
11 the rules into guidelines. We don't think it's the correct  
12 way to go.

13 We have heard from a number of workers that  
14 it is exactly the detail that has made it possible for them  
15 as health and safety committees to move their employer to  
16 implement workplace violence regulations. We have to be  
17 clear about what the rules are in this case. It's not an  
18 area when people's lives at stake that we leave a lot of  
19 grey areas, especially in areas as important as this.

20 The Federation's written submission further  
21 details specific wording for the two Regulations.

22 In general, I want to talk about a couple of  
23 things in general in terms of review. The regulation  
24 development and review process, we have got more public  
25 input now in more hearings, but I actually believe, and

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1 we've said this all along, is the process that was in place  
2 before must be developed through a tripartite process  
3 whereby worker and employer representatives and the WCB  
4 staff engage in meaningful discussion about regulations to  
5 be reviewed. That was the former position of the Board.  
6 It was a system that worked. The employers decided they  
7 didn't like it so much, but just because people have  
8 different ideas, we have to decide what's best for workers  
9 here.

10 It's my firm belief that if that process was  
11 in place, employers would participate. They just don't  
12 want to come and do it on those terms, and I think that's a  
13 mistake for them and for us. In fact, we developed many of  
14 the regulations of the Board through that process and it  
15 was fairly effective.

16 So it has to be open and accountable to all  
17 stakeholders, and that's not possible under the present way  
18 that it's being done. Many of the regulations that are  
19 under review today were developed under a tripartite  
20 process with agreement from all sides.

21 The focus on scientific evidence? Yeah, I  
22 mean, I'm sure there's going to be interpretation issues  
23 but, you know, that's really what should be the guiding  
24 light here is what is that issue here regarding the  
25 evidence and the impact on workers' health and safety.

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1           Of course employers bring the economic  
2 issues, which are important to all of us, to the table.  
3 But those are the debates that must take place.

4           I would also add that in most cases around  
5 all of the Regulations of the Board, there was mostly a  
6 consensus. There were obviously some critical ones where  
7 we didn't agree, see eye-to-eye, and at the end of the day  
8 the Board will make that decision. We only hope that the  
9 first priority in that is saving workers' lives. But where  
10 we can agree, I think that works better.

11           I just would suggest that, you know, in the  
12 worksites that I have worked in and also in my union life,  
13 we've basically said to employers and employees at the  
14 worksite that it's your job to do this together. That  
15 health and safety committees are mandated by the Board to  
16 be joint. And so we don't think the Board should apply a  
17 different standard to your work. At the health and safety  
18 level, at the plant level or in the office or anywhere  
19 else, it's basically your direction, and the correct one,  
20 that employees and employers have to sit down and figure  
21 out how to make the workplace safe. And so it makes sense  
22 to us that you follow the same procedure for your own  
23 practices at the Board.

24           So our recommendation there is that you re-  
25 establish the tripartite committee to develop and review

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1 Health and Safety Regulations on an ongoing basis so that  
2 people can build up those relationships that are necessary,  
3 just like they're built up at the workforce.

4 I just want to spend a few minutes talking  
5 about one of my favourite topics, which is performance-  
6 based regulations versus prescription-based. You know our  
7 position on that is pretty clear that we believe that much  
8 of this drive comes from Liberal government directions to  
9 cut one-third of, quote "red tape". They have publicly  
10 said on many documents that they are interested and are  
11 committed to cutting one-third of the rules that protect  
12 the lives and health of workers.

13 I don't know where they got the one-third  
14 figure. Maybe it's an electioneering issue or a  
15 sloganeering issue where their spin doctors made it up, but  
16 the bottom line is we see no justification for cutting one-  
17 third of any of these Regulations. On what basis, on what  
18 scientific basis do you make that decision to cut one-third  
19 of the Regulations? And I strongly believe that the focus  
20 of these debates about performance basis, how you're  
21 dealing with this directive. It's the wrong thing to do.

22 In 2002:

- 23 • 232 workers were killed on the job
- 24 • 5 workers between the ages of 15 and 24
- 25 • 5,000 workers were permanently injured

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- 159,000 workers reported work injuries

Those are just the claims statistics, but they're not, you know, how many were actually injured. That should be our major focus, not watering down the Regulations and I believe that's what these performance-based rules will do.

The other thing that we have a problem with is, of course, that the particular Regulations under review are removed and they become general Guidelines, are ones that are very critical to health and safety. They're the ones that are and often ones the most often written up.

So we're actually looking at, at the employers' insistence, changing the rules on the ones that generate the least number of claims? No, we don't. Is it the regulations that cover the lowest risk activities in the workplace? No. And so enforcement data we received from the WCB indicates the exact opposite.

The number one and two issues that orders are written on are Fall Protection and First Aid. Next week the new performance-based First Aid Regulation comes into effect and the current public hearings are proposing to make the Fall Protection Regulation performance-based.

Working on scaffoldings and ladders, doing work that requires fall protection and being exposed to violence in the workplace are high-risk activities that require serious proactive preventative approaches.

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1 International research that the WCB reviewed  
2 when developing the proposed changes states that high-risk  
3 activities are beset regulated through the use of more  
4 specific, prescriptive regulations. Yet these Regulations  
5 are on the drawing board to become performance-based.

6 So why did the Board choose these  
7 Regulations to become performance-based? Because these  
8 issues were on the employers' wish list submitted to Alan  
9 Winter during the core review process. That's where they  
10 were first flagged. It appears that for the WCB, workers'  
11 health and safety is secondary to employers' cost concerns.

12 Guidelines are not enforceable.  
13 Performance-based regulations provide little specific  
14 detail in the regulations which are law and enforceable.  
15 The details are found in the supporting Guidelines that  
16 employers are not by law required to adopt. Employers are  
17 expected to use their best judgment on how to approach the  
18 implementation of the Regulation.

19 Performance-based regulations are more  
20 difficult for employers, especially small and medium-sized  
21 employers, to implement and definitely more difficult for  
22 Board officers to enforce. Documents that we received from  
23 the Policy Bureau regarding performance-based regulations  
24 indicate clearly that this is the case. In the background  
25 materials developed by the Policy Bureau for the WCB Board

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1 of Directors regarding performance-based regulations states  
2 clear that:

3 In the absence of prescriptive requirements  
4 it may become more difficult for the WCB to  
5 determine whether a particular firm is in  
6 compliance with the OHSR.

7 I don't know, it can't be much clearer than that. That's  
8 basically saying by your own Board documents that it's more  
9 difficult. At a time when we're burying 165 people a year  
10 and we're injuring 5,000 permanently, it seems to me making  
11 it harder to enforce rules is the wrong message to send to  
12 the employers and it sure the hell is the wrong message to  
13 send to the workers of this province.

14 Another quote:

15 ...WCB officers may call the appropriateness  
16 and sufficiency of certain measures taken by  
17 individual employers into question... This  
18 may lead to an increased number of appeals.

19 Well, I would say you folks already have enough appeals to  
20 take care of it, so you don't need more appeals. And if  
21 this is what this system does, then that's where it heads.  
22 So in conclusion on that, really clearly we believe that  
23 performance based rules and regulations are a political  
24 response, an inappropriate political response to a  
25 political goal set by a government that has no right to say

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1 to the WCB one-third, two-thirds or even one Regulation  
2 isn't appropriate.

3 The WCB is a standalone agency financed by  
4 contributions from the industries of this province and it  
5 needs to act accordingly. And so we have seen no evidence  
6 anywhere to show that performance-based regulations are  
7 actually in effect going to improve the lives of workers.  
8 In fact, we believe they will, as you point out in your  
9 documents, cause serious problems for Enforcement.

10 Another important issue is the WCB's  
11 enforcement records. The WCB's data indicates that between  
12 1993 and 2002:

- 13 • Inspection reports decreased by 50
- 14 percent
- 15 • Orders written fell by 44 percent
- 16 • Penalties decreased by 71 percent

17 If we look specifically at the construction  
18 sector, which will be greatly impacted by the proposed  
19 changes, the decline in enforcement is even more  
20 pronounced:

- 21 • Inspection reports decreased by 62
- 22 percent
- 23 • Orders written decreased by 72 percent
- 24 • Warning letters decreased by 71 percent
- 25 • Penalties decreased by 85 percent

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1 Merging the use of more performance-based  
2 regulations with more lax enforcement activity is a  
3 disaster waiting to happen, and the disaster may well be  
4 the death or serious injury of workers in British Columbia.  
5 Also, the top ten most frequently cited  
6 Regulations include First Aid, Fall Protection and Violence  
7 risk assessments. Yet all these Regulations are moving  
8 towards more flexible performance-based regulations.

9 Think about it. That's like saying more and  
10 more people are drinking and driving, therefore we should  
11 leave it up to the driver to decide whether they can drink  
12 and drive safely or how to do that safely. It's not  
13 guidelines we need. We need real clear rules to protect  
14 the lives of workers.

15 The WCB's mission statement indicates the  
16 Board wants to promote a societal change regarding  
17 workplace injuries and fatalities. You do not create this  
18 societal shift by giving free rein to companies that are in  
19 violation of the law; quite the opposite.

20 Society attitudinal shifts towards drinking  
21 and driving or seat belt use have come about as a result of  
22 comprehensive public education and strict enforcement of  
23 the law. That is what is needed if we want to make a  
24 workplace injury and fatality a dirty word.

25 Other jurisdictions. It is interesting that

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1 the WCB has chosen to move in this direction at a time when  
2 there no jurisdiction in Canada is currently doing so.  
3 Background materials to the Board of Directors indicate  
4 that Alberta considered performance-based regulations.  
5 However, during 2002 the government attempted to move  
6 towards this in Alberta, both labour and employers said,  
7 "We don't want it. It's not going to work for us." The  
8 government deferred to the views of the stakeholders.

9 Many U.S. states, Australia, New Zealand and  
10 the United Kingdom have adopted performance-based  
11 regulations, and there is no evidence to indicate that  
12 these performance-based regulations improve health and  
13 safety in the workplace. What we do know is they are more  
14 cost-effective for employers.

15 Our recommendation to the Board is that:

16 The WCB abandon their program to adopt more  
17 performance-based regulations.

18 The WCB return to real meaningful ongoing  
19 regulation review that places the primary focus on  
20 improving the protection of workers' health and safety.

21 The last issue I will address is the WCB's  
22 move to lower or worsen health and safety standards for  
23 B.C. workers.

24 Last year the Board proposed major changes  
25 to the Occupational Exposure Limits, including eliminating

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1 Table 5-4 and adopting the ACGIH threshold limit values.  
2 Because of strong opposition the Board chose to heed the  
3 scientific evidence and exempt 169 chemicals from the ACGIH  
4 standard, most of which had a lower standard in Table 5-4.

5 The list of exemptions did not, however,  
6 retain the reproductive toxin designation present in Table  
7 5-4. As a result, women in British Columbia have lost  
8 their right to know about all chemicals known to cause  
9 reproductive damage. The loss of the designations also  
10 means that employers are no longer obligated to replace the  
11 chemical with a less toxic chemical or implement an  
12 exposure plan to maintain workers' exposures as low as  
13 reasonably achievable. This change will put workers at  
14 much greater risk of exposure to reproductive toxins and  
15 therefore reproductive damage to developing offspring.

16 The proposed changes before us today  
17 eliminate another chemical from the designated reproductive  
18 toxin list.

19 Furthermore, the table of excluded  
20 substances has also exempted the TLVs for two chemicals,  
21 formaldehyde and styrene, where the ACGIH TLVs are 2.5 to  
22 three times better for workers than the Table 504 exposure  
23 limits. This decision makes absolutely no sense when it  
24 comes to workers' health and safety.

25 Recommendations:

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1           The WCB re-establish a tripartite type  
2 occupational exposure subcommittee.

3           The WCB through the external committee  
4 return to reviewing exposure limits set not only by the  
5 ACGIH, American Conference of Governmental Industrial  
6 Hygienists, but also those set in other jurisdictions such  
7 as Europe.

8           The WCB adopt the lower TLVs for  
9 formaldehyde and styrene.

10           It is something we have been proud of in  
11 British Columbia despite the time it took to develop those  
12 standards that we developed made-in-B.C. standards for  
13 working people in British Columbia. We tried to take the  
14 best, not just from a race to the U.S. standard, but to  
15 look around the world. Despite what someone suggested, the  
16 Americans don't have a corner on knowledge and intelligence  
17 about health and safety. In fact, many would believe that  
18 they have a lot to learn from the rest of the world not  
19 only about health and safety but their country. So we  
20 would really encourage that we return to developing those  
21 standards in British Columbia.

22           The other issue to raise very quickly is we  
23 know that the Board has proposed change to remove the  
24 requirement for crane operator certification. What is the  
25 evidence that this job can be done safely without specified

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1 training? We see nothing there. What criteria are the  
2 employers required to utilize to determine whether an  
3 operator is qualified?

4 We have recently been made aware that what  
5 has happened to the Red Seal program in B.C. because the  
6 B.C. Liberal government's attack on ITAC. Let's not repeat  
7 the mistake. We need to maintain the requirement for crane  
8 operator certification.

9 Again, in closing, we will be submitting a  
10 written brief detailing our response on all the proposed  
11 changes.

12 I began by thanking the Board and their  
13 staff for some positive developments.

14 Again, I support the inclusion of  
15 agricultural workers in the Regulation.

16 I'm pleased to see the response to violence  
17 the workplace, it's a good start.

18 I'm glad we're actually having these  
19 hearings.

20 And, really, my primary objective today, as  
21 always, is to ensure the Board returns to doing what it's  
22 mandated to, which is improving the protection of workers'  
23 health and safety.

24 That's the nature of our brief today. We've  
25 made some fairly specific recommendations. Of course, the

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1 proof is in the pudding. I'm sure you've heard from a lot  
2 of people. But we see that our recommendations are really  
3 about moving the Board and moving the society we live in to  
4 a safer place for workers.

5 There is enormous pressure on working people  
6 in the workplace these days. The number of people doing  
7 the jobs has been cut down. Every time you turn around  
8 there's more layoffs, more and more people working harder  
9 and harder to get more work done with less people. And you  
10 go into any worksite and you talk to people and they're  
11 frazzled. That's not a good situation.

12 Watering down the Regulations at a time when  
13 that's going on in the worksite just means more and more  
14 things are ignored, even if it's not maliciously done, or  
15 with intent. It just means that things are forgotten more  
16 and more and more pressure is on people to cut corners.

17 We can't make it easier for both workers or  
18 employers to cut corners to get their jobs done because,  
19 frankly, at the end of the day the price for doing that can  
20 be their lives.

21 And so, again, thank you very much.

22 THE CHAIR: Thank you.

23 MR. SINCLAIR: Oh, so you agree with  
24 everything. Thank you.

25 THE CHAIR: Thank you very much.

JIMMY WATT  
(IWA Canada)

1 Captain Jimmy Watt...?

2 PRESENTATION BY CAPTAIN JIMMY WATT ON BEHALF OF IWA CANADA:

3 CAPT. WATT: My name is Captain Jimmy Watt.  
4 I belong to West Cost Powerboat Handling. I'm in charge of  
5 instructing and developing courses for small non-pleasure  
6 vessels in the industry. I'm also representing IWA Canada  
7 today, specifically to transportation of workers via marine  
8 craft.

9 We had a meeting back in 1998 or 1997, I  
10 believe it was, with Workers' Compensation Board, the IWA  
11 and myself regarding the Transportation of Workers, Part 17  
12 of the Regulations, the OH&S Regulations. At that time the  
13 Regulations that were in place did not conform to what the  
14 industry required. We sat down and ironed out a whole  
15 bunch of proposed changes to these Regulations, that pretty  
16 much didn't go anywhere in 1998.

17 We met again in 2001. I submitted a work  
18 paper on the proposed changes back in 2001. Nothing became  
19 of that, either. And in that paper I discussed the  
20 proposed changes that the Workers' Compensation Board had  
21 at that time regarding Part 17. It's a lengthy document.  
22 I don't intend to read it right now. I would need more  
23 than about two hours to do so.

24 I see in the new proposed miscellaneous  
25 amendments to the Transport of Workers Part 17, that

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(IWA Canada)

1 Workers' Comp has basically aligned itself now with  
2 Transport Canada Regulations, which is a smart way to go.  
3 There are certain things that we cannot bypass Transport  
4 Canada, where they do, however, have jurisdiction over on  
5 marine industry.

6 There is a couple of items I've noticed  
7 still out of place in your proposed changes.

8 I agree, or we agree, I should say, with the  
9 Load Rating on a vessel. It's been basically deleted.  
10 It's still very important that these vessels do have a  
11 capacity rating, a maximum cargo or weight and persons  
12 total. In many cases you always refer to workers on board  
13 these vessels. Sometimes they're not workers being  
14 transported on these commercial vessels, they are persons.

15 Under the Lifejackets issue, on one side  
16 Workers' Comp Regulations require Lifejackets and PFDs to  
17 be worn where there is a risk of drowning, for a worker in  
18 the marine environment. Technically there's a risk of  
19 drowning even in a three-puddle of water on a road. The  
20 Regulation does cover people working in open vessels or  
21 open boats, yet it does not define what an open vessel is.  
22 Workers' Comp interpretation of an open vessel is different  
23 to Transport Canada's interpretation.

24 These Lifejackets that Workers' Comp has  
25 been approving to be used by the workers have not been

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(IWA Canada)

1 approved by Transport Canada, such as PFDs. Although we  
2 see in our industry, in the logging industry, mainly,  
3 workers from every field and industry wearing PFDs. They  
4 will not wear the Standard Lifejackets or the Small Vessel  
5 Lifejackets, like Transport Canada requires to be on board  
6 the vessel, simply because some of these lifejackets would  
7 actually drown a worker in the water. Where a logger falls  
8 off a sidewinder or a dozer into the river, if he had to  
9 wear what Transport Canada requires him to be wearing, he  
10 probably wouldn't get himself out of the water onto the log  
11 boom. It impedes movement.

12 So I believe in this issue with the  
13 lifejackets, although I've seen them crossed out here in  
14 your new proposed changes, it's something that you're going  
15 to have to sit down with industry, with Transport Canada,  
16 and Coast Guard to determine exactly what these workers  
17 will be using. It makes no sense to impose a worker to be  
18 wearing a Standard Lifejacket just because the Regulation  
19 goes back to the days of Columbus, when in fact it will  
20 kill the worker.

21 Besides training, I am also involved in  
22 search and rescue. I am a captain on a first response  
23 vessel, have been for 18 years, so I do get to see first-  
24 hand what jackets work and which do not work.

25 Very quickly, on the Fire Extinguishers.

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(IWA Canada)

1 Yes, that should be deleted from your proposed changes  
2 because that is part of Transport Canada Small Vessel  
3 Regulations, *Canada Shipping Act*.

4 Going on to the actual operation of the  
5 marine craft. Since your OH&S publication has been in  
6 place, new rules have come into effect. Until recently,  
7 you're quite right, there was no legal requirement for the  
8 operator or crew of a small non-pleasure vessel to have any  
9 certification whatsoever if the vessel was less than five  
10 gross tons, or transported not more than 12 passengers or  
11 persons. Yet your document says:

12 ...transport less than 12 workers.

13 That means 11 or less, so there's number one discrepancy  
14 right there. So the wording in your document should match  
15 what Transport Canada or the *Canada Shipping Act*  
16 Regulations require. There will be contradiction, there  
17 will be misconception.

18 Under the Operation of the Vessel, these new  
19 Regulations are coming into effect right now under the new  
20 *Canada Shipping Act* regulatory reform. They should be in  
21 place by the year 2006. I've had a meeting recently with  
22 Transport Canada and the CMAC, Canadian Marine Advisory  
23 Council.

24 Transport Canada already has in place three  
25 new certificates, which were non-existent before. They are

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(IWA Canada)

1 the MED A3, Marine Emergency Duties, the MED A4 and the  
2 Small Vessel Operator Proficiency certificate. Every  
3 single operator of a small non-pleasure vessel in Canada  
4 will require in the next short while - it already has  
5 begun, it's already in place in some of the areas - to have  
6 some sort of MED, which means Marine Emergency Duty  
7 certificate. They will require either the A3 or the A4  
8 and, depending on where he or she is operating, they will  
9 require the SVOP.

10 And your actual document 17.18, under Part  
11 17 of Transportation of Workers, it says:

12 (1) The operator of a vessel transporting  
13 workers must hold the certification required  
14 under the *Canada Shipping Act*.

