

20.8

July 4, 2007



WorkSafeBC - Workers' Compensation Board of British Columbia
Prevention Policy and Regulation Review Department
Policy and Research Division
P.O. Box 5350 Station Terminal
Vancouver, B.C. V6B 5L5

**RE: COMMENTS FROM THE JOINT PRACTICES BOARD (APEGBC & ABCFP)
2007 PROPOSED REGULATION AMENDMENTS to the
OCCUPATIONAL HEALTH AND SAFETY REGULATION**

Attention: Mr. George Matheson, P.Eng.

Dear Sir:

Thank you for the opportunity to once again provide input on proposed revisions to the Occupational Health and Safety Regulation, draft dated April 25, 2007.

Attached is the response of the Joint Practices Board to the proposed April 2007 amendments to the above-noted Regulation. This letter follows our response of February 27, 2007 on the November 2006 draft of the proposed revisions.

We note that the April 25, 2007 draft of the proposed regulations incorporates many of our comments and suggestions on the November 2006 draft. Our comments on the April 2007 draft follow.

Part 4, Section 4.1.1: Terrain stability assessment

4.1.1 (2) -- Change "qualified registered professional" to professional engineer or geoscientist.

Rationale: Forest professionals carry out terrain stability assessments only for forest development. Because TSA's may be done for development in other sectors, a separate clause is appropriate for QRP's and forest development.

4.1.1 (5) -- Add new subsection: If the terrain stability assessment described in 4.1.1 (1) is for a forest operation, the terrain stability assessment may be done by a qualified registered professional.

Rationale: Provides for forest professionals to do terrain stability assessments for forest development as entitled under the Forester Act.

Part 20, Section 20.78 / 20.81: Excavations

20.78 (4) Revise as follows:

If the excavation work referred to in subsection (1) is **for a forestry road, borrow pit or trail in a forest operation**, and does not use support structures, the written instructions required by subsection (1) may be provided by a qualified registered professional.

Rationale: The proposed regulation uses the term 'road cut' which if taken literally does not include other type of excavations such as burrow pits and trail cuts. If specific wording is to be utilized, the term borrow pits and trails which are a standard part of forestry road development should be covered by this clause of the regulation. If a general term such as 'forestry road' is utilized, it must be defined to demonstrate that it includes other excavations associated with forest road development.

20.81 (1.2) Revise as follows:

If the excavation work referred to in subsection (1) is **for a forestry road, borrow pit or trail in a forest operation**, and does not use support structures, the specifications required by subsection (1) may be provided by a qualified registered professional.

Rationale: As for 20.78 (4)

Part 26, Section 26.81: Bridges, elevated platforms, and other structures

26.81 (5) revise the Regulation to read as follows:

- (5) A bridge, elevated platform, structure and bull rails referred to in subsections (2), (3) and (4) must be
- (a) maintained in good condition and repair, and
 - (b) inspected by a qualified registered professional at a frequency interval as specified by the post construction inspection of the structure or any subsequent inspection conducted by a qualified registered professional. The minimum inspection interval must be at least once every 3 years, unless
 - (i) the stringers or any portion of the structural components of the bridge substructure are untreated wood, in which case the inspection must be carried out at least once every two years; and
 - (c) curbs or bull rails referred to in subsections (3), (4) and (5) must be inspected by a qualified person at least once a year.

Rationale: The inspection frequency regarding structural and non-structural aspects of bridges and structures have been separated. The non-structural aspects of bridges (i.e. curbs or bull rails) are generally considered maintenance issues and hence, require more routine inspections. Completing a structural inspection on non-treated wood structures every one year versus every two years will not resolve the issue of no inspection being completed, poorly completed inspections or inspections completed by non-qualified individuals. Members from both ABCFP and APEGBC follow the

“Guidelines for Professional Services in the Forest Sector – Crossings” (March, 2005) which directs Professionals from both Associations to define the inspection frequency for all crossings built under these guidelines to a maximum of 3 years. Structures build before the release of these guidelines or post construction inspections completed under these guidelines will be inspected by a “qualified registered profession”. The QRP will also defined the inspection frequency within the established range of this regulation. The current proposed language of “a longer time period as specified by the Board” provides little flexibility and no certainty that such a time period will be implemented.

