

20-11

**SUBMISSION
TO
WORKSAFE BC**

**BUILDING TRADES RESPONSE TO PROPOSED AMENDMENTS TO
THE OCCUPATIONAL HEALTH AND SAFETY REGULATION**

**SUBMITTED, AT THE PUBLIC CONSULTATION IN
PRINCE GEORGE, JUNE 26, 2007, COAST INN OF THE NORTH**

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INTRODUCTION

The BCYT-BCTC supports most of the proposed regulation amendments proposed in this latest update from the Regulation and Policy Branch. We applaud the move back to specific "prescriptive" regulations from performance based guidelines. It has taken three years of unnecessary suffering by workers killed or injured on the job for the Board to admit that the performance based model for preventative regulations has been a failure.

A focus of this submission is on the lesson that must be learned from the failed experiment with deregulation. At the conclusion of this submission we argue for a broader regulation review that will revisit other regulation cuts from the deregulation era (2003-2004) that are not covered by the current review.

Unquestionably one of the most important reasons for the return to prescriptive regulations is the order from the Coroner's Inquest into fatalities in the Forestry Sector and the death of Ted Gramlich. Recommendations 16 through 22, to Douglas Enns, Chair of the Workers' Compensation Board, are clear directives to reinstate regulations that were cut in 2004. A copy of the Coroner's Verdict is attached.

BC had some of the best OH & S prevention regulations in North America. The regulations were the product of a methodical tri-partied consultation process involving employers, labour and the government. In many cases our regulations were written as a direct response to specific accidents to correct and improve workplaces to prevent accident repetition. It can truthfully be said that many of our regulations were literally written in the blood of workers killed or injured on the job. Of course regulations alone will never prevent an accident from taking place. Irrespective of this the significant difference between regulations and guidelines is that regulations are enforceable. Guidelines are little more than suggested best practices.

The move to eliminate over one third of workplace prevention regulations and replace them with guidelines was reckless and driven by an ideological agenda. We are glad that the Board has recognized the errors of the past and is now beginning to reinstate regulations that had been cut.

We conclude these opening remarks by thanking the Board for specifically spelling out requirements under the US Occupational Safety and Health Agency ("OSHA") standards which are used as a reference by WorkSafeBC. Previously WorkSafeBC would simply refer to OSHA and ANSI/AIHA standards. It would then be up to contractors and WCB clients to purchase a copy of the standards. The Explanatory Notes that accompany the proposed changes have provided clear, precise information on the requirements of the new regulations.

PART 3: RIGHTS AND RESPONSIBILITIES

Comparing proposed amendments under Part 3 with previously deregulated regulations under the old Industrial Health and Safety Regulations provides a clear example of the return to prescriptive regulations. Our response to Part 3 directs readers to the submission Appendix. The Appendix provides copies of lined out regulation cuts that took effect in 2004. Corresponding to each of the new proposed amendments are copies of the regulations that were cut. This section demonstrates the magnitude of the return back to specific regulations. Complete pages of the regulation cuts, as they were imposed in 2003, are provided after the cut and paste comparisons. Below we provide a guide to the comparison found in the Appendix.

OCCUPATIONAL HEALTH AND SAFETY PROGRAMS

When program required:

Part 3.1 (1) and (2) — See Appendix, November 19, 2003, Section 4.02(1) and (2)
Small Operations

Part 3.2 — See Appendix, November 19, 2003, Section 4.02 (3)
Contents of Program

Part 3.3 — See Appendix, November 19, 2003, Section 4.02 (5)
Incident Investigation Reports

Part 3.4 — See Appendix, November 19, 2003, Section 6.06

Workplace Inspections

General Requirement

Part 3.5 — See Appendix, November 19, 2003, Section 8.08 (1)

Committee Participation

Part 3.8 — See Appendix, November 19, 2003, Section 8.08 (4)

Correction of Unsafe Conditions

Remedy without delay

Part 3.9, 3.10 — See Appendix, November 19, 2003, Section 8.10

Exposure to Imminent danger

Part 3.11 — See Appendix, November 19, 2003, Section 8.12

The Building Trades support the direction the Board is taking back towards clear and specific prescriptive regulations.

We are concerned however, about the minimum levels of certificates for First Aid attendants as outlined in the tables in Schedule 3-A. It appears as though the Board is focusing on "head counts" of workers in determining the workplace hazard. Supplies of safety equipment and levels of first aid certificates should not

depend on the number of workers per shift. Less than five workers per shift does not make a workplace any less hazardous than if there were more workers per shift. The level of certificate for First Aid Attendants should correspond to the level of workplace hazard, even if there is only one worker on the shift.