15 (2) If an operator is not required by  
16 subsection (1) to hold a certificate, the  
17 operator must

18 (a) have successfully completed a course on  
19 navigation and ship safety acceptable  
20 to the board, or

21 (b) have other combination of training and  
22 experience acceptable to the board.

23 Under Explanatory Note it says:

24 Section 17.18 is proposed for amendment to  
25 clarify the requirements for certification

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1 of operators of vessels transporting  
2 workers.

3 Transport Canada requires that operators of  
4 certain marine craft be certified under the  
5 *Canada Shipping Act*. This requirement is  
6 made clear in subsection (1) of the proposed  
7 amendment.

8 However, current federal legislation does  
9 not require operators of vessels smaller  
10 than 5 tons transporting less than 12  
11 workers...

12 Which should be "not more than 12 workers" in the wording:

13 ...to be certified. The proposed addition  
14 of subsection (2) is intended to address  
15 this. Where an operator is not required by  
16 Transport Canada to be certified, subsection  
17 (2) requires the operator to have  
18 successfully completed a course on  
19 navigation and ship safety meeting standards  
20 acceptable to the Workers' Compensation  
21 Board...or have an acceptable combination of  
22 training and experience.

23 It is anticipated that a practice guideline  
24 would clarify that, in the absence of  
25 federal requirements for vessels smaller

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(IWA Canada)

1 than 5 tons transporting less than 12  
2 worker, the Safety Advisory Foundation for  
3 Education and Research ("SAFER") crew boat  
4 operator course is acceptable to the WCB  
5 under subsection (2). The SAFER course on  
6 navigation and ship safety is based on the  
7 Canadian Yachting Association training  
8 course and includes on-board radar  
9 navigation, crewmember overboard procedures  
10 and abandon ship...

11 And should also include "calling for help", which means  
12 broadcasting your distress.

13 The wording you have in here always  
14 specifies the actual operator of the vessel, yet Transport  
15 Canada new tickets, the MED A3 and the MED A4, also apply  
16 to the crew or deckhands working on that vessel. So not  
17 only will the skipper require a Transport Canada  
18 certificate from now on, he or she will also require one if  
19 they are decking on that vessel. And it must be defined  
20 very clearly in this document if the worker is being  
21 carried, or actually worker or passengers. There's a big  
22 difference. If a worker is on board the vessel for the  
23 purpose of the voyage of that vessel, or if the worker is  
24 being transported from the shoreline to a footing in the  
25 middle of an island to conduct work, he becomes or she

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1 becomes a passenger. It's a different ballgame altogether.  
2 So in your wording it is suggested that it be aligned with  
3 Transport Canada's wording.

4 In addition to this lack of Transport Canada  
5 current certification requirements, I'd just like to advise  
6 the Board that under the *Criminal Code of Canada* the  
7 operator of a vessel must be trained or must possess the  
8 qualifications necessary to safely operate his vessel. So  
9 if it's not shown under Transport Canada's right now, it  
10 shows in the *Criminal Code of Canada*.

11 I would like to point out the implementation  
12 policy.

13 THE CHAIR: You're in your last minute,  
14 so...

15 CAPT. WATT: Okay. I believe I had from  
16 3:20 to 3:30, but if that's -- I believe there was a no  
17 show in the previous hour?

18 THE CHAIR: No, it's 10 minutes.

19 CAPT. WATT: Okay.

20 Clarifying on 17.18. In the meantime  
21 Transport Canada does have an implementation policy coming  
22 into effect very soon, so although it is not required today  
23 they do specify that where the course is available they  
24 must endeavour to get trained as soon as possible and not  
25 wait until the implementation date of 2006, 2007, 2008. So

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1 there's a loophole that Workers' Comp has right now, where  
2 you will continue to have workers working on vessels and in  
3 marine environment, which basically have no training  
4 whatsoever, and this could be a very dangerous situation.

5 Thank you.

6 MR. POWERS: Just before you go, while you  
7 were making your presentation you suggested that the  
8 Regulation should, as much as possible, be consistent with  
9 Transport Canada rules and regulations. But then you were  
10 talking about lifejackets and personal flotation devices,  
11 and I wanted to clarify what you were saying there. My  
12 impression was you were saying that with regards to  
13 lifejackets and personal flotation device, in some  
14 instances we should not follow Transport Canada?

15 CAPT. WATT: You should do something in  
16 addition to Transport Canada. Transport Canada currently  
17 requires the lifejacket or small vessel to be carried on  
18 board the vessel. It is not in any document specified the  
19 worker must be wearing it.

20 MR. POWERS: And are you recommending that  
21 the WCB say the worker must wear it?

22 CAPT. WATT: I believe that the Workers'  
23 Compensation level should be higher in this case because a  
24 worker working in the marine environment should be wearing  
25 lifejacket to preserve his life.

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(IWA Canada)

1                   MR. POWERS:     Now, you also talked about  
2 certain types of lifejackets creating problems in the  
3 water?

4                   CAPT. WATT:     That is correct.     In your  
5 document, in the beginning of your Regulations, your OH&S  
6 Regulations, it specifies that may wear "a PFD".    A PFD is  
7 a personal flotation device.    It will not keep a worker's  
8 head above the water if the person wearing it is  
9 unconscious.

10                   So in one document you're saying they must  
11 be wearing it so that they keep their head above the water,  
12 but if they wear it, that PFD is not designed to rotate an  
13 unconscious casualty face up in the water so they can  
14 breathe.

15                   MR. POWERS:     I'm sorry.    I thought that you  
16 indicated that certain types of lifejackets would prevent  
17 the person from climbing out of the water?

18                   CAPT. WATT:     That is correct.    A Standard  
19 Lifejacket, which is your basic B.C. Ferries lifejacket  
20 carried for every passenger, which is the horseshoe type,  
21 big collar.    I've had it documented and I've even got these  
22 on photographs taken on the Fraser River with sidewinder  
23 and dozer operators.    If they were required to wear these,  
24 which are in the Transport Canada Regulations to be carried  
25 on board their vessels and they fall in the water, which

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1 they do on a constant basis, if they try to get themselves  
2 out of the water onto a log boom to save their lives, in  
3 many cases they would be jeopardized because they cannot,  
4 with the bulk on their chest, get themselves out of the  
5 water onto the log boom. So in this case we would be  
6 recommending a PFD under certain conditions be worn.

7 MR. POWERS: Thank you. That's what I was  
8 trying to clarify.

9 CAPT. WATT: Thank you.

10 THE CHAIR: Thank you very much.

11 Larry Stoffman, I understand you're willing  
12 to go early?

13 MR. STOFFMAN: Sure.

14 THE CHAIR: Or speak early, I should say.  
15 And you have 15 minutes.

16 PRESENTATION BY MR. LARRY STOFFMAN ON BEHALF OF UNITED FOOD  
17 & COMMERCIAL WORKERS UNION LOCAL 1518:

18 MR. STOFFMAN: I will do my best and if I  
19 don't, you just can kick me off.

20 I have handed you a submission which is  
21 obviously much more extensive than the time I'll have to  
22 present it, so I am going to just go through some of the  
23 highlights of that submission and spend most of our time  
24 discussing the Exposure Limits Designations and also  
25 Violence Prevention Regulations, but we also want to touch

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1 on the Occupational Environment Proposals just very  
2 briefly.

3 I am presenting on behalf of the United Food  
4 & Commercial Workers in British Columbia and we represent  
5 approximately 25,000 B.C. workers in a number of sectors,  
6 including meat and poultry processing, warehousing, retail  
7 food stores, community and long-term healthcare.

8 With respect to the Exposure Limits and  
9 designations we did take part in developing and  
10 implementing the consensus agreements with respect to the  
11 occupational exposure limit strategies and process that we  
12 had in the '90s, and we spoke last March in defence of that  
13 process and urged the Board not to abandon them.  
14 Unfortunately, in spite of unanimous opposition, certainly  
15 from the trade union movement, to the proposal to adopt the  
16 ACGIH TLVs and designations, the Board chose to go ahead  
17 with that and to abandon the tripartite process and the  
18 international designations that we had adopted up until  
19 then. It's our submission that the Board's decision to do  
20 that and to place into policy a number of exempted  
21 substances, in fact, threatens the health of B.C. workers.

22 The list of exempted substances in policy  
23 does not incorporate newer lower exposure limits, which are  
24 developed internationally on an annual basis. It simply  
25 freezes at the time the limits that we had prior to the

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1 change to the ACGIH. So while there was not an increase in  
2 exposure limits with respect to those substances, going  
3 forward there will be, relative to other international  
4 exposure limits that are adopted and which would have been  
5 adopted had we maintained our former system.

6 In addition, and perhaps of more immediate  
7 importance, the classification of reproductive toxins and  
8 sensitizing agents that the ACGIH uses is much less  
9 vigilant than that in international classification systems,  
10 and we lose quite a few classifications by this change. In  
11 fact, the majority of classified reproductive toxins in our  
12 former Table 5-4 are not designated in the ACGIH table nor  
13 in your policy of exempted substances.

14 Now, going forward, the ACGIH itself has  
15 stated that on an annual basis it has the capacity to only  
16 review few selected number of substances. When you review  
17 those lists, as well as lists from other countries, often  
18 decades before a substance is re-reviewed.

19 Further to that, the reproductive and  
20 sensitizing agent classification systems that are adopted  
21 internationally are now contradicted in our British  
22 Columbia tables. Specifically, material safety data sheets  
23 through WHMIS and through the international system that's  
24 about to be adopted in Canada called the General Harmonized  
25 System of Chemical Classification requires that

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(UFCW Local 1518)

1 reproductive hazards and sensitizing agents be so  
2 classified on material safety data sheets. Those need to  
3 be updated at least every three years, and those are  
4 distributed in British Columbia and in workplaces.

5 Currently many substances that are  
6 designated as reproductive hazards as such on the MSDS are  
7 not designated by the ACGIH and there will be a sharp  
8 contradiction in information that workers have to act upon  
9 and employers in this province.

10 Further to that, and I think Jim Sinclair  
11 from the Federation also underlined this point, by not  
12 having that classification the ALARA substitution is lost  
13 for those substances and that will have a significant  
14 impact, potentially, to increase exposures to workers to  
15 these designated reproductive hazards.

16 Automatic adoption of exposure limits to  
17 toxic substances that may have grossly out-of-date  
18 classifications, and also grossly out-of-date exposure  
19 limits in some cases, we believe is in stark contrast and  
20 contradiction to the Board's mandate under the Act in  
21 Section 3 Part 1 of the Act and also fails to respect B.C.  
22 workers' right to know.

23 We think it is important, furthermore, that  
24 the rationale for adopting a specific exposure limit be  
25 included in any documentation reviewed and that must be

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1 publicly available and particularly prior to public  
2 hearings such as this.

3           When you look at your website material  
4 today, it doesn't provide any information on the basis for  
5 the adoption of specific TLVs, nor the basis for not  
6 adopting certain TLVs or reproductive hazard  
7 classifications.

8           I want to turn now to some specific examples  
9 with respect to the impacts on B.C. workers of this change  
10 to ACGIH classifications. We won't touch on all of them,  
11 but on some of them that directly affect our members and  
12 certain ones that affect many B.C. workers.

13           Carbon disulfide is the first example. It's  
14 a very widely used and highly toxic substance. It's  
15 designated as a reproductive toxin by the German National  
16 Health Commission. There is evidence in the international  
17 literature that backs that up. It is no longer as such  
18 designated by the ACGIH.

19           Benomyl is a pesticide widely used in  
20 certain applications. It is classified by the ACGIH simply  
21 as a nuisance dust. It is classified as a potent or severe  
22 reproductive hazard by the World Health Organization, the  
23 United Nations Environment Program, NIOSH, the State of  
24 California and the State of New Jersey, to name a few  
25 examples. The Board here is proposing to drop the exposure

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1 limit out of the policy list of exempted substances as the  
2 ACGIH simply regulates this particular pesticide as a  
3 nuisance dust. So in sharp contradiction and conflict with  
4 the international designations.

5 Chlorodiphenyl, well known also as PCBs or  
6 Aroclor 1242. It's a well-known PCB and also a well-known  
7 teratogen. It is not classified by the ACGIH as a  
8 reproductive hazard and therefore we have had that  
9 classification dropped in B.C.

10 Methylene chloride, another widely used  
11 solvent is designated as a reproductive hazard in *Frazier*,  
12 which is one of the references we used to use in B.C. No  
13 longer designated by the ACGIH.

14 Formaldehyde, as was mentioned in an earlier  
15 submission. The TLV adopted by the ACGIH was a .3 part per  
16 million ceiling. You are proposing to maintain a 1.0 part  
17 per million ceiling, which is three times even the ACGIH  
18 exposure limit. This is a respiratory sensitizer and a  
19 designated carcinogen, so it makes absolutely no sense that  
20 you would exempt this particular ACGIH TLV simply because  
21 it has a lower limit than perhaps the forest industry would  
22 like to see in this province, which was in fact the reason  
23 why you didn't adopt the ACGIH limit in the '90s was due to  
24 forest industry opposition.

25 Toluene, trichlorethylene are two more

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1 examples, styrene. Styrene is classified as a Category 1  
2 reproductive hazard by the European Union. It has also  
3 been given the highest priority for review in their latest  
4 literature. It is widely used in British Columbia in fibre  
5 glassing operations and in the pulp and paper industry. We  
6 had recommended ten years ago the TLV be reduced to 20  
7 parts per million. The ACGIH subsequently agreed with our  
8 B.C. recommendation, which was never adopted in B.C., and  
9 now the Board is proposing to exempt this from the ACGIH  
10 limit and allow a 50 part per million limit again. I mean,  
11 it makes no sense. It threatens the health and safety of  
12 workers and their offspring in this case.

13 There are other examples that include  
14 organic or inorganic mercury compounds, lead compounds and  
15 dioxins, which are not designated as reproductive hazards  
16 by the ACGIH but are by every other reputable international  
17 chemical classification organization.

18 I want to turn now, very, very briefly, to  
19 Violence Prevention and Improper Conduct in the workplace.

20 We applaud the Board's proposal to update  
21 the Regulation and to attempt to include a worker-to-worker  
22 verbal abuse and other forms of abuse in the workplace that  
23 were highlighted as coming out of the inquest in Kamloops  
24 and the need to address worker-to-worker violence.

25 We oppose quite strongly the proposal to

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1 combine this in the one Violence Prevention Regulation.  
2 Our rationale is that worker behaviour in this Regulation  
3 is a different hazard with different causes and different  
4 prevention strategies than other types of externally  
5 generated workplace violence.

6 If you look at other countries and how  
7 they've classified workplace violence, the United States  
8 has done some interesting work. Their Bureau of Labour  
9 Statistics, for instance, uses four types of  
10 classifications for violence:

11 Type I - Criminal Intent

12 Type II - Customer/Client Violence

13 Type III - Co/Past Worker Violence, and

14 Type IV - Personal Relationships.

15 Out of those four the top two were Type I and Type II,  
16 which are externally generated violence, 85 percent of all  
17 violence incidents in the workplace occur as a result of  
18 those types of violence.

19 We think it would be extremely important to  
20 address these two very different hazards by the Board and  
21 to do so with specific risk assessment criteria. And we  
22 have included in our submission the actual proposed wording  
23 for an improper activity or behaviour regulation, which I  
24 certainly won't go through today, but it's there in full in  
25 the submission.

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1           We've done the same for an updated Violence  
2 Prevention Regulation. The key changes there we would like  
3 to see are specific references to workers' right to know  
4 and flagging potentially violent incidents or persons in  
5 the future. And also a much more specific risk factor list  
6 in terms of doing violence risk assessments in the  
7 workplace. We think the generic requirement for a risk  
8 assessment is a good one, but it needs to be made much more  
9 specific to be more effective in the workplace.

10           Finally, on the Occupational Environment  
11 recommendations, specifically sharing of washrooms with the  
12 public has a huge impact on our membership. We've had a  
13 number of incidents where our members have been physically  
14 attacked with biohazardous materials, contaminated  
15 hypodermic needles, to be specific, in public washrooms, in  
16 shopping malls where they have been forced to use those  
17 public washrooms because staff washrooms were no longer  
18 required in the workplace.

19           They have also been exposed to biohazardous  
20 materials in those washrooms and I won't go into the  
21 details of that. But suffice it to say that it was pretty  
22 gross. The proposal to allow employers a greater  
23 flexibility to not provide staff washrooms but force  
24 workers to use and share washrooms with the public clearly  
25 increases the risk of violence, physical or sexual assault

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1 and exposure to biohazards for our members and we have  
2 examples of that already.

3 Finally, on the first aid changes, which will  
4 come into effect in just a matter of days. We certainly do  
5 not support the use of a Guideline instead of specific  
6 Regulations. We think it accelerates deregulation in an  
7 area that is fundamental to worker health and safety.

8 Even the Guideline that is proposed is quite  
9 inadequate. It, for example, removes participation of  
10 joint committees in determining levels of risk and  
11 associated first aid requirements. It removes the  
12 authority of the first-aid attendant to be in charge of the  
13 care of a patient unless a person with a higher level of  
14 certification intervenes. And it removes access to  
15 important first-aid records that are used by joint health  
16 and safety committees in order to effectively audit the  
17 effectiveness of their safety programs.

18 I mean, even if you want to move to a  
19 guideline, to make the guideline so weak, is just beyond  
20 us, I mean, it will weaken the safety program. We have  
21 examples already where supervisors have improperly  
22 interfered in the treatment of injured workers and have  
23 taken over first aid from a qualified first-aid attendant.  
24 They were not allowed to do so in the past unless they had  
25 a higher certification, and with this change that can often

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1 happen if the superintendent believes a worker should be  
2 back on the job, rather than receiving treatment. He could  
3 so order it and then it would be up to the worker to try  
4 and deal with that afterwards, even though they were  
5 injured. In that case it was a meat packing plant. A  
6 worker had a broken ankle and was told to go back on the  
7 job.

8 In conclusion, we cannot support a series of  
9 proposals which make meeting arbitrary regulatory reduction  
10 targets more important than protecting the health of B.C.  
11 workers.

12 The proposals overall systematically move to  
13 deregulate worker health and safety in B.C. and the Board  
14 has either taken not enough time to analyze the impacts  
15 this will have on B.C. workers or doesn't care to.

16 Thank you for giving us the opportunity to  
17 submit. Thank you.

18 THE CHAIR: Thank you very much.

19 So we are going to break, take our afternoon  
20 break a little bit earlier. We are going to break now  
21 until 3:45, at which time this hearing will resume.

22 --- PROCEEDINGS ADJOURNED AT 3:20 P.M.

23 --- PROCEEDINGS RECONVENED AT 3:42 P.M.

24 THE CHAIR: Good afternoon. We are resuming  
25 the Richmond session of the public hearings into the

THE CHAIR  
(Introductory remarks)

1 Occupational Health and Safety Regulatory change proposals.  
2 I'll just do a very brief intro since some of you have been  
3 here since the morning and some of you are new.

4 My name is Margaret Eckenfelder and I am the  
5 Panel Chair. On my left is David Young, who is Vice-Chair  
6 and on my right is Mark Powers, who is legal counsel.

7 This public hearing represents the formal  
8 consultation process on the proposed regulatory amendments.  
9 Once the hearing process is complete all written and oral  
10 submissions will be examined. The Board of directors is  
11 the decision-making body at the WCB, and the Board will  
12 have access to all of the submissions prior to making their  
13 final decision on each proposal.

14 This is your opportunity to be heard on  
15 these important issues. I would like to remind you that we  
16 would like you to stay within the time that you have been  
17 allocated and I will give you a wave when you get one  
18 minute within the expiration of that time period. Thank  
19 you very much for your interest and your involvement, and  
20 we look forward to hearing your views.

21 Written submissions are being accepted from  
22 those who make oral submissions, or not, so that if you're  
23 in the audience and you decide that you would like to make  
24 a written submission, please do so. We'll accept them up  
25 until 4:30 p.m. on April the 16th -- I have been known to

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(BCNU)

1 say August. I mean April the 16th.

2 Okay. Thank you very much, and are you --

3 MS. FORD: BCNU.

4 THE CHAIR: -- Suzie Ford?

5 MS. FORD: Yes.

6 THE CHAIR: Suzie Ford and Tuula Sillantaus.

7 PRESENTATION BY MS. SUZIE FORD AND MS. TUULA SILLANTAUS ON  
8 BEHALF OF B.C. NURSES' UNION:

9 MS. FORD: Good afternoon. We would like to  
10 thank the Panel for this opportunity to express our  
11 concerns at these public hearings on the proposed  
12 amendments to the WCB Occupational Health and Safety  
13 Regulation.