Snow avalanche assessments

APEGBC and ABCFP have received proposed new language for Section 4.1.2 from the Canadian Avalanche Association. The Joint Practice Board has reviewed the CAA language and has proposed a number of changes to it. The following is the proposed CAA language with revisions recommended by the Joint Practices Board.

Part 4, General Conditions, 4.1.2 Snow Avalanche Assessment

1. In these section:

“*avalanche*” means snow avalanche

“*avalanche risk assessment*” means an assessment of the terrain in and surrounding a workplace, to determine if the workplace is at risk from a snow avalanche zone that exists or is likely to develop during the work.

“*avalanche risk zone*” means a workplace or part of a workplace where an avalanche risk assessment determines that avalanches pose a risk to workers and risk control measures are required to make the area safe for the work to be conducted.

“*avalanche control plan*” means the recommendations of an appropriately qualified person specifying

- (a) measures to eliminate or reduce the avalanche risk to people working in the workplace;
- and,
- (b) procedures to be followed by persons working in the workplace

“*structural avalanche defences*” means a plan for worksite and facility location, design and use, and may include the design and construction of galleries, berms, dikes, dams, mounds, protective barriers or other physical defenses against avalanches, as prepared by a professional engineer.

“*active avalanche control plan*” means a plan for monitoring weather, snow and avalanche conditions, determining temporal fluctuations of avalanche hazards, and implementing safety measures, closures or other mitigations to control the

avalanches, as specified in a plan prepared and signed by a qualified avalanche expert.

“qualified avalanche expert” means a Professional Member of the Canadian Avalanche Association with Operations Level 2 training, and who has completed the CAA course Snow Avalanche Mapping Level 1.

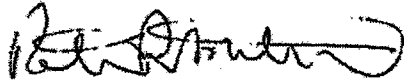
2. Before work commences at a workplace where there is or may be a risk to a person working in the workplace from an avalanche, an avalanche risk assessment must be conducted.
 - (a) For workplaces involving buildings, construction sites, transportation corridors, mining operations, or other worksites that are occupied by workers on a seasonally permanent or scheduled basis, a professional engineer or professional geoscientist in conjunction with a qualified avalanche expert must conduct an avalanche risk assessment.
 - (b) Where the workplace is a forest operation, a qualified registered professional in conjunction with a qualified avalanche expert must conduct an avalanche risk assessment.
 - (c) For wilderness operations where workers range over expanses of undeveloped mountainous terrain that includes avalanche risk zones, a qualified avalanche expert must conduct an avalanche risk assessment.
3. If an avalanche risk assessment identifies an avalanche risk zone, no work may be conducted in the risk zone at any time when snow conditions have the potential of creating a dangerous avalanche, unless:
 - (a) a professional engineer has prepared an appropriate structural avalanche control plan, that plan has been signed off by the employer or primary contractor, and the plan has been implemented as specified;
and/or,
 - (b) a qualified avalanche expert has prepared an appropriate active avalanche control plan, that plan has been signed off by the employer or primary contractor, and the plan is being implemented as specified.
4. Where an avalanche risk assessment identifies the need for a combination of structural and active avalanche controls, that avalanche control plan must be signed off by the professional engineer and the qualified avalanche expert.
5. If an avalanche control plan has recommended procedures to be followed by people working in an avalanche risk zone, the employer is responsible to ensure that every person working in the risk zone is trained in, and complies with, any procedures applicable to that person’s work.

CLOSURE

The Joint Practice Board, on behalf of the Association of BC Forest Professionals (ABCFP) and the Association of Professional Engineers and Geoscientists of BC (APEGBC) very much appreciates the opportunity to respond to draft Occupational Health and Safety Regulations.

We are very encouraged by the reliance on professionals reflected in the proposed amendments and the recognition that evolving professional practice plays an fundamental role in maintaining safety in the workplace. In this context, we trust that the attached comments on the proposed 2007 Regulation amendments are helpful. If you have any questions, please contact the undersigned.

Regards,



Peter Mitchell, P.Eng.