Table 3 in the proposed regulation amendment sends the message that a single worker in a remote community who is more than 20 minutes surface travel time away from a hospital is at a lower risk than 16-50 workers in the same situation. This is ludicrous. It doesn't matter if there is just one worker, the first aid attendant should have a minimum Level 3 certification and all of the necessary supplies, equipment and facilities that Table 3 stipulates for a worksite with more than 16 workers.

PART 4.1.1 – TERRAIN STABILITY

We support the amendments proposed for avalanche assessment.

PART 20 – CONSTRUCTION, EXCAVATION AND DEMOLITION

For construction excavation we support requirements to ensure that qualified professional engineers and or professional geoscientists design measures for soil stabilization on fill, stockpiles and forestry roads.

PART 22 – UNDERGROUND WORKINGS

We support the addition of professional geoscientists as experts with the qualifications to produce reports on the hazards to develop work plans to account with these hazards.

PART 4 – WORKING ALONE OR IN ISOLATION

The Building Trades support the expansion of this part to deal with the very important issue of late night retail workers. Physical separation from the public, pre-payment and training for workers are all positive advances for workplace safety.

Construction workers may also be impacted by these regulation amendments. We should not be forgotten. Floorlayers, Plumbers and Electricians can be called out to do repairs and renovations on residences that are occupied by at risk groups or located in high risk environments. Requiring employers to identify the risk, plan the safest form of service delivery and adequate training and preparation for workers can minimize the risk.

The low bid ruthless nature of the residential construction industry could factor into ignorance of worker rights or exercising the right to refuse an unsafe situation (unclogging a toilet in a crack house). Our concern is for the non-union

construction employee who may not be aware of their rights and how to exercise those rights without fear of retribution from their employer.

**PART 5 – CHEMICAL AND BIOLOGICAL SUBSTANCES AND
PART 6 – SUBSTANCE SPECIFIC REQUIREMENTS**

The Board should be commended for improving these regulations for healthcare workers. The shortcoming is that Building Trades workers have been forgotten. We call for broadened language to include workers from other sectors who may come into contact with hazardous materials. Parking lot attendants, construction and maintenance workers are sometimes called on to clear away toxic materials that have been left behind.

Training should be provided for all workers who may come in contact with chemicals or toxic biological substances hazardous to health and safety. In fact construction workers pose a unique risk to public health. Our industry requires us to come and go from one workplace to the next, potentially exposing a wider group of people to infectious disease. The risk of pandemic caused by itinerant workers should be recognized in these amendments.

PART 9 – CONFINED SPACES

The Building Trades recognize that BC Municipalities may not comply with lock-out and blanking practices for sewage, water and grey water piping. As long as a professional engineer approves an alternate standard we support variances to this regulation. We recognize the need for flexibility, as long as employers and the Board recognize and budget for the extra cost of flexibility.

PART 11 – FALL PROTECTION

Here again is an example of a return to prescriptive regulations. Proposed Section 11.10 (1) was previously in the Occupational Health and Safety Regulation 11.32 (2). See the Appendix for the comparison.

While the proposed amendments are directed specifically to fatalities in the entertainment industry we support all measures to tighten up on fall protection. In this instance the entertainment industry has the expertise to comment on the proposed amendments. We defer to their assessment.

PART 13 – LADDERS, SCAFFOLDS AND TEMPORARY WORK PLATFORMS

We support amendments that ensure that only those rolling platforms that are designed for this purpose be authorized for use in the workplace. Too often construction workers have seen makeshift and inappropriate systems patched together. This is unacceptable. We approve of the Board's support for engineered integral systems that will prohibit makeshift platforms.

PART 14 – CRANES AND HOISTS

In this section we defer to the expertise of the Operating Engineers.

PART 30 – LABORATORIES

Laboratory work sometime falls into the jurisdiction of the construction industry sector. In industrial settings construction workers install hoods, ventilations and draws. Acid baths in chrome shops are a good example of a situation where construction trades workers could be impacted by these proposed amendments.

We support the proposed regulation changes.

CONCLUSION

We commend the Board for taking the first steps back from the performance based model. The return to specific "prescriptive" regulations is a positive step that will improve work site safety for small and large employers alike. Small employers need specific regulations to guide their safety strategy. Unlike large employers small employers don't have the time or resources to design an adequate "custom made" safety plan. In the project by project world of the construction industry contractors need to know the minimum safety requirements required from jobsite to jobsite.

We encourage policy analysts at the Board to revisit and review the submission we made to the Board at the time of the deregulation cuts, April 2004. That paper focused on the challenge of performance regulations for small contractors. A copy of that submission is attached to this paper.

We call on the Board to continue update regulation changes. Hundreds of regulations remain to be re-instated from the deregulation era.

We also encourage the Board to return to the tri-partied stakeholder consultation process in the design, draft and proposal of regulation amendments. Together industry, labour and government can improve and develop the best prevention regulations to meet the daily changes and challenges inherent in the construction industry.