14 My name is Suzie Ford, I'm a Registered  
15 Nurse working at B.C. Women's Hospital, and a member of the  
16 BCNU OH&S Committee.

17 MS. SILLANTAUS: My name is Tuula  
18 Sillantaus. I'm an Occupational Health and Safety Officer  
19 with BCNU.

20 MS. FORD: We are making this presentation  
21 on behalf of 25,000 BCNU members working throughout British  
22 Columbia and various healthcare settings. We understand  
23 that the WCB has received its direction to reduce  
24 Regulations from the provincial government. The direction  
25 is very troubling and the overwhelming move to performance-

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1 based prescriptive regulations, a sign of grave erosion of  
2 our OH&S regulatory structure.

3           The *Workers Compensation Act* --

4           THE CHAIR: Excuse me. Could you speak into  
5 the black mike because I am just concerned people in the  
6 back can't hear you.

7           MS. FORD: Sorry.

8           THE CHAIR: Thank you.

9           MS. FORD:    The *Workers Compensation Act*  
10 mandates the Board to establish ongoing review of these  
11 Regulations and consultation before implementing a  
12 regulation or changing it. The Act allows the Board to  
13 conduct additional consultation. In the past we  
14 participated in tripartite committees of the Board where a  
15 great amount of scientific research, thought and planning  
16 went into the discussions and ultimately the layout and  
17 content of the proposed amendments to Regulations. This  
18 consultation occurred before public hearings were held on  
19 the proposed changes.

20           These proposed amendments were developed by  
21 the Board alone and we strongly object to the current  
22 process that completely lacks tripartite pre-hearing  
23 consultation.

24           Our presentation is divided into four parts:  
25 General Comments, Occupation Environment Requirements,

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(BCNU)

1 Workplace Conduct and Violence in the Workplace, and  
2 Radiation. We will be presenting parts of our submission  
3 today.

4 MS. SILLANTAUS: General Comments.

5 We have a particular concern about the  
6 frivolous unscientific decision to simply eliminate  
7 critical information conveyed in the Regulation. Many of  
8 the proposed changes are contrary to scientific evidence.

9 As well, we have a serious concern with the  
10 Regulation sections that are proposed to be moved to a  
11 practice standard, given that they don't appear to have the  
12 same enforceability as the Regulation and may be changed in  
13 the future without any consultation. Regulation sections  
14 cannot simply be eliminated or moved to a practice  
15 standard. This trend, in our view, demonstrates lack of  
16 due diligence on WCB's part as the changes are not based on  
17 any sound scientific rationale, but rather political  
18 direction.

19 The state of the WCB's Prevention Division  
20 and its support services are truly troubling to us. The  
21 Prevention Division enforcement activity data from 1993 to  
22 2002 shows disturbing trends as:

23 • Inspection reports issued by Prevention  
24 Officers have declined by 50 percent;

25 • The number of orders issued by

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(BCNU)

1 Prevention Officers have decreased by more than 44 percent;

2 • Warning letters issued have decreased  
3 by 59 percent; and

4 • Penalties levied have decreased by 71  
5 percent.

6 During the same time period the number of registered  
7 employers in B.C. increased by 51 percent, and the 2003  
8 downsizing of the Prevention Division saw a 11 percent  
9 reduction of Prevention Officers.

10 We don't feel that the mandate of the WCB  
11 Prevention Officers has been clearly established and  
12 supported by WCB's management. Indeed, due diligence to  
13 OH&S must work from top down at the WCB and set out clear  
14 performance standards to the Prevention Officers for  
15 evaluating employer compliance with the Regulation. The  
16 skeleton crew of WCB Officers do not seem to be able to  
17 keep up with the changes and the demands place on them.  
18 Prior to the Board writing the proposed amendments,  
19 appropriate consultation processes involving the Prevention  
20 Officers and their wide range of experience and knowledge  
21 should have taken place.

22 We also have a number of comments on the  
23 other positions such as the ergonomists, information  
24 officers and other positions and services that have been  
25 lost at the WCB. We would refer you to our written

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1 submission for our comments on those.

2 We also refer you to our written submission  
3 for our comments and continued concern on the dramatic  
4 changes to the Occupational First Aid Regulation as well as  
5 to the exposure limit changes in regards to chemical  
6 hazards. The adoption of the ACGIH threshold limit values  
7 and the elimination of designations for reproductive toxins  
8 and skin sensitizers is irresponsible.

9 MS. FORD: We will now address the currently  
10 proposed amendments.

11 Occupational Environment Requirements -  
12 Part 4.

13 We fully agree that the Occupational  
14 Environment Requirements in their current state are  
15 outdated and the scope needs broadening to all workplaces.  
16 However, we do not support repealing most of them as this  
17 action does nothing to improve safety and wellness in the  
18 workplace. If implemented, some of them would result in  
19 downgrading the basic provision of lunchrooms, washrooms  
20 and change areas. We do not support the amalgamation of  
21 public and staff washrooms in healthcare and we refer you  
22 to our submissions for the details related to hygiene  
23 concerns and safety risks.

24 The reference to details of washroom  
25 facility design and construction in accordance with the

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1 *B.C. Building Code* must be left in the Regulation.

2           The Occupational Environment Regulation  
3 section should also contain a section addressing general  
4 hygiene in the work environment. In healthcare this is  
5 currently showing up through the province, with  
6 documentation of unsanitary conditions in joint OH&S  
7 committee meeting minutes. The root cause for these  
8 problems are the reduction in staff and utilization of  
9 untrained, unskilled workers to perform cleaning tasks. We  
10 urge the Board to implement clear language especially with  
11 healthcare in mind in this section. Failure to do so will  
12 feed to an alarming trend that will see the rise of MRSA,  
13 staph infections and other hospital acquired communicable  
14 diseases among healthcare workers.

15           Part 4 - Workplace Conduct and Violence in  
16           the Workplace

17           General Comments

18           Despite the fact that the Violence in the  
19 Workplace Regulation has been in place since 1993, the  
20 actual enforcement of this Regulation in healthcare has  
21 been relatively poor. Today there are still numerous  
22 healthcare workplaces where the employer's OH&S program  
23 does not comply with the Regulation. Yet WCB's management  
24 have not put out clear expectations to its officers to  
25 ensure a consistent approach of evaluating healthcare

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1 employers' violence prevention programs and enforcement to  
2 eliminate non-compliance.

3 A large percentage of nurses are exposed to  
4 violence on a regular basis and continue reporting that  
5 their concerns are often trivialized or they are blamed for  
6 an individual's violent inappropriate behaviour.

7 In reviewing the proposed amendments it is  
8 evident that only some of the Coroner's inquest  
9 recommendations from the tragic Kamloops case were  
10 implemented. We also note with alarm that the  
11 recommendations from the Coroner's inquest to the fatality  
12 that occurred at Langley Memorial Hospital's Emergency  
13 Department in December 1999 where a psychiatric patient was  
14 shot by an RCMP officer were not implemented.

15 We acknowledge the Board's efforts  
16 attempting to implement the recommendations from the  
17 Kamloops inquiry. However, there seems to be a  
18 disproportionate attention to worker-to-worker violence in  
19 the proposed amendments. In healthcare the violence  
20 experience from clients, patients and the outside public  
21 continues to be of grave concern and most prevalent.  
22 Recent Canadian research shows that healthcare workers are  
23 more likely to be attacked at work than prison guards or  
24 police officers. Female nurses are reported as being most  
25 at risk.

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1 Workplace Conduct - Part 4, Division 5

2 We have included the exact word changes and  
3 additions that we recommend in Appendix "A".

4 We strongly disagree with the amalgamation  
5 of worker-to-worker violence with the current Violence in  
6 the Workplace Regulation.

7 4.25 Definitions

8 We strongly recommend the addition of  
9 definitions on bullying and abuse. We have adopted the  
10 definition of bullying from Heather Gray's article,  
11 "Workplace Bullying", published in the B.C. Human Resources  
12 Management Association's *PeopleTalk Magazine*, Fall 2002:

13 Bullying is the repeated, malicious  
14 mistreatment of a person by an abuser "the  
15 bully" who is driven by their desire to  
16 control their target.

17 It is important to note that Ms. Gray quotes the Canada  
18 Safety Council as indicating the prevalence of workplace  
19 bullying to be four times more common than other workplace  
20 transgressions, such as sexual harassment and racial  
21 discrimination.

22 4.27 Risk Assessment

23 We recommend the expansion of the risk  
24 assessment criteria to reflect organizational issues which  
25 contribute to inappropriate conduct at work. The

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1 recommendation in the Coroner's inquest in the Kamloops  
2 tragedy articulated the necessity for risk assessments.  
3 The proposed amendments do not capture it and hence the  
4 risk assessment specifically tied to the Workplace Conduct  
5 section needs to be implemented into the Regulation. We  
6 have provided the suggested wording in Attachment "A".

7 4.30 Instruction of Workers.

8 We are recommending wording that has changed  
9 to reflect the International Labour Organization  
10 recommendation criteria that suggests that if workers,  
11 based on risk assessment, may be exposed to a risk of  
12 inappropriate behaviour, activity, or conduct from a co-  
13 worker, the employer must educate supervisors, managers and  
14 workers. The education requirement is in line with the  
15 idea that workplace organizations contribute to the issues  
16 outlined in Occupational Health and Safety Reg 4.25.

17 Our recommendations follow the Kamloops  
18 inquest recommendations, which also suggest annual training  
19 or review of Code White protocols.

20 MS. SILLANTAUS: Violence in the Workplace -  
21 Part 4, Division 6

22 We have also enclosed the exact word changes  
23 and additions that we recommend in Appendix "b".

24 We are recommending the expansion of the  
25 definition of "violence" to include psychological injury in

1 addition to physical injury.

2 4.32 Risk Assessment

3 The proposed amendments do not set out the  
4 best practices with respect to risk assessment, therefore  
5 we recommend criteria for risk assessment to bring it in  
6 line with the criteria proposed by ILO. This will better  
7 assist employers and joint OH&S committees in carrying out  
8 risk assessments.

9 We urge the inclusion of alert and flagging  
10 systems as part of the Regulation and its implementation in  
11 accordance with appropriate privacy legislation and other  
12 applicable laws.

13 We find it extremely concerning that the  
14 proposed amendments have not implemented the  
15 recommendations from the Coroner's inquest into the Langley  
16 Memorial Hospital RCMP shooting of a mentally ill patient,  
17 with respect to Code White teams and their training.

18 The OHSAH published *Guidelines: Code White*  
19 *Response* was developed in partnership with the WCB. We  
20 strongly urge the use of this document as the basis for a  
21 standardized provincial Code White protocol, and this needs  
22 to be in the Regulation.

23 The provincial Code White protocol would  
24 ensure consistent handling of Code White situations and  
25 include the appropriate initial and annual training

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1 requirements for the Code White responders in accordance  
2 with the Coroner's inquest recommendations arising from the  
3 Langley Memorial Hospital shooting. A certification  
4 program should be established with the assistance of an  
5 organization such as the Justice Institute.

6 The Coroner's inquest to the Langley  
7 Memorial case also makes recommendation to providing the  
8 police training in dealing with the mentally ill. We feel  
9 that it be crucial that all security personnel working in  
10 healthcare be provided such training, as well. Currently,  
11 many of the contracted-out security guards, where there is  
12 security, have no healthcare specific training. A security  
13 with a guard with a level of training appropriate to  
14 dealing with altercations at shopping malls cannot perform  
15 in an appropriate manner in the situations that constantly  
16 arise in healthcare.

17 We recommend the implementation of a  
18 critical incident stress management program requirement as  
19 part of the Regulation, as well. The WCB's own pamphlet  
20 *Coping with Critical Incident Stress at Work* would provide  
21 an excellent basis for a standardized province-wide  
22 structure.

#### 23 4.37 Confidentiality.

24 We are very concerned that the proposed  
25 Confidentiality section to the Regulation will create an

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1 unintended effect. We fear that some employers may use the  
2 Regulation to keep information concerning misconduct and  
3 violence confidential, even from the joint OH&S committee.  
4 If misused, this section could hinder the committee from  
5 fulfilling its mandate under the Act as local  
6 investigations could be blocked or significantly impeded.  
7 The committee needs to be able to ensure that appropriate  
8 recommendations are implemented to eliminate and if that is  
9 not possible, minimize the risks.

10 Radiation - Part 7, Division 3

11 We are deeply troubled by the proposed  
12 changes. As well, we are concerned about the proposed  
13 changes in light of the fact that Health Canada is  
14 currently implementing significant changes to some of its  
15 safety codes involving radiation.

16 For example, Health Canada's *Safety Code*  
17 *20A, X-Ray Equipment in Medical Diagnosis Part A:*  
18 *Recommended Safety Procedures for Installation and Use* is  
19 currently being reviewed. Our understanding is that the  
20 review will result in a safety code significantly more  
21 stringent than the current one. Safety Code 20A will be  
22 released for external review sometime this summer and may  
23 be finalized and possibly implemented by next winter.

24 We recommend that a tripartite scientific  
25 committee be established to review the Radiation Regulation

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1 on the basis of current scientific evidence, including all  
2 applicable Health Canada safety codes, CSA and ANSI  
3 Standards and review of best practices. Until then, the  
4 Radiation Regulation should be left undisturbed.

5 The proposed changes leave very few  
6 references in the Regulation to the term "non-ionizing  
7 radiation" and nothing indicating that the term "non-  
8 ionizing radiation" includes electromagnetic fields, lasers  
9 and ultraviolet radiation, commonly found in healthcare.

10 The proposed exposure limit needs to  
11 incorporate protective reassignment in regards to pregnant  
12 workers, as well as those planning to conceive a child,  
13 rather than simply limiting the dose for pregnant workers,  
14 just providing information or counselling.

15 We are strongly opposed to eliminating the  
16 requirement for submission of dosimetry data to the  
17 National Dose Registry of Health Canada. This federally  
18 funded registry provides an excellent service that pools  
19 the epidemiological data for the entire country. Why would  
20 we eliminate that?

21 We are truly shocked by the WCB's proposed  
22 changes. We wish to ensure that we will leave you with the  
23 awareness that a few years ago at a large B.C. hospital  
24 three O.R. nurses came down with thyroid cancer within one  
25 year of each other. On the basis of epidemiology alone,

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1 this represented an unusually high incidence of thyroid  
2 cancer in comparison to the entire Canadian population.

3 Research also shows that there is high  
4 incidence of thyroid cancer, other cancers and leukemia in  
5 surgeons and other medical staff in operating rooms. It  
6 appears that usually the x-ray gear end up being faulty,  
7 not available or the x-ray generator may be exposing  
8 incorrectly. The WCB wrote orders on the employer who had  
9 not ensure appropriate surveys, provision for and training  
10 in the use of acceptable dosimeters, general training or  
11 provision of protective equipment such as adequate numbers  
12 of thyroid shields and wraparound gowns. At this point it  
13 still appears that the standards are more stringent in  
14 veterinary medicine with respect to thyroid shields than  
15 they are in operating rooms of our hospitals.

16 To better protect B.C. workers against  
17 radiation-related disease, more stringent clear Regulation  
18 on radiation is required.

19 Above all, we ask the Panel to urge the WCB  
20 to do nothing to change this Regulation before a scientific  
21 tripartite committee is called together to carefully review  
22 it and ensure that any changes will make it easier for both  
23 B.C. workers and employers to understand the protective  
24 measures and practices that are necessary to minimize  
25 exposure and potential illness.

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1           In conclusion, the British Columbia Nurses'  
2 Union strongly objects to the process that led to the  
3 proposed amendments to the Regulation. The process that  
4 has taken place without prior consultation is flawed and  
5 inadequate in safeguarding even the minimum OH&S standards  
6 that must be afforded to B.C. workers.

7           The *Workers Compensation Act* establishes the  
8 Board's mandate for Occupational Health and Safety under  
9 Par 3. One of the Board's mandates is to:

10           ...make regulations to establish standards  
11 and requirements for the protection of the  
12 health and safety of workers and the  
13 occupational environment in which they work.

14 The proposed amendments to the Regulation, as a whole, do  
15 nothing to improve the health and safety of B.C. workers.  
16 We urge the Panel to ensure that the WCB fulfills its  
17 mandate by carefully reviewing the concerns that we have  
18 articulated and the solutions we have recommended, along  
19 with other workers, their unions and the B.C. Federation of  
20 Labour, in order to protect the health and safety of B.C.  
21 workers.

22           Thank you.

23           MS. FORD: Thank you.

24           THE CHAIR: Thank you.

25           MS. FORD: Any questions?

1 THE CHAIR: No questions. Thank you very,  
2 very, much.

3 Is Mr. David Linklater here, by any chance?  
4 No.

5 Then is Mr. -- I'm not sure how to pronounce  
6 this, Marijan Marusic.

7 MR. MARUSIC: Yes, pretty close.

8 THE CHAIR: Pretty close.

9 SUBMISSION BY MR. MARIJAN MARUSIC:

10 MR. MARUSIC: My name is Marijan Marusic and  
11 I am a Professional Engineer with the Province of B.C. I  
12 am going to be talking about proposed amendment to the  
13 OHSR, only for the Part 13. That's part of the work that I  
14 am doing or I am involved with, what is in Part 13.

15 Now, you have decided to amend the existing  
16 Regulations and what you are proposing is a severe dilute,  
17 really, the instructions, and to generalize the existing  
18 Regulations.

19 The way I see what the Occupational Health  
20 and Safety Regulations do is keep workers safe, keep  
21 employers' safety-related cost at a minimum and acceptable  
22 cost, and to provide assistance to injured workers and  
23 dependents.

24 The existing Regulations, which became  
25 effective in 1998 were a significant improvement to the

1 ones published in 1974. They clarified many items that  
2 were sometimes difficult to understand.

3 I believe that the proposed changes are a  
4 step backwards. The proposed changes are too general,  
5 difficult to understand and too condensed. Any regulation,  
6 to be effective, it must also be easy to understand and  
7 must be easy to follow. To create a level playing field,  
8 the Regulations must be also enforced. If there is no  
9 enforcement, regulations that cost money are never  
10 followed.

11 WCB must work with all parties involved in  
12 the workplace safety. It must part of solution and not  
13 just an instrument to find the responsibility or blame from  
14 the clients.

15 Now, I am going to be a little bit more  
16 specific about Part 13. In the Part 13, the following  
17 items need to be included:

18 Maintenance and inspection logbooks must be  
19 available with the equipment and regularly filled in. To  
20 prevent confusion, the logbook format should be universal  
21 for all users in the format and the logbooks should be  
22 provided by WCB for a fee, at the cost.

23 The proposed Regulation will have to come  
24 with significant explanation, Guidelines and comments, to  
25 reduce confusion and misunderstanding. And the problem

1 with Guidelines is that, you know, they cannot be enforced.

2           There is an amendment proposed which calls  
3 for "additional structural inspection" of vehicle-mounted  
4 and self-propelled boom supported elevating work platforms  
5 in the tenth year after the date of manufacture and every  
6 five years after. I believe that this is a good proposal  
7 because of the significant proportion of the equipment is  
8 not properly or adequately maintained. Also the equipment  
9 nowadays works harder than ever before. This is  
10 particularly true for the equipment owned by bigger owners,  
11 like utilities.

12           Now, what you propose is something called  
13 "additional structural inspection", which to me as an  
14 engineer doesn't mean much. It doesn't tell me anything,  
15 really. I would propose that you find some other term,  
16 which will be a little bit more specific so that I could  
17 understand it, that owners could understand it, and the  
18 people that are using this equipment could understand it.  
19 Maybe something like "complete teardown inspection" or  
20 "complete overhaul inspection" of equipment would be more  
21 appropriate terms.

22           It seems that from the new Regulations most  
23 of the standards will practically disappeared, or proposed  
24 new Regulations. I am talking about standards like  
25 Canadian Standards Association, like your own standards,

BARRY MANFIELD  
(Malaspina University College)

1 like American Standards Association, and so on. I think  
2 that it's necessary that they are listed.

3 I would also like to see that somewhere in  
4 the Regulations there is the name of the department and  
5 maybe a phone number where people can phone for the  
6 explanations. Often you start with a secretary and after  
7 maybe five different places you are in with the secretary  
8 again and there is no explanation found for your question.

9 I would also recommend that WCB reinforce  
10 the manufacturer's recommended servicing of the elevating  
11 work platform, and I would recommend that servicing be done  
12 by the equipment manufacturer agent or by a establishment  
13 that are familiar with this type of the equipment.