A.P.E.G.B.C.

Associate Director, Professional Practice



Michael P. Wise, M.A.Sc., P.Eng.
Chair, JPB OH&S Task Force



FOR
Justin Kumagai, R.P.F.
Chair, Joint Practice Board

Both APEGBC and ABCFP agree that a separate section regarding excavations on forest roads is warranted as a result of using 'qualified registered professional' in appropriate WorkSafeBC regulations, and removing potential misunderstandings regarding the application of 20.78 and 20.81 to excavations during forest road construction. It is understood that other types of excavations outside of forestry roads would continue to be covered by Part 4, Sections 20.78 and 20.81.

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Recommendation of the ABCFP

Part 26: FORESTRY OPERATIONS

EXCAVATION AND CONSTRUCTION OF CUTS AND FILLS

Deleted: ROAD

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Work standards

26.xx

(1) Excavation work must be in accordance with the written instructions of a qualified registered professional if:

(a) an earlier terrain stability assessment carried out for the site identifies that such instructions are necessary to address worker safety or requires a subsequent assessment at the time of construction

(b) no terrain stability assessment has been carried out, the excavation work has been identified by a qualified registered professional as being potentially unstable and hazardous to a worker

(c) a worker will enter a roadcut excavation area closer to the side bank than a distance equal to the height of the roadcut, in an area where slopes are unstable and hazardous to a person;

[[Note: this is an adaptation of 20.81.1 to forest roads]]

(2) If a person may be endangered by the failure of a fill or stockpile, the fill or stockpile must be constructed, used or maintained in accordance with the written instructions of a qualified registered professional.

(3) The written instructions required in subsections (1) and (2) must

(a) be certified by a qualified registered professional,

(b) be available at the site, and

(c) specify the support and sloping requirements, and the subsurface conditions expected to be encountered.

(4) Subsections (1) and (2) above apply to road cuts and fills during forest road construction, maintenance, and

deactivation.

[[Rationale: This new section addresses a number of issues such as: which professionals have the right to practice in forestry operations and are best suited for the prescribed task, how to address the potential endangerment of a person in the workplace in the excavation and construction of roadcuts and roadfills, and where should the concept of 'written instructions' be applied. As previously stated the use of the term 'qualified registered professional' is supported by ABCFP and APEGBC and both Associations are mandated under legislation to regulate their respective members. This new section draws on and supports existing and soon to be released guidance documents from both ABCFP and APEGBC. The concept of written instructions should enhance the existing process of terrain stability assessment and not be independent of it. This change also closely mirrors the approach take by WorkSafeBC in regards to fills and stockpiles, which can be as dangerous as excavations.

Both Associations through the Joint Practice Board will be providing new guidance to their respective members as "when to carried out a terrain stability assessment". This new document will also provide guidance regarding terrain stability management where no terrain stability assessment will be carried out.

An additional important concept of this new section is it has limited excavation work in forestry operation to roadcut excavation. Larger or more specialized excavations for the installation of structures such as trenches which require more specialized knowledge of engineering and geoscience, would continue to be covered under 20.78 and 20.81 in Part 4. The move to 'result oriented' type language will direct employers and professionals to 'identify' criteria particular to their area of operation and hence, focus the concept of written instructions where most applicable, which is specifically those areas where special care must be taken by the worker.

Developing a general criteria approach to forest operation roadcuts for a province with such a broad diversification of terrain and geology as BC is not the best approach to address worker safety. The criteria utilized in the existing regulation, specifically where "the ground slopes away from the edge of the excavation at an angle steeper than 3 horizontal to 1 vertical" would result in written instructions on the majority of forest roads on the coast and even much of the interior. This will undoubtedly lead to a general approach to written instructions and roadcut areas or situations that may be hazardous to a worker could be overlooked.

Government has also moved towards the concept of professional reliance and ABCFP believes this direction fits well with what Worksafe BC is trying to achieve. Both ABCFP and APEGBC members have not only the education and experience for excavation and construction works but they are legislatively professional accountable to ensure their plans are safe. ABCFP believes that moving away from the general province wide approach and focusing in on area specific concerns will improve worker safety.