14 That's it.

15 THE CHAIR: Thank you very much. Would you  
16 have a written copy of your statement?

17 MR. MARUSIC: It's short.

18 THE CHAIR: Barry Manfield.

19 PRESENTATION BY MR. BARRY MANFIELD ON BEHALF OF MALASPINA  
20 UNIVERSITY COLLEGE:

21 MR. MANFIELD: Ladies and gentlemen, Panel  
22 members, thank you for the opportunity to make a  
23 presentation today.

24 My name is Barry Manfield. I am a Canadian  
25 Registered Safety Professional and currently the Manager of

BARRY MANFIELD  
(Malaspina University College)

1 Environmental Health & Safety for Malaspina University  
2 College in Nanaimo, B.C. I come to you with over 25 years  
3 experience in the promotion and enforcement of safety and  
4 health in a wide variety of industries and occupations in  
5 B.C. I have served as a consultant to both industry and  
6 government on safety and health issues and even worked as a  
7 WCB Occupational Safety Officer for several years. I have  
8 seen first-hand both sides of safety and health issues and  
9 the impacts of both good and bad safety programs.

10 Today, because of limited time availability,  
11 I will comment on several general aspects of the proposed  
12 amendments, however I will be making a more detailed  
13 written submission to comment on more specific issues  
14 before the April 16th deadline.

15 In general, based on my review of these  
16 proposed amendments, the WCB obviously appears to be moving  
17 towards more performance-based regulations and away from  
18 its historical prescriptive-based regulation format. While  
19 performance-based requirements have some benefit under  
20 certain circumstances, they are not the magic answer to  
21 accident prevention and injury reduction that some people  
22 would believe.

23 Performance-based regulations may be useful  
24 to large corporations that already have comprehensive  
25 health and safety programs, where such requirements allow

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1       them greater flexibility in managing the health and safety  
2       impacts on their workforce.       However, for smaller  
3       organizations, which I would point out make up the majority  
4       of the employers in the province, the performance-based  
5       approach will likely be met with confusion, frustration and  
6       a lack of understanding as to what is expected of them.

7               Historically the WCB Regulations have not  
8       only been the law but have also served as a learning tool,  
9       which could be used to educate and inform both employers  
10      and workers about what the specific requirements were for  
11      health and safety in a given industry or activity. For the  
12      WCB to shift towards a system that leaves it up to an  
13      employer to determine what is or isn't "safe" or "healthy"  
14      is potentially equivalent to having the fox guarding the  
15      henhouse.

16              There is likely a place for both  
17      performance-based and prescriptive regulations.  
18      Prescriptive-based regulations should be used to indicate  
19      the minimum standards required for a given activity and/or  
20      within a given industry, and once that minimum level has  
21      been achieved, additional performance-based regulations  
22      could be included that allow employers the option to move  
23      to a more proactive health and safety approach.

24              An employer should be required to  
25      demonstrate their ability to provide a safe work

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1 environment to a minimum established standard, using  
2 prescriptive regulations, before they are allowed the  
3 privilege of a more relaxed performance-based approach to  
4 compliance. Naturally, this should only be permitted where  
5 it is appropriate.

6 It is also obvious that in the WCB's attempt  
7 to comply with the current government's desire for all  
8 government agencies to reduce the volume of regulations in  
9 the province, many of the existing legal requirements have  
10 been removed from the Regulations and shifted into  
11 Guidelines. That, too, is a path towards potential  
12 tragedy. Regulations are enforceable as legal  
13 requirements, Guidelines are not.

14 We have heard in previously held technical  
15 sessions and elsewhere today that the Guidelines are an  
16 attempt to demonstrate what compliance looks like. While  
17 that may have been the intent and may even be somewhat  
18 commendable, there are many employers that will say, "If  
19 it's not in the Regulation, I don't have to do it." There  
20 is a definite place for the WCB practice Guidelines, such  
21 as to provide examples to everyone in the workforce as to  
22 what the expectations are, but not at the expense of  
23 establishing minimum standards for health and safety  
24 through enforceable laws.

25 With this shift in regulatory approach to a

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1 more lax enforcement strategy there is concern that the WCB  
2 will be neglecting its fiduciary duty to the workers and  
3 employers of British Columbia. There is also concern that  
4 this trend away from specific legal requirements will  
5 contribute to an increase in accidents. Should that  
6 happen, it will be difficult for the WCB to reverse  
7 direction and re-implement the necessary prescriptive laws  
8 to ensure compliance.

9 Now on to some specifics.

10 Part 4 of the OER

11 It is commendable that the WCB is finally  
12 amending these regulations since they have been a source of  
13 confusion and misunderstanding for years. However, these  
14 proposed amendments have become very vague with the  
15 specifics being moved into the unenforceable Guidelines.  
16 In addition, we feel that in at least one case something  
17 may have been inadvertently omitted. The old Regulation  
18 4.94 required that:

19 ...the owner must provide and  
20 maintain...safe drinking water...

21 However the proposed the proposed Regulation amendments  
22 address only non-potable, i.e. unsafe, water and require  
23 that signs be posted to alert workers about unsafe water.  
24 However, there is no longer any requirement to provide any  
25 drinking water at all, so that's kind of pointless. Even

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1 the Guidelines do not address this adequately since they  
2 focus on the signage of unsafe water and that any water  
3 fountain should be:

4           ...maintained in a clear and sanitary  
5           condition...

6 But there is no indication in the Guideline that any  
7 drinking water is to be provided in the first place.  
8 Perhaps that's not seen as a problem in the Lower Mainland  
9 of B.C. but outside that area in other parts of the  
10 province, it can be a significant oversight.

#### 11           Workplace Violence

12           It is admirable that the WCB has finally  
13 recognized and formalized that all forms of violence in the  
14 workplace are unacceptable, regardless of the source, and  
15 having expanded the definitions of "improper conduct", "  
16 "threats of violence" and "violence" to include such things  
17 as bullying, harassment and intimidation is welcome. It is  
18 further hoped that the Claims side of the WCB will read,  
19 understand and recognize their obligations in ensuring  
20 compliance with these Regulations when adjudicating future  
21 claims. While they never should have ignored these  
22 requirements in the first place, they should no longer be  
23 able to ignore such unacceptable behaviour surrounding  
24 workplace violence issues. I'll believe that when I see  
25 it.

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1           I do have some concerns about how some of  
2 the proposed requirements will be implemented. For  
3 example, the proposed Regulation 4.27.1 requires that the  
4 employer must determine the risk of violence from any  
5 improper conduct and implement measures to prevent  
6 violence. However, if the employer makes the determination  
7 that there is no risk of violence, then the issue ends.

8           Similarly, Regulation 4.29(3) relates to  
9 threats and the employer must "determine the circumstances"  
10 of the threat. Again, there is real potential for the  
11 concerns of the person reporting the improper conduct  
12 and/or the threat of violence to be dismissed by the  
13 employer as "overreacting". Should that happen, it is  
14 unlikely that the person would bring forward any future  
15 issues of improper conduct or threats from the same or  
16 different sources.

17           The old required that the employer had to  
18 "investigate" incidents of improper conduct and threats.  
19 Determining the risk and/or circumstances of improper  
20 conduct or of a threat is not an investigation but rather a  
21 subjective assessment, likely conducted by untrained and/or  
22 unqualified personnel. Such a system is highly prone to  
23 potential abuse in some workplaces.

24           I am sure that was not the intent of either  
25 the WCB and/or the Coroner's jury recommendations from the

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1 Kamloops shooting at the Minister of Water, Lands and Air  
2 Protection, but that is how it currently reads and how  
3 easily it could be misinterpreted. Granted, the Guidelines  
4 may attempt to address that, but (a) the Guidelines are not  
5 legally binding on anyone, and (b) there is no legal  
6 obligation for any employer to even have the Guidelines  
7 available on site, let alone consult them.

8 Part 7 - Noise, Vibration, Radiation and  
9 Temperature

10 The move to eliminate specific dated  
11 standards is good, since that has proven very limiting and  
12 restrictive in the past. However, these standards are not  
13 readily available to the average workplace and obtaining  
14 them has been problematic and expensive to some employers  
15 and workers. The WCB has yet to adequately address this  
16 shortcoming.

17 Part 11 - Fall Protection

18 The deletion of the definitions is  
19 counterproductive. These terms are not defined in the  
20 Guidelines, although they should be. If the Guidelines are  
21 to be relied on and provide education to the user, the  
22 various terminology of this specialty should always be  
23 appropriately defined so that there is no misunderstanding  
24 of what is being discussed.

25 The recognition and addition of "two times

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1 the maximum arrest force" as an acceptable load capacity  
2 for an anchor point of a fall arrest system is long overdue  
3 and brings this portion of the WCB's Fall Protection  
4 Regulation in alignment with the rest of the world.

5 However, we take exception item (b) under  
6 Regulation 11.8, which is a new requirement specifying  
7 that:

8 (b) anchors with multiple attachment  
9 points,  
10 Must be certified by a professional engineer. Although  
11 this term is not defined anywhere in the Regulation or the  
12 Guidelines, such an anchor is generally one that uses  
13 several points of lesser strength that are interconnected  
14 in such a manner as to provide an anchor of sufficient  
15 strength to meet the regulatory requirements. These are  
16 more often than not temporary anchors and have never before  
17 required engineering certification, since that is not only  
18 impractical, but cost prohibitive. Provided they were  
19 rigged by a qualified person, they were always acceptable.

20 When this new requirement was queried at a  
21 recent technical session the response was, "That's not what  
22 we're referring to, but rather we mean a permanent anchor  
23 with several attachment loops or points." If that's the  
24 case, then 11.8(b) is not only redundant, but unnecessary  
25 since it is already covered under 11.8(a) where all types

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1 of permanent anchors require engineer certification. It's  
2 a duplication that should be eliminated.

3 This reference should be deleted before the  
4 Regulations are finalized to permit the use of temporary  
5 anchors without the need for engineering certification that  
6 use multiple attachment points and eliminate any potential  
7 for confusion.

8 While on the subject of engineering  
9 certification, we would respectfully submit that not all  
10 engineers are qualified to design and/or approve fall  
11 protection systems. It would be preferable if this  
12 requirement for engineering certification for this  
13 specialty could be modified to specify that the engineer  
14 certifying the fall protection system has some experience  
15 and/or understanding of the intricacies of fall protection  
16 before undertaking the design of anchors and/or anchor  
17 systems that are impractical, if not dangerous.

18 Part 9 - Confined Spaces

19 The revision that improves clarification  
20 around what is and is not a confined space is long overdue  
21 and welcome.

22 Part 14 - Equipment Operation

23 The proposed repealing of subsection (3) is  
24 a mistake. The WCB originally brought in this requirement  
25 many years ago and argued at that time that it was

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1 necessary to the safety of workers and the public.  
2 However, in subsequent years the WCB failed in their legal  
3 responsibility to enforce it and/or to ensure compliance by  
4 the target implementation date of January 1st, 1999. This  
5 lack of promotion and/or enforcement doomed the requirement  
6 to failure.

7 Part of the argument for this being  
8 rescinded is that ITAC no longer exists. That is true, but  
9 in 1999 ITAC was still in existence and had the WCB  
10 fulfilled their legal obligation to enforce the original  
11 Regulation, we would not be discussing this today.

12 Tower cranes and heavy lift mobile cranes  
13 should only be operated by highly qualified people that  
14 have received an appropriate level of certification or  
15 trade qualification. Rather than rescind this Regulation,  
16 the WCB could revise this subsection to require and  
17 recognize suitable trade qualifications without any  
18 reference to the ITAC organization.

19 In closing, it is hoped that the WCB will  
20 consider all of the oral submissions made today and the  
21 written submissions yet to come and re-examine those areas  
22 of greatest concern to the people of B.C. It is further  
23 hoped that the WCB will continue to protect the workers and  
24 employers of B.C. to ensure the highest level of safety and  
25 health possible within the province.

1 Thank you.

2 THE CHAIR: Thank you. Thank you very much.  
3 Lorne Burkart...?

4 PRESENTATION BY LORNE BURKART:

5 MR. BURKART: Hi, there. I have the  
6 privilege of working --

7 THE CHAIR: Could you just introduce  
8 yourself for the record, please.

9 MR. BURKART: Oh, okay.

10 THE CHAIR: Thank you.

11 MR. BURKART: Lorne Burkart and I am an R.N.  
12 in B.C. I have the privilege of working at St. Paul's  
13 Hospital, which has the distinct privilege of being one of  
14 the most violent institutions in all of Canada, and all of  
15 North America, to boot.

16 What I'd like to talk about today is  
17 specific to the changes in the Violence Regulations and the  
18 appearance that the Violence Regulations are going to be  
19 watered down or somewhat diluted to make it more acceptable  
20 that we tolerate and have violence in the workplace.

21 I understand that according to the brief  
22 that was put out, that a lot of the emphasis is resulting  
23 from the Kamloops tragedy. However, it's important to  
24 remember that NIOSH reports only nine percent of non-fatal  
25 trauma and violence in the workplace is the result of

1 worker-to-worker. Okay? The other 91 percent is the  
2 result of non-worker-to-worker.

3 In healthcare we have approximately 40  
4 percent of the WCB claims. A good part of those are MSIs  
5 and other trauma related to violence. Violence is very  
6 paramount.

7 It's important that we consider violence  
8 across demographics and violence not only in North America,  
9 not only with one group of citizens, but also in other  
10 nations, other areas of the world. And when we look a  
11 statistics that were put out, the United States, 12.2  
12 percent between '92 and '96, of the two million victims of  
13 non-fatal workplace violence were healthcare workers.  
14 Significant numbers.

15 In the U.K. 1994 to 1998 the risk for all  
16 violence in all occupations was 1.2 percent. However, for  
17 healthcare workers it was five percent, nearly four times  
18 the amount.

19 In Finland, 10.5 percent of healthcare  
20 workers were victims of violence during a 12-month period.  
21 Again, a highly significant amount. And we see a trend  
22 from one area of the world, to one country of the world  
23 across everything.

24 In Sweden, 29 percent of nurses reported  
25 being the victim of violence at least once during their

1 career, and that's something that we don't see in any other  
2 workforce.

3 It is clear that the healthcare sector has a  
4 significant but still underreported and under-recognized  
5 occupational safety and health problem and watering down  
6 the language or changing it unless we make it more  
7 stringent, is not the answer. We have to make them more  
8 accountable.

9 Forty-eight percent of non-fatal assaults in  
10 the United States were committed by a healthcare patient.  
11 876,000 lost workdays annually, all the result of violence.

12 In 1999 there was a particular study that  
13 was done at St. Paul's with regards to the Emergency  
14 Department. Sixty-five percent of the staff participated  
15 in this study. Almost 70 percent reported that there was  
16 increased violence over time with 60 percent reporting that  
17 there was an increase in severity.

18 Fifty-seven percent of these participants  
19 were actually physically assaulted in 1996. Forty-eight  
20 percent of these nurses and healthcare nurses said that  
21 their care and what they were doing for their patients was  
22 adversely affected, as a direct result of the violence that  
23 they were facing in the workplace. Twenty-seven percent of  
24 these healthcare workers actually had to take time off work  
25 as a result of this violence.

1                   Currently the statistics are higher with  
2 regards to the department. In 2002 it was 74 percent and  
3 in 2003 the same data showed it was also 74 percent. So  
4 three-quarters of the workforce was concerned with regards  
5 to violence.

6                   Recent studies coming out of the University  
7 of Alberta looked at almost 10,000 Alberta Nurses and B.C.  
8 nurses. The most damning statistic was that 66 percent of  
9 emergency room nurses suffered emotional or psychological  
10 abuse and assault in five shifts. That's 66 percent.  
11 Twenty-two percent suffered physical abuse of one sort or  
12 another in only five shifts.

13                   Watering down the Violence language does not  
14 work. We need to stop it. We need to make it  
15 unacceptable. Saying that they have the right to do what  
16 they need to do and looking at fiscal responsibility does  
17 not work. We have to concentrate on what's being done in  
18 other areas of the world and we have to start to get a  
19 little higher up with our own standards.

20                   In the U.K. they looked at the increasing  
21 rates of violence and the damning levels that it was having  
22 on staff, performance and staff maintenance and staff  
23 retention with regards to healthcare workers. They  
24 developed a true zero-tolerant policy. In such, they look  
25 at refusing work with regards to violent patients. Nurses

1 and other healthcares were constantly at risk of violence  
2 and aggression and both the College of Nursing and the  
3 Scottish Parliament stated that it is not the way to go.  
4 Zero tolerance is the only way to go. To make the policies  
5 and to perform the actions with regard to zero tolerance  
6 was the only way to go to stop this from happening.

7 In 2002 there was actual government  
8 initiatives to then refuse treatment at hospitals of  
9 violent patients and violent people and violent public. It  
10 wasn't about co-worker-to-co-worker. Again, it referred to  
11 people coming in and harming the people that were working  
12 in that worksite. It doesn't happen in grocery stores. It  
13 doesn't happen at banks. It doesn't happen at the WCB, and  
14 we know that we didn't want it to happen in Kamloops, but  
15 it does happen in healthcare and it's accepted as being  
16 normal. It's accepted as the fact that it's your job, it's  
17 okay that you get hit. And that's not okay. We have to  
18 change that and we don't change that by watering down the  
19 language.

20 The risk assessments that we're looking at  
21 being done, they need to be done in consultation with the  
22 frontline staff. The frontline staff are the staff that  
23 are aware of what's being done. They're aware of what's  
24 not reported, and they're aware of what is reported. It  
25 also needs to be done in participation with the joint

1 occupational health and safety committees. That is their  
2 mandate to ensure that the safety of the workplace is  
3 maintained.

4 With regards to section 4.33 and 4.34,  
5 Violence Control and control of said violence, it's been  
6 demonstrated by Dey and numerous other researchers that  
7 this violence is the tip of the iceberg. We know that it  
8 happens more and more and more. We have the anecdotal  
9 evidence to perform and to solidify that.

10 Last August, after the last six shootings,  
11 the first person came to the Emergency Department, said  
12 he'd been shot. The security guard there who also worked  
13 maximum security at Kent Prison, who consequently says that  
14 Kent Security Prison is much safer than working at St.  
15 Paul's Emergency Department, recognized this person. He  
16 quickly locked down the area, sealed off the Emergency  
17 Department so no other people could come in. Called the  
18 police immediately. Subsequent to that, five other trauma  
19 shooting victims came in. Three of them were treated, two  
20 of them were released shortly thereafter. Two individuals  
21 became violent within the Emergency Department and were  
22 arrested and taken to jail, but this was not known. It  
23 wasn't brought out and it wasn't publicized.

24 Several members related to the Hell's Angels  
25 were then congregating around the hospital. The police

1 were then called again, took control of the situation and  
2 made sure that it was made safe.

3 Yet again, we're considering changing the  
4 Violence language and making it easier to get around the  
5 Regs. In essence we need to make it stronger. We need to  
6 turn this around and we need to say it is not acceptable.  
7 It is not acceptable anywhere else in life. We have to  
8 take control of this, otherwise numerous healthcare workers  
9 and patients and family members are going to get hurt.

10 Recently, anecdotally again, there was a  
11 physical assault in the department. Three staff members  
12 and now a visitor. That visitor could have been any one of  
13 you three. It could have been your family members. Was  
14 physically assaulted by someone with well-known criminal  
15 element ties to the United States. He was so well-known  
16 that the Vancouver Police knew that he was in town. Yet we  
17 still have Violence in the Workplace and we are still  
18 considering changing the language to make it easier, rather  
19 than harder. We need to prevent it. We need to stop it.

20 Several initiatives are taking place with  
21 regards to flagging the violent individuals and making sure  
22 that they don't come in.

23 THE CHAIR: You're into your last minute  
24 now, thank you.

25 MR. BURKART: Okay. But we just have to

1 make sure that when we look at the Regs that we are not  
2 watering it down. It is not okay to have workers injured  
3 regardless of where they are or what they do.

4 Thank you.

5 THE CHAIR: Thank you very much.

6 MR. POWERS: In your submissions you  
7 referred to zero-tolerance policy in the U.K., and I was  
8 wondering if you had any information about how they tried  
9 to implement that policy or the results of that  
10 implementation.

11 MR. BURKART: I have the baseline releases  
12 that were put out. It looked like it was assessed on an  
13 institution-to-institution basis, the institution having  
14 the right to look at the case and to then determine whether  
15 or not they would be refusing treatment of the patient.  
16 Obviously consideration was given to patient presentation,  
17 patient cause, patient concern, as well as patient state of  
18 health. They looked at having a phase-in system prior to  
19 instituting a direct zero-tolerance policy, for example, a  
20 three-strike policy was used in several institutions.

21 The biggest thing was that the institutions  
22 themselves had the right, according to the government and  
23 from the government, to look into how they would manage and  
24 maintain a zero tolerance of violence.

25 MR. POWERS: And did you have any

1 information about whether or not that initiative was  
2 successful?

3 MR. BURKART: I don't have stats at this  
4 time.

5 MR. POWERS: Thank you.

6 THE CHAIR: Thank you.

7 So a couple of our scheduled speakers have  
8 not shown up. What we're proposing to do is stand down for  
9 a few minutes and see if anyone does show up. We're  
10 scheduled to run this portion of the hearing until five  
11 o'clock. If there is anyone else in the room who isn't  
12 registered to speak and would like to take five or ten  
13 minutes, please talk to Freda. So we're going to pause now  
14 for about five or ten minutes and see what happens.

15 --- PROCEEDINGS ADJOURNED AT 4:35 P.M.

16 --- PROCEEDINGS RECONVENED AT 4:40 P.M.

17 THE CHAIR: Good afternoon. No one having  
18 come forward to speak, I am going to adjourn this session  
19 until seven o'clock this evening. Thank you very much.

20 --- PROCEEDINGS ADJOURNED AT 4:41 P.M.

21 --- PROCEEDINGS RECONVENED AT 6:58 P.M.

22 THE CHAIR: Good evening.

23 I am going to do a little bit of an  
24 introduction here so we can have our first person up at  
25 7:00 as scheduled.

THE CHAIR  
(Introductory remarks)

1 MR. BYRNE: Were you going to have a little  
2 chat first, or shall I take off?

3 THE CHAIR: Pardon?

4 MR. BYRNE: I said were you going to --

5 THE CHAIR: No, no, I am going to do a  
6 little bit of a --

7 MR. BYRNE: That sounds good.

8 THE CHAIR: -- welcome and an introduction  
9 to the evening session.

10 My name is Margaret Eckenfelder and I am the  
11 Panel Chair. On my left is David Young - distracted right  
12 now - he's the Vice-Chair, and Mark Powers is Legal  
13 Counsel. This is the evening session of the public hearing  
14 in Richmond into proposed amendments to the Occupational  
15 Health and Safety Regulation.

16 This public hearing represents the formal  
17 consultation process into the Regulation. Once the hearing  
18 process is complete, all written and oral submissions will  
19 be examined. The Board of Directors is the decision-making  
20 body of the WCB and they will have access to all  
21 submissions prior to making their final decision on each  
22 proposal.

23 This is your opportunity to be heard on  
24 these important issues. I would like to thank you for your  
25 interest and involvement. We have allocated time for each

1 speaker. We ask that you stay within that timeframe. I'll  
2 give you a sign when you've reached one minute left in your  
3 presentation time.

4 For those who are in the audience and not  
5 making oral submissions, should you choose to make a  
6 written submission, those are welcome. The deadline for  
7 written submissions is April 16th at 4:30 in the afternoon.

8 Mr. Byrne.

9 PRESENTATION BY MR. PATRICK BYRNE:

10 MR. BYRNE: Hi. My name is Patrick Byrne.  
11 I have been a construction glazier since 1976. I am the  
12 son of a construction glazier and all of my working life  
13 has been spent alongside of construction glaziers.

14 For those of you who don't know what a  
15 glazier does, we're the guys who install all of the glass  
16 and aluminium that you see all over town. We work on  
17 everything from high-rise commercial and residential towers  
18 to shopping malls and storefronts. If it's made of glass  
19 and aluminium, chances are a glazier installed it.

20 The next time you're in one of the shopping  
21 malls, take a look overhead at the skylights above you.  
22 Those skylights got there because glaziers got on top of  
23 several sections of scaffolding and installed them, along  
24 with all the related metalwork and waterproofing  
25 components.

1           Most of our working lives are spent working  
2 at heights that would make most people dizzy just thinking  
3 about it. Quite often we're on swing stages hanging on the  
4 side of a tower. Our equipment, the materials we're  
5 installing, the scaffolding we're standing on, the tools  
6 we're working with and ultimately our lives are all hanging  
7 from 2 5/16" steel cables and 2 5/8" safety ropes.

8           The glaziers on that swing stage and anyone  
9 who is below are depending on the knowledge and expertise  
10 of the people who set up the rigging on that swing stage.  
11 Knowledge that they've derived through their apprenticeship  
12 and the prescriptive Regulations contained in the WCB  
13 manual are the insurance policy that gives the glaziers and  
14 those below some degree of assurance that this won't be the  
15 day that all this comes tumbling several stories to the  
16 ground.

17           In my 28 years in the trade I've seen many  
18 things that have both frightened and horrified me. I've  
19 seen the aftermath of seven fatalities as a result of falls  
20 from elevation on projects that I have worked on, the worst  
21 being Bentall IV, where four guys I knew fell to their  
22 death.

23           Now I find myself frightened again. I'm  
24 frightened that many of the Regulations that govern my  
25 workplace and those working around me are being eliminated

1 with the stroke of a pen. Why is that? It's not to make  
2 sure that my worksite is a safer place. It's because  
3 somebody without any thought at all made a ridiculous  
4 promise to reduce Regulations by one-third. Too many of  
5 these Regulations were written in the blood of those who  
6 were unfortunate enough to lose their lives while trying to  
7 make a living. To just arbitrarily say we're reducing  
8 Regulations by one-third makes no sense when you consider  
9 why those Regulations were put there.

10 The lines striking out entire sections of  
11 the Regulations are akin to striking a line through the  
12 names of the headstones of those who died for those  
13 Regulations.

14 When I started my apprenticeship, one of the  
15 first things I was handed was a copy of the WCB  
16 Regulations. I was told that these were the rules that  
17 were to be adhered to and that I'd better get to know them  
18 in pretty short order. I took that message to heart and  
19 whenever I had a question with regards to safety I used  
20 these Regulations for reference.

21 What I see being proposed in the new  
22 Regulations is an absolute skeleton of what should be  
23 there, accompanied by references to Guidelines that were  
24 really intended for safety officers and other safety  
25 professionals. To expect an apprentice, or fort hat matter

1 of journeyman or employer, to be able to interpret these  
2 Guidelines is going to lead to confusion and most likely  
3 unsafe working conditions.

4 Section G11.5-1 provides fall equipment  
5 standards. The problem here is that you now have to  
6 purchase these standards. What apprentice is going to fork  
7 over \$400 for a complete set of ten standards listed under  
8 G11.5-1 to see that his equipment is in compliance?

9 With construction being as cutthroat as it  
10 is and profit margins as slim as they are, I wonder if the  
11 majority of employers, most of who have less than 20  
12 employees, will want to incur such an expense.

13 The ridiculous change to our apprenticeship  
14 system, the weakening of the safety systems legislation and  
15 standards, employment standards legislation, cuts to the  
16 *Labour Code* and the rampant underground economy are all  
17 contributing to a climate in the construction industry  
18 where change to the Occupational Health and Safety  
19 Regulations will lead to more accidents and fatalities.

20 My primary concern is for the young people  
21 that everyone is saying we need to attract to the trade.  
22 What kind of a message are we sending to the children who  
23 are barely into their teens, when such wanton disregard for  
24 their safety is regulated in the changes that are being  
25 proposed here? I see all of the Regulations that assured

1 the young people who entered the trades that they would get  
2 a proper apprenticeship at a decent working wage, with some  
3 type of assurance that they got through their training in  
4 the safest possible manner, being dismantled.

5 I've heard the argument made that the  
6 Regulations as they are currently written are in many cases  
7 too repetitive. I've always found that repetition,  
8 especially with young people, is not a bad thing. You want  
9 to reinforce the serious nature of safety by repeating the  
10 essential information, not by making it harder to find.  
11 Often, when I was looking for information on a specific  
12 work practice, it was the repetitive aspects of the  
13 Regulations that were generally the most important to  
14 adhere to.

15 For example, the amendment to the Fall  
16 Protection Regulation begins with the repeal of section  
17 4.57. Work area guards and handrails for elevated work  
18 platforms are now supposed to be covered in Part 11. We  
19 are told in the explanatory note that the new Guidelines  
20 will cover the eliminated Regulation 4.57. I would assume  
21 that this was done to reduce repetition. However, when you  
22 get to the Guidelines, what you get is a set of  
23 sophisticated explanations that are 28 pages long. The  
24 current Regulations are only six pages. Instead of telling  
25 us precisely how the situation in section 4.57 is to be

1 regulated, what we have is a Guideline that focuses more on  
2 the transfer of authority for safety from the foreman  
3 directly onto the workers themselves.

4           Currently foremen are required to plan and  
5 instruct their crews on fall protection equipment and write  
6 a safety plan. The proposed changes will shift the  
7 responsibility for safety away from the employers, allowing  
8 them to make very general plans or, if you read section  
9 G11.3, allows exemptions from producing any fall protection  
10 plan at all.

11           The principle of worker responsibility is  
12 taken to extremes in Guideline 11.2.6, where it ends by  
13 referring back to the Industrial Health and Safety  
14 Regulations prior to 1996 that provided an exemption for  
15 normal fall protection requirements for:

16           ...structural steel erectors or similar  
17 tradesmen experienced at working at heights.  
18 Which would include me.

19           What the Guideline is saying because I  
20 walked untethered across the parapet on the Oceanic Plaza  
21 as a second-year apprentice, 27 floors above the ground,  
22 that practice would be acceptable if the new Regulations  
23 are put in place as is.

24           I'd like to briefly touch on Part 13,  
25 Ladders, Scaffolds and Temporary Work Platforms. The

1 elimination of section 13.93 to 13.164 and replacing them  
2 with section 13.7 to 13.13 will create a haphazard approach  
3 to the construction of scaffolds on all jobsites.

4 Scaffolding equipment and components are  
5 often mixed up on jobsites. Products from one manufacturer  
6 are not designed to be used on scaffolding from another  
7 manufacturer, but that is precisely what will happen with  
8 Regulations and enforcement to prevent this from happening.  
9 You'll have guys modifying equipment, drilling holes where  
10 they shouldn't be or leaving components out entirely  
11 because they just don't fit. You'll see load requirements  
12 being compromised and ultimately scaffolds will come down  
13 with people and equipment on it.

14 Again, there are proposed Guidelines on this  
15 that refer workers and employers to ANSI and CSA Standards,  
16 But at an average of 40 bucks a pop, it could cost in  
17 excess of \$1,300 to find out what the standards for  
18 Ladders, Scaffolds and Temporary Platforms. What the hell  
19 are we doing and where is it all going?

20 When you add it all up, it really doesn't  
21 make a lot of sense. If you're telling me that this will  
22 make my life and the lives of the young people coming into  
23 the trades any safer, or even as safe as they already were,  
24 then I say you're playing games with people's lives for the  
25 sake of keeping a ridiculous promise made by a politician.

1           I know that there have been massive staffing  
2 cuts at the Board. I can't remember the last time I saw a  
3 Workplace Safety Officer on a jobsite, so I know there  
4 aren't as many inspections being done. Without adequate  
5 inspections being done and with a new set of Regulations  
6 that I feel are too open to interpretation, I see the  
7 potential for more injuries and more fatalities. Who are  
8 we really trying to protect?

9           I have trouble believing that this process  
10 here today really means anything. After seeing what  
11 happened with the review around the watering down of limits  
12 of toxic materials last year, and the subsequent changes  
13 that were made, I have trouble believing that my appearance  
14 here today will change anything that's being proposed. But  
15 I had to appear here today because my conscience compels me  
16 to try to save the lives of future glaziers and perhaps  
17 even the lives of my own children.

18           Thank you.

19           THE CHAIR: Thank you.

20           MR. BYRNE: Thanks very much.

21           THE CHAIR: Thank you very much.

22           Brian Cochrane...?

23           MR. COCHRANE: I did my presentation in  
24 PowerPoint and because there's some graphic images that are  
25 included, unfortunately I don't have the technology. I've

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1 printed out some copies for everybody as we walk through  
2 this.

3 PRESENTATION BY MR. BRIAN COCHRANE, MR. BRAD RANDALL AND  
4 MR. LEE LOFTUS ON BEHALF OF INTERNATIONAL UNION OF  
5 OPERATING ENGINEERS LOCAL 115:

6 MR. COCHRANE: Good evening. My name is  
7 Brian Cochrane and with me I've got Brad Randall, and he is  
8 the Administrator of the Operating Engineers Training Plan  
9 and Lee Loftus, who is one of the advocates that work with  
10 us.

11 I am pleased to have this opportunity to  
12 speak to you on behalf of the International Union of  
13 Operating Engineers. Our local has 10,000 members in B.C.  
14 and in the Yukon, across North America the IUOE represents  
15 more than 350,000 workers. Making sure each one of them  
16 goes home safely at the end of the working day is one of  
17 our top priorities.

18 Our organization is also the provider of  
19 both human and economic capital to B.C. and the B.C.  
20 construction industry. The IUOE routinely works with  
21 regulatory bodies in Canada and the U.S. on the development  
22 of training programs and safety standards.

23 The information we're trying to cover off  
24 today could easily consume a two-day seminar to give you a  
25 full overview in respect to cranes, their applications and

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1 the skills required to be a competent crane operator. We  
2 have invested a great deal of time in order to try and  
3 condense this presentation into ten minutes, but we will be  
4 covering detailed materials in our written submission.

5 We have been particularly active on the  
6 issue that I'm here to address today, which is Crane  
7 Operator Training and Qualifications. We have many members  
8 who work in this field and the IUOE has played a lead role  
9 in developing and implementing the operator training and  
10 qualification options that exist currently in B.C. The  
11 problem is exactly that, is that they are options. Because  
12 Regulation 14.34 is not currently being implemented, there  
13 are no requirements for training or licensing of crane  
14 operators in B.C.

15 The amendments currently proposed would  
16 entrench that situation and make operator qualifications a  
17 matter of one of decisions by employers. The IUOE believes  
18 that approach would lead to increased workplace and public  
19 safety risks.

20 What we believe is needed is a Regulation  
21 that ensures standardized training and qualifications on  
22 the part of all crane operators in B.C. and this review  
23 process is the opportunity to make that happen. That would  
24 involve retaining Regulation 14.34 and revising it only to  
25 the extent necessary to make implementation feasible.

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1 Our objective here today is:

2 • To minimize the risks and potential  
3 for accidents involving cranes and hoisting equipment.

4 • To maximize workplace safety and to  
5 ensure that workers and the public have the similar  
6 assurances of standardizations and certifications as in the  
7 rest of Canada.

8 • To have the Board enact a regulatory  
9 framework ensuring standardized training and qualifications  
10 on the part of all crane operators in B.C.

11 • To address this important outstanding  
12 safety issue through the retention and implementation of  
13 14.34.

14 I want to make three points about crane  
15 operators and crane operation that underlie the importance  
16 of operator training and qualifications.

17 (1) Crane operation is central to worksite  
18 efficiency and productivity. No major activity gets done  
19 on a major construction site without a crane involved.

20 (2) Crane operation is one of the most  
21 complex jobs on a worksite. The skill set required to  
22 safely operate this equipment is very extensive.

23 (3) The safety stakes are extremely high.  
24 When crane accidents occur, there's a high potential for  
25 them to be very devastating.

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1           A single operator is ultimately in control  
2 of these complex and massive pieces of equipment and must  
3 have skill and knowledge sets encompassing mechanical and  
4 structural limitations, clearances, other engineering  
5 considerations. He's got to have good depth perception;  
6 ability to foresee implications of crane operation across  
7 and beyond the construction site; ability to maintain  
8 effective communication with the crews; an ability to  
9 safely complete tasks in a time-sensitive environment;  
10 understanding of and responses to varying weather  
11 conditions; avoidance and mitigation of contacts with power  
12 lines, antennas and other obstacles. He's got to have a  
13 thorough understanding of load calculations and equipment  
14 limitations.

15           I want to give you a quick orientation to  
16 the equipment that we're talking about. There's really  
17 three types of cranes pertaining to the current Regulation  
18 14.34.

19           First and most prominently there are the  
20 tower cranes you see at any major construction site. They  
21 are massive pieces of equipment, have an unsupported height  
22 of up to 380 metres and a reach of up to 70 metres. They  
23 also have a lifting capacity approaching 20 tonnes. You  
24 can imagine how devastating the impacts of a tower crane  
25 collapse can be, particularly since they're designed to

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1 extend beyond construction sites.

2 I'm just going to move on to some of the  
3 pictures, if you would look at page 6 in the presentation.  
4 It gives you an idea of what the operator's perspective is  
5 like and what a construction site with multi cranes working  
6 on it actually looks like. And you see these throughout  
7 the skyline of Vancouver.

8 The next picture on page 7 is a picture of a  
9 tower crane. It gives you an idea of how high that  
10 operator is working from and the skills that he's got to  
11 have to be able to make sure everything that's happening  
12 down below is operated in a safe manner.

13 The third picture on page 8 is a multi-crane  
14 site currently underway in Vancouver. And one of the  
15 things I guess I want the Panel to realize is note the  
16 construction activity underneath the crane and the boom  
17 reach over the public. The picture is also not taken  
18 during rush hours. There's light traffic on that street  
19 and it's in a major intersection downtown.

20 On page 9 there's a picture of an accident.  
21 This is what happens when things go wrong. This is a  
22 recent accident involving a tower crane in downtown  
23 Vancouver that the Board is aware of. And 15 minutes  
24 earlier the crews would have been underneath the falling  
25 structure that caused this damage when it hit the ground.

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1           The other two types of cranes are mobile  
2 cranes and large capacity boom trucks. Although they are  
3 smaller than tower cranes, their operation is in some  
4 respects even more complex. That's because they're used in  
5 varying locations and sometimes perform complex engineered  
6 lifts involving multiple cranes. They also have the  
7 greatest lifting capacities.

8           Mobile cranes are used on the site to move  
9 large heavy objects. They do not transport objects  
10 generally from place to place. They can pick and carry on  
11 a site short distances where the conditions will allow.

12           Mobile cranes are also used in other  
13 specialized ways, pile driving, dredging and mounted on  
14 barges in the water.

15           On page 11 it gives you an idea of what size  
16 of equipment we're talking about. And the lower picture is  
17 a picture of a mobile crane, actually, involved in the  
18 disassembly of a tower crane.

19           On page 12 there is a picture of what is  
20 commonplace in a crane application. It's involving a tilt-  
21 up, and these concrete panels can be in excess of 20,000  
22 pounds, and as you'll note with all the workers and the  
23 crew in that picture, it's obviously very safety-sensitive.

24           On page 13, I just want to highlight this.  
25 This is a major crane accident that happened in July 14th,

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1 1999. It was the Big Blue Stadium in Milwaukee. And this  
2 accident caused multiple deaths and hundreds of millions of  
3 dollars U.S. worth of damage.

4 On page 14 those are some pictures of a boom  
5 truck, and these boom trucks have large capacities these  
6 days.

7 On page 15, once again, here's when things  
8 go wrong. And you'll notice the cab on the top picture  
9 being crushed by the tree.

10 On page 16, in the construction industry in  
11 particular we believe that no one should really get behind  
12 the controls of a crane without having been thoroughly  
13 trained and having proven that they can operate it safely.  
14 And the best way to achieve that, we believe, is through  
15 the creation of mandatory crane certifications.

16 The case for a mandatory T.Q.

17 Due to the high-risk nature of crane  
18 operation, provincial regulators across Canada, with the  
19 exception of B.C., have adopted mandatory certification of  
20 crane operators. In fact, the move internationally is to  
21 implement mandatory certifications. The Board's proposal,  
22 which applies a multitude of discretionary training and  
23 qualification, approaches for crane operators, will  
24 compromise safety. Red Seal T.Q.s were applicable, are the  
25 accepted training and competency standards for all

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1 designated trades across Canada.

2 Due diligence and stakeholder input has  
3 already been completed in this Regulation. The Board must  
4 maintain and implement mandatory certification provision in  
5 respect to all three types of crane operation. Retaining  
6 Regulation 4.34 with the only necessary revisions to make  
7 implementation possible. This will be in line with the rest  
8 of Canada and the international wave towards mandatory  
9 certifications. It will ensure uniform standard and reduce  
10 the risk of worksite accidents and deaths. This is a  
11 timely issue. Many qualified operators are retiring and  
12 construction activity is increasing.

13 The problems with the proposed amendment:

14 It is inconsistent with all jurisdictions  
15 across Canada.

16 It will create an unmanageable bureaucracy  
17 within the WCB which cannot be supported.

18 It will create a mishmash of training and  
19 competency requirements from jobsite to jobsite.

20 Most importantly, it will increase the risk  
21 to workers and reduce safety on the job.

22 The amendment also moves away from the  
23 intent of *Bill C-45*, the Westray Bill. A recent  
24 development in criminal law granting the ability to charge  
25 organizations, including government departments, agencies

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1 and corporations with criminal negligence if bodily harm  
2 results from the failure to protect workplace health and  
3 safety.

4 Our submission, if there's any place for the  
5 proposed amendment it would only apply to specific  
6 exemptions granted through the applications to the Board.  
7 The Board could review a contractor's application for  
8 exemption on a case-by-case basis. This would apply only  
9 when the crane or hoisting device is working on a fixed  
10 site. The Board could then allow for different training  
11 and competency requirements contemplated by this review.  
12 This exemption could apply to non-construction industries,  
13 such as log home builders, mines, et cetera. However, this  
14 solution must be on an exception basis and not the rule.

15 The IUOE stands ready in the development and  
16 delivery of training necessary for industry to be compliant  
17 with the adoption of that Regulation.

18 I want to conclude by saying that the  
19 proposed amendment as it stands really defies commonsense  
20 and is indefensible. The Operating Engineers submit to the  
21 Panel that due diligence on this issue was contemplated a  
22 long time ago. Along the WCB operates with autonomy and at  
23 arm's-length from government, we recognize that the Board  
24 is sometimes sensitive to external influences, such as what  
25 is happening in the oil and gas industries. However, to

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1 implement Regulation 14.34 in its existing format and  
2 modifying it only to the extent to make implementation  
3 feasible, such as the deletion of the reference to the  
4 former ITAC, is the proper road for this panel to  
5 undertake.

6 We submit that it is in the interest of  
7 worksite safety. No piece of equipment on a construction  
8 site is more crucial than a crane. With its diverse  
9 interaction with workers and large lifting capacity,  
10 standardization of competency demonstrated by a  
11 certification is the only method in maintaining the safest  
12 possible operation, something that the working crews and  
13 the public would expect.

14 As we have demonstrated, when crane  
15 accidents --

16 THE CHAIR: This is your last minute.

17 MR. COCHRANE: Okay. I think I'll make it  
18 on time.

19 As we have demonstrated, when crane  
20 accidents occur, they are devastating. As indicated by  
21 other presenters, we're not talking about accidents; we're  
22 talking about deaths. And along with the human injuries  
23 and deaths there are also huge financial ramifications.  
24 The Board does not have the practical resources to deal  
25 with the multitude of testing and competency requirements,

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1 and even if it did, this movement is contrary to the move  
2 internationally to certify crane operators. You'd have to  
3 ask the question, can other jurisdictions and the rest of  
4 the world be wrong in crating a safer workplace by  
5 implementing mandatory certifications?

6 Finally, if the Board decides to materially  
7 change the current 14.34, regardless of the potential under  
8 *Bill C-45*, we urge the Board to ensure that mandatory  
9 certifications and crane designations set out in the  
10 Regulation apply to construction sector as a minimum, and  
11 that they only allow exemptions to the Regulation that  
12 makes sense.

13 On the last page of my presentation I've  
14 also got some headlines, which capture off a lot of the  
15 recent fatalities in major industries and crane accidents  
16 that have occurred throughout North America.

17 And with that I'll close and thank you very  
18 much and answer any questions if you have any.

19 THE CHAIR: Thank you.

20 MR. POWERS: In your written submissions  
21 will you have any proposed changes to 14.34 that you think  
22 would make it workable?

23 MR. COCHRANE: I will outline, probably in  
24 more detail what I've done in this oral presentation as far  
25 as the specific recommendation on the Regulation, yes.

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1 MR. POWERS: During your presentation you  
2 made reference, I think, it's to Red Seal --

3 MR. COCHRANE: Right.

4 MR. POWERS: -- qualification that works  
5 between different jurisdictions?

6 MR. COCHRANE: Right.

7 MR. POWERS: I understand it takes 6,000  
8 hours in the seat of a crane to qualify for that; is that  
9 right?

10 MR. COCHRANE: Go ahead, Brad.

11 MR. RANDALL: A tower crane is 6,000 hours.  
12 There's a B.C. T.Q. for that. For the mobile crane there's  
13 an inter-provincial ticket.

14 MR. POWERS: Speak into the black mike.

15 MR. RANDALL: I'm sorry. For tower crane  
16 there's a B.C. T.Q. in place, which is 6,000 hours. For  
17 the mobile crane there's an inter-provincial ticket in  
18 place, and that's the same ticket that would be good all  
19 across Canada.

20 MR. POWERS: And what are the hour  
21 requirements for that?

22 MR. RANDALL: 4,500 hours for the mobile  
23 crane.

24 MR. POWERS: And is it possible for crane  
25 operators to get that kind of hours?

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1           MR. RANDALL: Yes, it is. There's also a  
2 ticket in place for a B.C. T.Q. for boom trucks as well.

3           THE CHAIR: And is that sort of in the same  
4 range of number of hours?

5           MR. RANDALL: Yes.

6           MR. POWERS: I understand the average age of  
7 crane operators is up around 54 years?

8           MR. RANDALL: Yes.

9           MR. POWERS: And do you know why there's  
10 sort of this gap between those who have qualifications and  
11 those who don't or why there's not new people coming along?

12           MR. RANDALL: Well, there are new people  
13 coming along. Actually we do the training out at our  
14 training site for the mobile crane. We're funded through  
15 the provincial government to provide the technical training  
16 for the mobile crane apprenticeship. So there are young  
17 people coming into the industry.

18           MR. POWERS: I just wondered if you had any  
19 knowledge of information about why the average is 54,  
20 unless it's just the baby boom.

21           MR. RANDALL: I think you hit the nail on  
22 the head there.

23           MR. KROEKER: If I could answer that, from  
24 my perspective at least.

25           THE CHAIR: Yes.

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1                   MR. KROEKER:     Well, I'm Gary Kroeker, a  
2 Business Manager for the International Union of Operating  
3 Engineers Local 115. And on the issue of the average age,  
4 I would suggest that the average age is increasing only  
5 because of the lack of the amount of construction work that  
6 has gone on in the Province of British Columbia in the last  
7 decade. So therefore there's not been a lot of influx or a  
8 lot of young people coming into the industry because it's  
9 so up and down, and they say, "Hey, why should I get into  
10 it, because there's not a lot of work available?" And I  
11 think so the older folks are staying in longer and not  
12 creating openings for the younger generation. But I think  
13 as work picks up, I think you'll see that age come down  
14 slightly.

15                   As well as if the mandatory requirement for  
16 P.Q.s is gone, then you'll see that average age continue to  
17 climb, because there'll be no incentive whatsoever for  
18 young folks to get into it.

19                   MR. COCHRANE:    I guess if I can, I want to  
20 make one quick comment. And that's the fact that the Panel  
21 should recognize the fact that our organization works very  
22 closely with the employers and the contractors involved to  
23 try and ensure that there is, and its an ongoing dialogue  
24 within the industry to try and ensure that, because  
25 everybody's sensitive to that.     Everybody's sensitive to

1 the fact that there's an aging, there's a demographic  
2 bubble that's being pushed through in respect of the craft.  
3 But you can rest assured that those discussions, that  
4 dialogue is ongoing to ensure that there's an adequate  
5 supply and there's new and upcoming crane operators to be  
6 able to fill those positions.

7 MR. POWERS: Thank you.

8 THE CHAIR: Thank you.

9 Tony...?

10 MR. TENNESSY: Oh, am I next?

11 THE CHAIR: How do you say...?

12 MR. TENNESSY: Just like the state,  
13 Tennessee.

14 THE CHAIR: Tennessy.

15 PRESENTATION BY MR. TONY TENNESSY:

16 MR. TENNESSY: Just in case anybody's  
17 wondering what a certificate of qualification for the  
18 Province of British Columbia looks like, I've brought one  
19 with me and this is the first one that was issued in  
20 January of 1989. As a matter of fact, it's the Mobile  
21 Crane Operator's Certificate number 1. And so I've had a  
22 fairly long involvement and training and being a crane  
23 operator.

24 Well, good evening to the Panel and thank  
25 you very much for giving me the opportunity to speak

1 tonight. I'm speaking as one of those retired crane  
2 operators that is in the demographic group that was spoken  
3 of. And I guess when we talk about demographics, whether  
4 it's crane operators in society in general, I think we have  
5 this large group of people, whether they're doctors,  
6 lawyers, or crane operators, that tend to be in the higher  
7 age spectrum.

8 In any event, I'm here to speak to one of  
9 the various miscellaneous amendments that have been  
10 proposed. It's an amendment that might be easy to overlook  
11 but it's tremendously important in the workplace and to  
12 public safety. It's Regulation 14.34 regarding Crane  
13 Operator Qualifications.

14 This is an issue that I have been  
15 extensively involved with for about four decades now and  
16 that I have some unique insights into. I'm very concerned  
17 with the current lack of training and qualification  
18 requirements for crane operators in Province of British  
19 Columbia and I believe changing Regulation 14.34 to  
20 entrench this situation is wrong way to go. AS we've hard  
21 from previous speakers, this province is the only province  
22 that's going in a different direction.

23 The lack of requirements is all the more  
24 troubling since the level of construction activity in B.C.  
25 is about to get a dramatic boost. I'm speaking here in a

1 personal capacity, and I'm actively involved as a director  
2 of the 2010 Olympic organizing committee, and the games  
3 will be huge undertaking and that we must be well-prepared  
4 to build the infrastructure and the required venues.

5 Making sure that we have appropriately  
6 trained safety-related quick requirements in place has to  
7 be part of that preparation. Crane operation is a very  
8 technical complex skill and has huge safety implications.  
9 Operator qualifications are simply too important to become  
10 a matter for employer discretion and one of decisions.

11 I want to relate a personal case that I had  
12 that I had as a young tower crane operator that went to  
13 work on a construction site for a large company, Dominions  
14 Construction. And the superintendent on that particular  
15 site, it was a high-rise building. I was operating the  
16 tower crane. And the superintendent was a person who had  
17 come up through the trade as an apprentice carpenter. He  
18 was a journeyman carpenter, was now the superintendent. He  
19 had no idea whatsoever what that crane was about. He was  
20 the contractor on that job that was responsible. He didn't  
21 know the front end or the back end of the crane and relied  
22 on the operator to have the skill and knowledge required to  
23 ensure that that crane operated in a safe manner.

24 So I get concerned when I hear saying give  
25 the contractor the right to determine whether the

1 individual is qualified or not. In most cases that  
2 contractor is not in a position to determine whether the  
3 individual is a qualified crane operator or not.

4 In fact, I can't think of another  
5 construction site job where there is such a strong case for  
6 mandatory and standardized qualifications. What we should  
7 be doing is following through with the clear intent of  
8 Regulation 14.34 and making standardized qualifications a  
9 reality in B.C., just as they are in many jurisdictions.

10 To help you understand why I believe this so  
11 strongly as I do, I'll let you know some of my involvement  
12 in the field. I have an interest, and not just from the  
13 public policy standpoint, but also as someone with  
14 practical crane experience. I should tell you that I began  
15 many years ago working in the craft and at the time as what  
16 was known as an oiler. I was an 18-year-old individual who  
17 was just starting out in the industry. I worked as an  
18 oiler who, in those days, was the second person who worked  
19 on a crane with a qualified, what was determined at that  
20 time, was a journey crane operator.

21 In those days, crane operators, there was no  
22 structured or training available. We worked for a series  
23 of crane operators. Some would teach you something in the  
24 way with respect to the mechanical or the operation of the  
25 crane. Others didn't. There was a variety of reasons. In

1 a lot of cases the reasons were that they didn't have a lot  
2 of knowledge themselves on the capabilities of the crane  
3 and were therefore reluctant to show that they weren't that  
4 knowledgeable. You simply worked in the field and the  
5 quality of training depended on the skill level and the  
6 willingness to teach the senior crane operator that you  
7 were paired up with.

8 I worked as a journeyman crane operator  
9 between 1967 and 1973 on both mobile and tower cranes. I  
10 found most operators to be very diligent about learning to  
11 do their job safely. Without standardized training and  
12 qualifications, skill levels inevitably varied. Even  
13 operators who were deeply committed to safety often just  
14 didn't get the kind of training that they needed.

15 In 1973 I became a Business Representative  
16 with the International Union of Operating Engineers Local  
17 115. I went on to hold a variety of positions with the  
18 Operating Engineers and some of the joint boards for a  
19 period of 29 years.

20 I served as the administrator of the  
21 Operating Engineers Joint Partnership and Training Plan  
22 from 1980 to 1991. That's a joint labour/management Board.  
23 There's eight trustees on that particular Board, four that  
24 represent management and four that represent labour, and  
25 the responsibility of the Board is to provide training for

1 Operating Engineers.

2 I also served on the former Provincial  
3 Apprenticeship Board, which was the precursor to the ITAC.  
4 I was on the Board from 1986 to 1990, and in fact I chaired  
5 the Board from 1990 to 1993. I also co-chaired the  
6 Operating Engineers joint labour/management National  
7 Apprenticeship committee, and this is a joint  
8 labour/management committee that's formed by Operating  
9 Engineers right across the country.

10 In those capacities I played an active role  
11 in developing both training programs and regulatory  
12 requirements regarding crane operation in British Columbia.  
13 I worked with major construction companies across B.C. and  
14 Canada on this issue. A great many of them shared our  
15 perspective on the need for rigorous training and  
16 standards. Working with industry, we were able to develop  
17 the formal crane operator training that is still provided  
18 at the Operating Engineers' training centre in Maple Ridge  
19 that was referred to by the previous speakers.

20 In 1987 we were successful at having the  
21 mobile crane operator apprenticeship formally designated in  
22 the construction industry and we subsequently got a Red  
23 Seal T.Q. defined and I'm proud to be a holder of one of  
24 those Trade Qualification Certificates.

25 I think, by the way, that the existence of

1 the Red Seal Trade Qualification for Crane Operators is  
2 another good indication of the value of standardized  
3 training and qualifications in this area, and it means that  
4 the issue has important implications for worker mobility.  
5 On the tower crane side, the IUOE also developed a training  
6 program, initially providing entry-level training. Today  
7 the IUOE offers an upgrading program for tower crane  
8 operators and there's a voluntary B.C. T.Q.

9           Given our commitment to training in this  
10 field, the IUOE pushed hard to qualify as many operators as  
11 possible. We trained dozens of operators, both tower and  
12 mobile in the late '80s and early 1990s. As anyone who  
13 knows the state of operator skills in this industry before  
14 and after, I can tell you the training push made a big  
15 difference and the employer feedback was favourable.

16           There have been a number of crane accidents  
17 in the province, some that have been major that have caused  
18 both fatalities and huge amounts of property damage. I can  
19 think of one particular accident at Roberts Bank where we  
20 were fortunate to not have any fatalities, but the cost in  
21 the way of repairs involving that particular accident ran  
22 into the millions of dollars.

23           Operating knowledge and training is also  
24 often the key factor influencing whether or not accidents  
25 like this occur. Fortunately, such incidents have rare in

1 B.C. and I believe that's a legacy of the focus that we  
2 have put on training back in the '80s and the early '90s.

3 Part of the focus resulted from the  
4 expectation that a mandatory T.Q. would be in place, but of  
5 course that has not happened yet. Mobile crane operators  
6 often pursue T.Q.s anyway because they need to work in more  
7 than one province and that most other provinces require it.  
8 But without a regulatory requirement in B.C., there's less  
9 motivation for operators to train or for employers to  
10 require them to. I understand that no new tower crane  
11 T.Q.s have been awarded in B.C. for a number of years.  
12 That makes me typical of a great many of B.C. operators  
13 today, trained, qualified but are now either retired or  
14 approaching retirement age. We're back to the age  
15 demographic. And these qualified operators are leaving the  
16 field at a time when construction is picking up.

17 As I noted, we have major infrastructure  
18 development needs in the years ahead and limited time to  
19 get things done. That means a lot of relatively  
20 inexperienced operators are going to be getting behind the  
21 controls of these cranes. If we're going to at least  
22 maintain the safety record of recent years we need a  
23 renewed focus on training and qualifications for one of the  
24 most complex jobs on the construction site.

25 THE CHAIR: You're at your one-minute point.

ROBERT MAGEE, SCOTT LaPRAIRIE  
(GWIL Industries, LaPrairie Cranes)

1 MR. TENNESSY: We need rigorous standards  
2 and mandatory training and qualifications for all B.C.  
3 crane operators.

4 I should say that when we institute the  
5 training at the Operating Engineers' training site, it's  
6 not a union/non-union matter as has been indicated by some.  
7 We train both union and non-union crane operators.

8 Crane accidents can be catastrophic. I'm  
9 sure that you've been related to some of the fatalities  
10 that have happened and it's just not a very nice sight when  
11 that happens. I should tell you, I've seen crane operators  
12 who have been involved in fatal accidents and they never  
13 get in the seat of a crane again. It's the end of their  
14 career, and they can't bring themselves to continue on in  
15 that occupation after being involved in a fatal accident,  
16 whether or not they had been directly at fault.

17 I therefore urge Panel members to reconsider  
18 the proposed amendments in Regulation 14.34 and instead to  
19 follow through on its intent by making mandatory crane  
20 operator a requirement and a reality in the Province of  
21 British Columbia. Thank you very much.

22 THE CHAIR: Thank you.

23 Robert Magee...?

24 PRESENTATION BY MR. ROBERT MAGEE AND MR. SCOTT LaPRAIRIE ON  
25 BEHALF OF GWIL INDUSTRIES INC. AND LaPRAIRIE CRANE:

ROBERT MAGEE, SCOTT LaPRAIRIE  
(GWIL Industries, LaPrairie Cranes)

1 MR. MAGEE: Thank you for this opportunity.  
2 I am here to speak specifically on Regulation 14.34 as it  
3 relates to the construction industry.

4 Just a quick recap. Our company, we're  
5 based in Burnaby, a mobile crane rental company. We have  
6 about 40 pieces of equipment ranging from six ton to 440  
7 tons. We have at any given time 25 to 30 journeymen and in  
8 the last year to two years we've averaged apprentices three  
9 to four. And just to clarify our average age of crane  
10 operators is below 50, and I think that stat will stand for  
11 LaPrairie Crane.

12 I am also President of the Mobile Crane  
13 Owners Association of B.C., representing a number of crane  
14 rental companies in the province with a combined fleet of  
15 approximately 150 cranes and 150 journeymen.

16 I am going to speak specifically to my  
17 business, which is mobile cranes, which include truck  
18 cranes, rough terrain cranes, hydraulic all terrain cranes,  
19 lattice boom truck cranes and crawler cranes. Average  
20 investment of the recent large all terrain cranes,  
21 hydraulic all terrain cranes and crawler cranes that we  
22 have is anywhere from two to two-and-a-half million dollars  
23 per unit. It's a significant capital investment and  
24 requires skill to operate this equipment these days,  
25 requires significant education.

ROBERT MAGEE, SCOTT LaPRAIRIE  
(GWIL Industries, LaPrairie Cranes)

1           The current Regulation, as Tony was talking  
2 about, was we started the trade qualification in the mid-  
3 '80s, established in 1989. Initial representatives  
4 included union and non-union employers, general  
5 contractors, the Operating Engineers and the WCB was an  
6 integral part. We were able to create this trade  
7 qualification by leaving everybody's baggage at the door  
8 and have good discussion, which resulted in a unified  
9 approach to standardized training and qualifications. B.C.  
10 has been a leader in implementing crane operator crane  
11 qualifications and we were a leader in establishing the Red  
12 Seal.

13           The group felt strongly to have the trade  
14 regulated and proposed that it be governed under the  
15 Occupational Health and Safety Regulations. The group was  
16 successful with having 14.34 implemented in the last  
17 Regulation review, with the Regulation being enforced by  
18 the WCB as the only organization in the province that had  
19 the ability to enforce the Regulation and the standards for  
20 operating of cranes in the construction industry. This is  
21 a similar approach that was undertaken in other provinces,  
22 as well.

23           I can go over again why we need the  
24 Regulation.

25           Today's equipment is increasingly

ROBERT MAGEE, SCOTT LaPRAIRIE  
(GWIL Industries, LaPrairie Cranes)

1 sophisticated and technical. I liken a crane operator  
2 today to that of an airline pilot flying a 747. They need  
3 to understand their mechanical and structural limitations.  
4 They need excellent depth perception, excellent hand/eye  
5 coordination; effective communication skills; ability to  
6 constantly assess their surrounding environment for safety  
7 hazards and other site working conditions; basic  
8 understanding of physics for rigging requirements; good  
9 mathematic skills. These are skills that are required to  
10 run a crane and maximize workplace safety.

11 Frequently, as pointed out earlier, crane  
12 operations frequently interact in the public arena. As a  
13 result the general public can be exposed to risk if  
14 unqualified people re operating this equipment. And the  
15 industry requires a regulatory framework to ensure that the  
16 training is standardized and meet qualifications. And the  
17 WCB is uniquely positioned to provide this framework in  
18 this industry.

19 You've already got a synopsis of what work  
20 is done by tower cranes. I don't need to reiterate what  
21 Brian Cochrane has already said.

22 We feel this is a motherhood issue. We feel  
23 it's so serious that we as an industry were successful in  
24 negotiating a drug and alcohol testing program for all  
25 employees to improve safety, and that's a standard that is

ROBERT MAGEE, SCOTT LaPRAIRIE  
(GWIL Industries, LaPrairie Cranes)

1 coming cross the country, as well, particularly strong in  
2 Alberta and it's now coming into play up in north-eastern  
3 British Columbia.

4 Most Canadian jurisdictions have mandatory  
5 certification for crane operators and, as stated before,  
6 there is an international trend moving towards mandatory  
7 standards. In fact, it just was announced in Minnesota  
8 that the State of Minnesota is implementing crane  
9 certification.

10 To summarize, the current Regulation was a  
11 result of combined effort of all interested parties in the  
12 construction industry, including labour, non-union  
13 employers and the Workers' Compensation Board.  
14 Stakeholders have been consulted, were listened to and the  
15 result was Regulation 14.34.

16 We recognize the WCB is not a training  
17 agency, but it is an organization that needs to ensure  
18 there is consistent standards for crane operators in the  
19 construction industry.

20 The proposed Guidelines are evidence that  
21 Regulation 14.34 should not be altered or eliminated. The  
22 Guidelines are only relevant after an accident occurs.  
23 Quite frankly, my personal opinion is it looks like some  
24 lawyer has drawn this up to cover somebody's rear if an  
25 accident happens. But the bad news is that only comes into

ROBERT MAGEE, SCOTT LaPRAIRIE  
(GWIL Industries, LaPrairie Cranes)

1 play after there is an accident and somebody's hurt or  
2 killed.

3 They also show that it is a complicated  
4 issue and just to me proves the point that we need a higher  
5 standard of qualifications out there for crane operators in  
6 the construction industry. You cannot leave it to  
7 employers to determine competency when the employers  
8 themselves are not qualified to determine the competency of  
9 a crane operator.

10 I just want to make a comment on the age of  
11 crane operators, the time it takes to train, and we were  
12 alluding to the speed with which we can get people brought  
13 into the industry. I have an aviation background. I hold  
14 an airline transport rating. I hold a helicopter rating.  
15 I do know for one thing, just because there's a shortage of  
16 pilots, you don't alter the qualifications of people flying  
17 airplanes just to get them up in the air faster, and I  
18 think the same applies to crane operators.

19 So therefore we recommend that with respect  
20 to mobile cranes in the construction industry that with the  
21 exception of limiting the reference to the Industry  
22 Training and Apprenticeship Commission that we not change  
23 14.34.

24 MR. LaPRAIRIE: I'm going to use his last  
25 minute. I only found about it a couple of days ago. I

ROBERT MAGEE, SCOTT LaPRAIRIE  
(GWIL Industries, LaPrairie Cranes)

1 work LaPrairie Crane from Fort St. John and the average age  
2 of our operators, our certified operators, is about 30  
3 years old. So where there is work you will train and you  
4 will train them in the proper way and we train them through  
5 the union's plan and it's a very successful qualified plan.

6 I would like to just, you know, point out a  
7 couple of things. I haven't done any real work on this, but  
8 I don't think there's anybody on this Panel or at the WCB  
9 that would want to be up in a man basket, 175 feet in the  
10 air trying to unhook a flare stack that was just put up in  
11 minus 25 degree weather and not know that the crane  
12 operator was certified to run that machine. Or you  
13 wouldn't want to have your fingers underneath a slab and  
14 have the operator, you know, working blind and not know  
15 that that guy was certified to operate that crane.

16 Ten years ago the average size of a mobile  
17 crane was somewhere between 40 and 65 tons. Now the  
18 average size of a mobile crane is between 80 and 300 tons,  
19 going down the road. Cranes are at the top of the food  
20 chain, if you like, for equipment, and they are also the  
21 most dangerous when something goes wrong. So I just wanted  
22 to say that I think it would be asinine to go backwards and  
23 put B.C. in a disadvantaged situation in regards to Alberta  
24 or Saskatchewan or anywhere else in North America.

25 THE CHAIR: Thank you very much.

VAL COUPAL  
(Coupal Climbing Cranes)

1 MR. MAGEE: Thank you.

2 THE CHAIR: Val Coupal...?

3 PRESENTATION BY MR. VAL COUPAL ON BEHALF OF COUPAL CLIMBING  
4 CRANES:

5 MR. COUPAL: Val Coupal. I'm the owner of  
6 Coupal Cranes for 32 years. We build up the company to 30  
7 cranes, tower cranes, strictly tower cranes. I haven't got  
8 too much ready for this but there's nothing that has not  
9 been said that I was going to say.

10 THE CHAIR: Could you please speak into the  
11 black mike.

12 MR. COUPAL: Oh, this one here.

13 THE CHAIR: That's right. Yes, otherwise  
14 people at the back can't hear. Thank you.

15 MR. COUPAL: Okay.

16 Anyway, I haven't figured out why British  
17 Columbia is not training our operators for tower cranes and  
18 drug testing and licence. I haven't figured that out. I  
19 mean, I notice anybody did around here that's been speaking  
20 and it is very, very time that it is going to happen.  
21 Because we got, myself I got eight apprentices on our crane  
22 right now. They didn't even know how to start the cranes  
23 in the morning and we have to send an electrician or  
24 mechanic every time that those people go up the crane. And  
25 they're usually labourers or carpenters or ironworkers,

VAL COUPAL  
(Coupal Climbing Cranes)

1 they're willing to go up because they're asked to go up.

2 It's amazed that we haven't had more  
3 accidents than we have now. But 50 percent of accidents is  
4 not told. And I probably, myself, 25 percent were not told  
5 because they don't want to say how many loads they dropped  
6 and how many close shaves they've been. Just lucky that  
7 nobody gets hurt.

8 But it's just about time now, I think, if we  
9 don't do something, we're going to be very sorry because  
10 it's just too many apprentice out there and just don't know  
11 and they say it's not our fault. What we have to do we  
12 have to do, otherwise we're out of a job.

13 Everything else, I think, has been said.  
14 And I got to say it's a safety thing. It's not politics,  
15 it's not union/non-union, it's a safety thing that we're  
16 asking to train our operators and licence them and drug  
17 test them. It should be done. It's done in Alberta.

18 Ontario has the best training program in  
19 Canada as far as the tower cranes are concerned. I don't  
20 get involved in mobile. But I know they have a good  
21 program. Do we have to send our people to Ontario to  
22 train? There must be something we can do here that we get  
23 together and have good training schools to get those kids  
24 trained.

25 We are running short of operators, as you

TONY VIOLETTE  
(Tall Crane Equipment)

1 know, and we've got eight apprentices and there's more to  
2 come, I mean, the industry is getting very busy.

3 We have to be able to tell them what that  
4 crane does. Anybody can go up there and push buttons and  
5 levers but they don't know nothing about that crane, I  
6 mean, to watch for an accident. And if it happens, it  
7 happens. And it's very, very sad to see what we do. I've  
8 been saying this for a long time, I mean, why British  
9 Columbia can't afford training people in the tower crane  
10 business. That's all I have to say.

11 THE CHAIR: Thank you very much.

12 Tony Violette...?

13 PRESENTATION BY MR. TONY VIOLETTE ON BEHALF OF TALL CRANE  
14 EQUIPMENT:

15 MR. VIOLETTE: Good evening. My name is  
16 Tony Violette and I'm here this evening to comment on  
17 behalf of Tall Crane Equipment with respect to the proposed  
18 amendment to 14.34 of the OHS Guideline.

19 It's our belief that the crane operator  
20 training and certification should be a legislated  
21 requirement. This certification should be administered by  
22 some type of government or otherwise independent agency. I  
23 think history has proven that, in general, industry is not  
24 either willing or able to police itself properly in this  
25 regard.

TONY VIOLETTE  
(Tall Crane Equipment)

1 Over the last 15 or 20 years I have seen  
2 time and time again where unqualified operators have  
3 endangered the lives of themselves and others, even  
4 sometimes operators with many years experience are guilty  
5 of dangerous practices because they don't have the proper  
6 training, other than seat time. The examples are endless.

7 I was just up in Kelowna this week. There's  
8 an operator up there running the crane because he didn't  
9 know how to rig. I watched the same operator unloading a  
10 steel truck. The hoist limit tripped so he trolleyed in  
11 ten feet and proceeded to fish the load off of the truck.  
12 This is an extremely dangerous practice.

13 Another operator a few years ago was banned  
14 by a WCB officer from running a crane, due to many  
15 incidents where he almost injured people. He then  
16 proceeded to pay a qualified operator to run in the cab  
17 with him for a couple of days and write a letter saying he  
18 was now qualified. A few years later that same operator  
19 was running a crane where I got the service call. What had  
20 happened is a piece of a shiv had fallen off and he kept  
21 running. The rigger radioed up and said, "Hey, you've lost  
22 a piece of a shiv," and he said from his cab, "Well, it all  
23 looks fine to me from here." About an hour later the load  
24 line broke, the load came down to the ground with the 1,000  
25 load block and it's just sheer happenstance that nobody was

TONY VIOLETTE  
(Tall Crane Equipment)

1 killed.

2           They go on and on. I mean, over the years  
3 being one of the people out there fixing these cranes, the  
4 kind of things that happen with these people running, they  
5 don't have the knowledge. I mean, they've got seat time  
6 but they just don't have the knowledge.

7           I believe the proposed amendment will either  
8 not be enforced until after an accident, or if it is  
9 enforced as it is written, it would result in industry-wide  
10 chaos and a complete shutdown of the construction industry.  
11 The amendments require that a company hiring a crane  
12 operator have enough knowledge to train and evaluate that  
13 operator in a wide range of criteria, and it's not  
14 realistic. The scope of the criteria is large enough that  
15 I think few operators and few employers would be able to  
16 satisfy those.

17           A man hoist requires a licensed operator, as  
18 do trucks, planes and why not crane operators? You've  
19 heard this, I think, a few times here, but Ontario,  
20 Manitoba and Alberta are all, I believe, required to have  
21 certified operators. Why don't we in B.C.?

22           It seems to me to be a move to make the OH&S  
23 in this province reactive instead of proactive. The  
24 responsibility for certifying operators is being passed  
25 down to the construction companies and I don't think that

1 they're qualified to do this and I don't think they should  
2 be doing this.

3 Thank you.

4 THE CHAIR: Thank you.

5 Joe Bishop...?

6 PRESENTATION BY MR. JOE BISHOP:

7 MR. BISHOP: Good evening.

8 I'd like to take a moment to thank you, the  
9 Panel members, for the opportunity to voice my serious  
10 concerns regarding the implementation and now the potential  
11 erasing of Regulation 14.34.

12 I'll admit that I'm not only a member of the  
13 general public, but that I have been a tower crane operator  
14 in the Province of B.C. for the last 23 years and have  
15 worked on many high-profile projects.

16 The entrance into the field came in 1981  
17 after completing a pre-employment level course in the  
18 trade. It seemed like the best way to me. I became  
19 licensed in 1991 after challenging the provincial exam when  
20 the trade became certifiable in B.C. I knew, as did all  
21 who read the regulations, that there would be a deadline  
22 for all persons operating tower cranes to comply.

23 I believe this regulation was developed in  
24 the name of safety to the worker and the public.

25 Let me read the opening paragraph from Z248

1 of the CSA Code for Tower Cranes. This clearly  
2 demonstrates the acknowledgement of the public's  
3 involvement. I'll skip this first sentence here:

4 The need for this Code arose mainly from  
5 consideration of safety in the operation of  
6 such cranes, which are often used in  
7 surroundings where they are a potential  
8 safety hazard to the construction workers on  
9 the site and the general public, as well as  
10 to the operator and surrounding property.

11 With the existing populations in our urban  
12 areas today I'd like to describe a potential scenario.

13 For whatever reason a tower crane located,  
14 let's say, downtown Vancouver, a crane is working on a  
15 high-rise project and sustains a severe shock load. A  
16 total crane failure occurs. The crane's weight at its last  
17 braced position is approximately 60 tons of steel and  
18 concrete. The area covered by this structure would be  
19 approximately 15,000 square feet, so 60 tons more or less  
20 of steel and concrete over a 15,000 square foot area.

21 This mass, along with its operator still on  
22 board screaming bloody murder, tumbles and twists through  
23 the air. The wreckage picks up speed to about 40 miles and  
24 hour where it impacts onto a major downtown intersection.  
25 A city bus is crushed. Two adjacent buildings suffer

1 structural damage. Forty people are injured and 18 dead,  
2 including the operator and two of his co-workers who were  
3 thrown from the building at the 28th floor.

4 The operator is the last line of defence  
5 against such a catastrophe and it wouldn't be the first  
6 time that such an accident occurred.

7 As recently as March 6th I went to work to  
8 fill in for an operator on such a machine. I have never  
9 run this particular configuration. We were expected to  
10 pour 70 cubic metres of concrete, which translates into a  
11 minimum of 70 lifts at approximately 7,000 pounds per lift.  
12 The job never got started.

13 After mounting the crane on the 11th floor  
14 of this particular building, I inspected the last tie-down  
15 support and proceeded to climb the crane. After climbing  
16 only two vertical sections of the mast, I found conditions  
17 that warranted immediate shutdown and repair of the  
18 equipment as in Regulation 14.35. This condition, left  
19 unnoticed, could potentially have led to the same type of  
20 catastrophe that I described.

21 After 23 years I can tell you that I have  
22 seriously considered a scenario similar to this and that I  
23 have even woken up sweating from the nightmare.

24 I understand that the current operator of  
25 the crane I was involved with is a trainee with about six

1 months experience and, I surmise, very little formal  
2 training.

3 This is not an unusual situation. This  
4 safety issue demands our outmost attention as it affects  
5 the public as well as the workers in this province.  
6 Because it is a public safety issue, the government, who is  
7 in charge of skills and education and the minimal  
8 acceptable standards of various regulations, are ultimately  
9 responsible.

10 Now, you tell me and the rest of the general  
11 public, who this horrifying disaster could potentially  
12 affect, why and how the Board and the government of the  
13 Province of B.C. would not want to do everything they  
14 possibly can to prevent this horror from ever happening by,  
15 at the very least, demanding that the operators of tower  
16 cranes demonstrate a level of understanding and skill  
17 satisfactory to the people of B.C., whom you represent, in  
18 the form of a licence to operate tower cranes in the  
19 Province of B.C.

20 You know someone is going to have to accept  
21 liability for the laws and regulations produced in this  
22 province. If a negligent law is formed or inadequate  
23 protection is given, the onus will fall back on the  
24 governing body, regardless of their attempts to distance  
25 themselves from the potential dangers imposed onto the

1 public and the workers.

2 We, as a province and industry, are doing a  
3 great disservice to the workers as well as the taxpaying  
4 public by allowing this backwards type of law amendment.  
5 The amendment benefits only a few for profit, while placing  
6 the rest at risk of injury or death, because the WCB, the  
7 provincial government, contractors and their  
8 representatives are not training or policing this trade at  
9 an adequate level.

10 A group of private contractors and their  
11 representatives, rather than placing funds towards training  
12 their workers to meet the criteria required by Regulation  
13 14.34, chose to spend valuable time and great effort  
14 lobbying the governing authorities to procrastinate on the  
15 implementation of the Regulation. No personal offence  
16 intended, but I assume that the Board caved into the  
17 demands of this group.

18 I can say that I have observed the breakdown  
19 of diligence on the jobsite by supervisory staff, in  
20 contradiction to the Board's belief that this industry  
21 should be allowed to police itself. The fact is that  
22 supervisors do not have the time, and in a great number of  
23 cases are not familiar with tower crane operating concepts.  
24 With that knowledge, blind faith is placed in the hands of  
25 the operators.

1           As an example of qualified operator issues,  
2 tower cranes are required to be fitted with what is known  
3 as a deadman control system. You will find in many cases  
4 these devices have been disarmed by the employees. This  
5 allows the crane to be operated in an unsafe manner,  
6 contrary to the design of the manufacturer. This practice  
7 gives the operator a false sense of control over the crane  
8 while creating a hazardous condition that the Board has  
9 been known to overlook.

10           It is education and regulations that create  
11 a controlled safer workplace. Removing the system only  
12 increases risk, therefore this should also be policed by  
13 the Board.

14           There are too many close calls while  
15 operating these cranes and too many incidents that continue  
16 to go unreported. In many situations:

17           • Regulations regarding high wind speed  
18 operation are not being adhered to.

19           • Regulations regarding daily inspections  
20 are not being adhered to.

21           • Regulations regarding warning workers  
22 and others with audible signals are not being adhered to.

23           • Regulations regarding rest periods are  
24 not being adhered to as set out by the *Labour Code*.

25           And I could go on.

1                   These lax standards come from poor attitudes  
2 toward the industry, due to the absence of the WCB officer  
3 on patrol, as well as the responsibilities of the  
4 supervisor of the workplace, which consequently cause the  
5 Regulations that are already in place to be ignored.

6                   Anyone with experience in the construction  
7 sector will tell you that companies are driven by profit  
8 and extremely tight scheduling. Most operators are  
9 expected to work through all break periods and endure gross  
10 amounts of overtime work. This is something that in most  
11 industries, such as truck driving, is highly regulated as a  
12 result of a high rate of accidents due to fatigue.

13                   So to leave the operator untrained,  
14 unlicensed and unregulated by the Board and government,  
15 opens the door to such a catastrophe as I mentioned  
16 earlier.

17                   I strongly urge the members of this Panel to  
18 report back to their superiors in charge of correcting  
19 their proposed decision and to make the necessary changes  
20 that rectify the situation and bring our provincial  
21 regulations back to the respected standards that the  
22 workers in the industry deserve.

23                   Thank you for your time.

24                   THE CHAIR: Thank you.

25                   Mr. Jean-Marie Fortin...? Not here.

SCOTT DOHERTY  
(CEP Local 1123)

1 Mark Leffler...? Not here.

2 Perley Holmes...? Not here. I feel like a  
3 teacher with a class that's truant.

4 Scott Doherty...? Yes.

5 PRESENTATION BY MR. SCOTT DOHERTY ON BEHALF OF  
6 COMMUNICATIONS, ENERGY AND PAPERWORKERS UNION OF CANADA  
7 LOCAL 1123:

8 MR. DOHERTY: Hi. My name is Scott Doherty  
9 and I am a first-aid attendant at the Elk Falls Pulp and  
10 Paper Mill in Campbell River and I am here representing the  
11 Communications, Energy and Paperworkers Local 1123. I  
12 thank you for the opportunity to make this presentation to  
13 the Panel about some of the changes that the WCB is  
14 proposing to make to the Health and Safety Regulations.

15 I want to commend the WCB for making  
16 improvements to the public hearing process this year. It  
17 is important that the public hearings are held in more than  
18 two communities, as was the case last year. It is  
19 important that workers have the opportunity to make their  
20 concerns about the proposed changes known.

21 It concerns me greatly, however, that the  
22 WCB did not have a process set up where workers and  
23 employers could provide input into what Regulations would  
24 be reviewed and what implications these changes would have  
25 on workers' safety.

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(CEP Local 1123)

1           Many of these Regulations were developed  
2 through a tripartite process where worker and employer  
3 representatives were able to discuss and debate the  
4 scientific evidence, the impact on workers' health and the  
5 economic impact on their sectors. I did not support  
6 abandoning this process and urge the WCB to return to  
7 engaging the worker and the employer community in  
8 discussions before proposed changes are brought to public  
9 hearings.

10           I strongly support the idea that the WCB  
11 review the Health and Safety Regulations on an ongoing  
12 basis. In my view, however, the review should be based  
13 foremost on what the changes will mean for workers' health  
14 and safety. Words cannot describe what a serious injury or  
15 a fatality means for a worker or for workers' families or  
16 for their co-workers. It is nothing short than devastating  
17 for everyone, including the first-aid attendant. So the  
18 best thing we can do as a society is to decide that we will  
19 do everything we can to ensure that workers do not get  
20 seriously injured.

21           Moving to performance-based regulations and  
22 eliminating some requirements is just not the way to  
23 improve our safety record.

24           We know that in many workplaces repeat  
25 orders are not the exception, but rather the rule. What I

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(CEP Local 1123)

1 mean is some employers simply will not comply with the  
2 Regulations even after the WCB has written orders for them  
3 to comply. How is it then that you envision these  
4 employers will do the right thing if they are not  
5 absolutely required to by law?

6 Many of the changes before the public  
7 hearing Panel deal with removing specific details of the  
8 regulation requirement from Regulations and into  
9 Guidelines. On the surface it looks like nothing has  
10 changed. However, a more detailed look tells us that is  
11 very much not the case. Detailing specifics in the  
12 Occupational Health and Safety Regulation makes it law,  
13 meaning the employer is required to implement the  
14 specifics. Placing the details in the Guidelines gives the  
15 employer an option. They can determine how they are going  
16 to comply with the requirements in the Regulations. The  
17 specifics in the Guidelines are simply recommendations and  
18 are not enforceable.

19 Clearly, workers do not need fewer watered-  
20 down regulations. Rather, they need comprehensive  
21 regulations that employers will commit to implement and the  
22 Board will strictly enforce.

23 The Board should be strictly enforcing the  
24 current Regulations and in so doing reduce the number of  
25 workplace injuries and deaths, rather than changing the

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1 laws to ease the situation for employers.

2 I would like to make just a couple of  
3 comments on the changes the Board is proposing regarding  
4 Part 4 - Occupational Environment.

5 The first is Lunchrooms. In the proposed  
6 Regulations the specific details of what a lunchroom or a  
7 designated eating area should be are eliminated from the  
8 Regulation and moved to a Guideline. The employer is only  
9 required to provide a lunchroom if there is a risk that  
10 food stored or consumed at a workplace may become  
11 unwholesome because of workplace contaminants or if food  
12 consumption is restricted or prohibited at the workplace.  
13 "Unwholesome", we are told by the Board, will be defined in  
14 a Guideline.

15 In my workplace, not knowing what the  
16 Guidelines are before we make the changes is obviously of a  
17 concern. And including that with my workplace, I'm not  
18 entirely sure what "unwholesome" in a mill is. Does it  
19 mean that it is all right for our workers to eat their  
20 lunches in a maintenance shop, or perhaps right on the  
21 operating floor in the kraft mill or a recovery boiler? By  
22 allowing employers to work from Guidelines you are asking  
23 for abuse and misuse.

24 Secondly, Washrooms. As with the lunchrooms  
25 the proposed changes remove the specific details regarding

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1 washrooms in the workplace. The proposed Regulations  
2 simply require the employer to ensure that a sufficient  
3 number of plumbed washrooms are readily available for  
4 workers. It does not state how many facilities must be  
5 available.

6 And, most disturbing, the proposed changes  
7 remove the requirement to provide separate washrooms for  
8 female and male workers. At my mill and in many other  
9 industry-based occupations or jobs, this is obviously a  
10 concern. We have had several problems over the years with  
11 women's washrooms at our mill, and we have relied heavily  
12 on the Regulations to deal with them. In a male-dominant  
13 industry, which is finally realizing women are productive  
14 assets to the workforce, to make such a backward step in  
15 today's society only shows how thoughtless and short-  
16 sighted these changes really are.

17 Finally on Clothing Areas, the third issue  
18 in Part 4. The specifications requiring employers to  
19 provide workers a place to store their street clothes and a  
20 place to change into their work clothes has been removed.  
21 The proposed Regulations only require the employer to  
22 provide an adequate place to change into protective work  
23 clothing.

24 Where exactly are workers to leave their  
25 outdoor clothes: coats, boots rain gear, et cetera?

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1           Again, in my industry I cannot imagine  
2 having workers store their street clothes in their work  
3 areas. If you have ever been in a pulp mill, you know how  
4 absurd such an idea is. So yet again instead of ensuring  
5 that companies have to work within a standard, you will  
6 allow them to play within Guidelines.

7           The other issue I'd like to raise is the  
8 proposed changes to the Occupational Exposure Limits. It's  
9 really not possible to discuss the changes that are  
10 currently being proposed by the WCB without mentioning the  
11 changes that were made in the Occupational Exposure Limits  
12 last year.

13           First, the WCB's abandonment of the  
14 tripartite Regulation Review Speciality Committee on  
15 Occupational Hygiene was a huge mistake and one the Board  
16 must rectify. Again, as I mentioned earlier, tripartite  
17 committees offer workers the opportunity to put forward our  
18 issues and concerns and lend our first-hand work based  
19 expertise. The previous speciality committee had expert  
20 representation from the labour and the employer community  
21 and the WCB. The committee, while not always in agreement,  
22 was always able to discuss the issues together and come to  
23 a consensus in many cases.

24           As well, the committee considered exposure  
25 limits and designations from several jurisdictions,

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1 including Canada and Europe, not only from the United  
2 States, and recommended exposure limits that protected  
3 workers' health and were possible to implement.

4 On of my concerns is carbon disulfide and  
5 carbon monoxide. Both are highly toxic chemicals both  
6 present in the pulp and paper industry. Both of these  
7 chemicals have the American Conference of Governmental  
8 Industrial Hygienists TLVs, so it is positive that they are  
9 listed in the table and continue to have the Table 5-4  
10 exposure limit. However, both chemicals are also  
11 reproductive toxins that are designated as such in the  
12 previous Table 5-4. Neither one of these chemicals are  
13 designated as a reproductive toxin by the ACGIH and  
14 therefore are no longer designated in our regulations.  
15 This means that employers are no longer obligated to  
16 replace the chemical with a less toxic chemical or  
17 implement an exposure plan to maintain workers' exposures  
18 as low as reasonably achievable. This change will put  
19 workers at a much greater risk of exposure to reproductive  
20 toxins and therefore reproductive damage to developing  
21 offspring.

22 Furthermore, the table of excluded  
23 substances has also exempted the TLVs for two chemicals,  
24 formaldehyde and styrene, where the ACGIH TLVs are better  
25 for workers than the Table 5-4 exposure limits. Again,

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1 both of these chemicals are present in the pulp and paper  
2 industry. This decision makes absolutely no sense when it  
3 comes to workers' health and safety. The Board is  
4 knowingly allowing workers in British Columbia to be  
5 exposed to much higher levels of toxic chemicals that are  
6 extremely hazardous to workers' health.

7 And lastly, because I am a first-aid  
8 attendant, I feel I must at least express my concerns over  
9 the proposed changes in regards to the first aid. These  
10 changes, coupled with the previous changes --

11 THE CHAIR: One minute.

12 MR. DOHERTY: -- made to the first-aid  
13 training, is creating a time bomb waiting to explode. When  
14 you combine all these changes that are being made to the  
15 WCB and the Regulations and allow employers to police  
16 themselves, you will see statistics increase. What you are  
17 doing is exposing workers to more hazards while providing  
18 them with less qualified first-aid attendants. It is  
19 unfortunate that it will be workers who will pay the  
20 ultimate price for such thoughtless, unnecessary changes.

21 In closing I would like to suggest that if  
22 such wholesale changes to the Regs is needed, then the  
23 Board should also revamp its mission statement to:

24 Workplace safety and health is our  
25 challenge. However, employers and

PERLEY HOLMES  
(Ironworkers Local 97)

1 government are unable or unwilling to strive  
2 to be world class, so we have chosen to be  
3 followers.

4 Thank you.

5 THE CHAIR: Thank you.

6 Mr. Perley Holmes...?

7 MR. HOLMES: Give me five?

8 THE CHAIR: You want five? Two? Okay. Do  
9 you need a bit more time?

10 SUBMISSION OF MR. PERLEY HOLMES ON BEHALF OF IRONWORKERS  
11 UNION LOCAL 97:

12 MR. HOLMES: No, I'm fine.

13 I'm not too familiar with the protocol, but  
14 I am Perley Holmes, a Business Manager for the Ironworkers  
15 Local 97 out of Vancouver.

16 I guess my concerns with not having a  
17 properly trained operator is that most of my life an  
18 operator means life or death to me. I've done connecting  
19 all over North America. I've worked, and the Operating  
20 Engineer was always the guy that had the piece of steel  
21 hung over my head. And a lot of the times working with an  
22 operator, you developed a system of communication and if  
23 you weren't dealing with a person that was very skilled and  
24 work-wise, it meant your life.

25 I've personally picked individuals, one

PERLEY HOLMES  
(Ironworkers Local 97)

1 individual fell 300 feet and I pulled, picked him up and  
2 pieces of him and put him on a stretcher. He wasn't  
3 working with an operator, but I have been in bad places.  
4 And when just a nod of your head, a movement of your hand,  
5 meant moving a 50-ton piece of steel or a one-ton piece of  
6 steel. That piece of steel could wipe you out if the wind  
7 catches it, it will clean you right off the iron.

8           Yeah, we've got 100 percent tie-off  
9 nowadays.

10           Maybe I'm telling my age when I'm talking  
11 about, I don't know, I'd refer maybe to the "good old days"  
12 when an ironworker was an ironworker, but a crane operator  
13 is still a crane operator and it means life or death to an  
14 ironworkers. And to even begin to think that people that  
15 walk in off the street without any qualifications or  
16 certifications it's just incomprehensible. I wouldn't be  
17 on the job and I'm talking all over North America. We, as  
18 ironworkers, would not work if we were uncomfortable with  
19 an operator.

20           Generally, an operator trainee, he's the  
21 oiler, he's the guy that is an apprentice and he spends  
22 years before he really gets much of an opportunity to start  
23 pulling those levers. It takes a long time to train  
24 somebody as opposed to what some individuals on television  
25 might say. I heard something on the news yesterday that

MARK LEFFLER  
(GVRD)

1 just sickened me.

2 But anyways, I don't have much more than  
3 that to say, but I think we're going in the direction of  
4 probably a Third World if we start losing all our  
5 certifications. We might as well just forget it. Bring in  
6 people that are cannon fodder, I guess that's what we  
7 should be doing.

8 Anyways, that's all I've got to say. Thank  
9 you.

10 THE CHAIR: Thank you very much.

11 Is Mark Leffler here? We're a little bit  
12 ahead of schedule.

13 PRESENTATION BY MR. MARK LEFFLER ON BEHALF OF GREATER  
14 VANCOUVER REGIONAL DISTRICT:

15 MR. LEFFLER: Thanks very much, Madam Chair.  
16 I want to thank you for the opportunity to make a  
17 submission. My submission is supplementary to a written  
18 submission that I made dated March 8th, 2004 on behalf of  
19 16 local government employers within the Greater Vancouver  
20 Regional District. Collectively those employers employ in  
21 the neighbourhood of 14,000 employees.

22 Our comments relate to the proposed changes  
23 to the Violence in the Workplace Regulation, more  
24 particularly to the changes that expand the concept of  
25 "improper conduct". I don't propose to read my submission,

MARK LEFFLER  
(GVRD)

1 that's before you.

2 This is a difficult issue to address because  
3 of the tragic circumstances that prompted the review and  
4 the proposed Regulation. I do want to clarify on behalf of  
5 our employers that we, of course, do not condone the sort  
6 of improper conduct that's described in the proposed  
7 Regulation. Things such as bullying, intimidation, abuse,  
8 violence or threats of violence have no place in our  
9 workplaces.

10 Our view is simply that these types of  
11 improper conduct are beyond what the Workers' Compensation  
12 Board should reasonably be expected to regulate. Such  
13 improper conduct can and should be and is dealt with in our  
14 organizations through human resource management policies  
15 and practices. Including these within the WCB's purview  
16 risks, in our view, flooding the Board and the employers  
17 with complaints which would both mask truly violent  
18 situations and tax the resources of the Board and employers  
19 to deal with other legitimate occupational health and  
20 safety issues.

21 In our view the proposed Regulation 4.27 is  
22 far too broad. How is an employer to determine if there is  
23 "...any risk of improper conduct"?

24 Again, in our view, the proposed Regulation  
25 4.27.1, Reports of Improper Conduct, coupled with the

1 proposed Guideline G4.27.1 introduces unnecessary  
2 complexity and provides a recipe for enlarging and  
3 worsening conflicts rather than resolving them.

4 We don't take issue with the proposed  
5 Regulation 4.28, Threats of Violence and Violence -  
6 Assessment and control plan, or 428.1 regarding Instruction  
7 of Workers. These are reasonable for the protection of  
8 employees.

9 But the proposed Regulations 4.29, Threats  
10 of Violence - Reporting, Assessment and Control, and 4.30,  
11 Reporting and Debriefing, are in our view unnecessary  
12 expansions of the current Regulation 4.26, which is also  
13 much shorter and much easier to understand.

14 As a general view, we agree that violence or  
15 the threat of violence are serious human resource  
16 management and/or police matters and that where they're  
17 appropriate and where they're related to the workplace they  
18 should be referred by the employer to the proper police  
19 authorities.

20 The Improper Conduct provision we say should  
21 be removed entirely from the Occupational Health and Safety  
22 Regulation.

23 We think that the recommendations go well  
24 beyond what was recommended by the Coroner's jury in the  
25 Kamloops case. The Coroner's jury recommended expanding

MARK LEFFLER  
(GVRD)

1 the definition of workplace violence to cover implied or  
2 express threats of violence by one worker to another.  
3 However, the proposal goes well beyond implied threats to  
4 improper conduct and that creates a situation, which is  
5 just too difficult for the Board to try and regulate.

6 Furthermore, the behaviours that experts  
7 identify tentatively as red flags for possible future  
8 violent behaviour are well beyond what we see as rather  
9 vague and expansive and ill-defined concept within the term  
10 "improper conduct".

11 That's the essence of our submission, Madam  
12 Chair. We want to thank you again for the opportunity to  
13 make the submission before your Panel.

14 THE CHAIR: Thank you. Questions?

15 Thank you very much.

16 I have one speaker who hasn't appeared,  
17 Jean-Marie Fortin, and I am just checking to see whether he  
18 snuck in without anyone noticing him. No?

19 We'll take a five-minute break and see if  
20 anyone else comes back. I think there's a gentleman who  
21 may be interested in making a brief statement.

22 --- PROCEEDINGS ADJOURNED AT 8:30 P.M.

23 --- PROCEEDINGS RECONVENED AT 8:40 P.M.

24 THE CHAIR: So we are going to resume for  
25 one final speaker, Mr. Al Smestad.

1       PRESENTATION BY MR. AL SMESTAD:

2                   MR. SMESTAD:    Good evening everybody, Madam  
3   Chair.    Kindly give me five seconds so then I'm up for  
4   time.

5                   THE CHAIR:    Okay.    It would be good if you  
6   could speak into the black microphone, please.

7                   MR. SMESTAD:    Oh, this one.

8                   THE CHAIR:    That one, yes.    Thank you.

9                   MR. SMESTAD:    Well, I'm going to fly by the  
10   seat of my pants as operators usually do when they start  
11   out about 40 or 50 years ago.    I have had the pleasure of  
12   listening to some of the presentations here and I think it  
13   is wonderful to hear people speak in favour of the  
14   Regulation 14.34.

15                   My reasons, I will tell you this.    I used to  
16   be a man hoist and material hoist operator and I had the  
17   opportunity of course always to watch this guy sitting up  
18   above me.    You mentioned earlier that you wondered why  
19   there was such an age gap between the operators of tower  
20   cranes.    I don't think there's that many people that want  
21   to sit up there for eight or 12 hours a day constantly  
22   without coming down, to start with, and secondly I don't  
23   think they want to do it unless they get paid for it and  
24   paid the right rate, to boot.    So along with that, while  
25   I've been watching these guys and listening to what these

1 people have said tonight, I'm amazed that we haven't  
2 touched the subject of rigging, although I know that  
3 doesn't come under 13.14.

4 I think that there's a teamwork required  
5 when you're a tower crane operator and that teamwork partly  
6 relies on the person that is hooking up down on the bottom.  
7 So I would like to make sure that the teamwork is taken  
8 care of because many teams the half of the team is not even  
9 seen while he is hooking up. So now we have a guy up there  
10 that is relying totally on the person that hooks up  
11 properly.

12 Now, I've also, since I'm retired, actually,  
13 I'm more tired than retired, I've had to opportunity to  
14 hang around downtown and watch some of these guys rigging.  
15 It is amazing how many people doesn't know how to rig. If  
16 you people would send your inspectors down there and let  
17 them stand on the corner for a full eight to 12 hours and  
18 watch these guys rigging, I think you would be very anxious  
19 to reinforce the 14.34.

20 Having said that, I am also amazed that when  
21 the operator, who cannot often see the guy, is taking these  
22 things up without spilling it. Somebody said about winds  
23 and every other factor that is included in this, in  
24 operating these tower cranes. Just a hard wind is enough  
25 to knock that off if it is not hooked up properly. We have

1 people down below that could have two-by-four flying all  
2 over them without any problem just because it hasn't been  
3 choked. It is totally amazing how this can go on.

4 Now, the last thing I want to mention is  
5 what happens when the shit hits the fan, i.e., when things  
6 are going wrong. The first person that gets the eyes on  
7 them is the operator. Now, why is it always the operator?  
8 Why isn't it the foreman? Why isn't it the supervisor?  
9 Why isn't it the owner of the outfit looked on before the  
10 operator is looked on? He is the guy that has his ass in a  
11 sling first and foremost when anything happens. I think  
12 it is a crying shame that he has to defend himself when  
13 under the words of progress, under the words of production,  
14 under the words of costing and under the words of bottom  
15 line, this guy is the first one that gets the knocks. Not  
16 only from his boss and his bosses, but from you people, the  
17 Compensation Board. The inspector that comes there is  
18 grilling this person to death. So if he hasn't had a heart  
19 attack by the time you guys are finished with him, he'll  
20 probably have it by the time he goes to bed.

21 I think it would be shameful if we don't go  
22 ahead and do some training with these people. Proper  
23 training. I have seen my union, the International Union of  
24 Operating Engineers training people over and over and over.  
25 And I'm really pleased that somebody is doing it, and I

1 think you people should remember this and put it into law  
2 that that has to be done.

3 Thank you.

4 THE CHAIR: Thank you.

5 So is there anyone else who wishes to speak?

6 MR. PYRINGER: I have a question for the  
7 Board, the Panel.

8 THE CHAIR: If you could --

9 MR. PYRINGER: State my name? Sure.

10 THE CHAIR: -- state your name and introduce  
11 yourself.

12 MR. PYRINGER: My name is Joe Pyringer.

13 I would just like to ask when your proposed  
14 Guidelines are going to be put forward? Because I would  
15 like to have made a presentation here today, but I can't in  
16 due conscience when all the information is not provided.

17 So will you have that information out before  
18 your deadline of April --

19 THE CHAIR: 16th.

20 MR. PYRINGER: -- 16th? Thank you.

21 MR. YOUNG: Which Guideline are you  
22 referring to?

23 MR. PYRINGER: Well, in your changes to the  
24 Regulations you state in the subheadings that there are  
25 certain -- I forget the exact word, one of the people

1 mentioned it here today. You had certain criteria that you  
2 are going to put forward?

3 MR. YOUNG: It's my understanding that the  
4 Guidelines that had been indicated in the explanatory notes  
5 for any of the proposed amendments where it indicated that  
6 there would be a Guideline, they have all been drafted and  
7 they are available through the website. You can speak with  
8 Freda, she can make sure you get a copy of whichever  
9 Guideline you are looking to obtain.

10 MR. PYRINGER: Okay, so they are all  
11 available?

12 MR. YOUNG: Yes. Yes.

13 MR. PYRINGER: Okay, thank you.

14 MR. YOUNG: Sure.

15 THE CHAIR: So hearing no one else wanting to  
16 speak, since there are no more speakers and it is ten to  
17 9:00, I am going to close this hearing in Richmond.

18 Thank you all for attending, your  
19 submissions. We look forward to written submissions from  
20 those of you who wish to make them.

21 Thank you very much.

22 --- PROCEEDINGS CONCLUDED AT 8:50 P.M.

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I HEREBY CERTIFY the foregoing to be a true and accurate transcript of the proceedings herein, transcribed from taped proceedings, to the best of my skill and ability.

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Pat Neumann