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Ms. Anne Burch
Director, Prevention Policy and Regulation Review
Policy and Research Division, WorkSafeBC
Workers' Compensation Board of British Columbia
PO Box 5350, Station Terminal
Vancouver, BC, V6B 5L5

**Re: Proposed amendments to the Occupational Health and Safety Regulation
relating to avalanche assessments**

Dear Ms. Burch:

This letter represents the position of the Parks Canada Agency as an employer whose staff regularly works in avalanche prone terrain in British Columbia.

Overview

In consideration of the proposed amendments to the Occupational Health and Safety Regulation, Parks Canada supports the intent of the initiative, but generally disagrees with the proposed amendments because we believe they are flawed, and will not adequately accomplish the stated goal of improving worker safety.

It is the current position of the Department of Justice Canada that provincial laws interfering with the administration of a federal entity will not bind the federal Crown, due to the principles of interjurisdictional immunity, Crown immunity, and paramountcy. Parks Canada is governed by federal occupational and health legislation, and is not required to comply with these new provincial provisions. However, as an industry and government leader in avalanche risk management, and with significant lands located in British Columbia, we wish to support the intent of these regulations by offering our suggestions as to how they might be improved to better meet WorkSafeBC's objectives.

Background

Canada's Mountain National Parks represent approximately 23 000 km² of potential avalanche terrain, with hundreds of thousands of avalanche prone slopes. With close to 7 million visitors



annually to the Mountain Parks, Parks Canada considers this entire region a potential workplace.

Parks Canada has over 50 years of history and experience in avalanche risk management for Canada's National Parks, including managing avalanche risk for highways, ski areas, public recreation and workers. Our Public Safety program is Canada's largest and most established professional mountain rescue organization.

We employ subject matter experts widely regarded as national and international leaders in their field, and have over 115 field staff with some level of professional avalanche training.

We set the standards that third party commercial licensees must meet for operating a business within the national parks, including businesses that manage avalanche risk for backcountry recreation.

We have a legislated mandate to provide these services on the land we manage, and policy direction that guides our program structure and implementation.

With that in mind, Parks Canada submits the following comments relating to avalanche assessments (Part 4: General Conditions) and the qualification of professionals who will undertake those assessments (Part 1: Definitions).

Part 1: Definitions

1.1 - *"qualified registered professional"*

Avalanche terrain assessment, hazard evaluation and forecasting are skill sets achieved only through specific training and experience. The "qualified registered professionals" defined in the proposed amendments do not, by default, possess the qualifications necessary for avalanche risk management work.

Qualifications and codes of practice for avalanche risk management in Canada are the domain of the Canadian Avalanche Association (CAA). Canada is recognized internationally in avalanche risk management, and Canadian professionals subscribe to membership and standards set by the CAA. The Industry Training Programs delivered by the CAA are recognized as the top professional avalanche training programs in the world, and professional membership in the CAA ensures workers are trained to a high level, subscribe to a code of ethics guiding their practice, and undertake continuing professional development.

Therefore, for the purposes of these regulations and to improve worker safety, we suggest that the definition of "qualified avalanche professional" be inserted into the regulations as follows:

"Qualified avalanche professional" means a professional member of the Canadian Avalanche Association.

Part 4: General Conditions

4.1.2 (2) – *Before work commences in a workplace where there is or may be a risk to a person working in the workplace from an avalanche, a qualified registered professional must conduct an avalanche assessment.*

This proposed amendment would set a precedent that could lead to an unsafe situation. The parties you have identified as being the only people qualified to make an avalanche assessment are not, by virtue of their designations, qualified to properly occupy decision making roles for the design and delivery of avalanche risk management programs.

It is not clear how this amendment will improve worker safety and, in fact, safety may be impaired.

Effective avalanche terrain assessments require the application of techniques and scientific principles gained through education and applied professional experience. Formal mapping guidelines are specified in the *Guidelines for Snow Avalanche Risk Determination and Mapping in Canada (CAA, 2002)*. Methods differ between techniques for fixed infrastructure and those required for backcountry travel. *The Avalanche Terrain Exposure Scale (Parks Canada, 2006)* provides an assessment technique for large areas of backcountry terrain used for public recreation.

This is an important distinction, and Parks Canada supports the use of specific classes of registered professionals in the assessment of avalanche risk to fixed infrastructure (highways, occupied structures, etc.), provided these registered professionals are also *qualified avalanche professionals*. However, it is simply not practical to apply this standard to provide useful preliminary assessment work for all possible avalanche terrain in the workplace. In addition, what can be done may provide little additional value with respect to vast areas of wilderness.

To meet this challenge internally, Parks Canada employs both professional mountain guides, who are members of the Association of Canadian Mountain Guides (ACMG), and professional avalanche forecasters who are members of the CAA. Our employment standards require both of these designations to be *qualified avalanche professionals*. These professionals undertake onsite avalanche assessments and provide avalanche risk management while in transit through avalanche hazard areas. We also have well-established internal training programs and strict protocols that guide our staff while they work in avalanche prone terrain.

Commercial licensing standards for third parties operating within the national parks require that all businesses undertaking commercial backcountry recreation in avalanche terrain must employ professional guides who are active members of the ACMG. This international standard ensures that park visitors receive the highest level of risk management available for travelling in backcountry avalanche terrain – in all seasons.

It is essential to understand that avalanches occur due to the complex interaction between snow and terrain. Assessment of avalanche hazard and implementation of effective safety measures requires an intimate understanding of this relationship.

The proposed amendments create a division between these two elements and divide the expertise necessary for optimizing risk management practices. Pursuant to establishing the definition of a “*qualified avalanche professional*”, as described above, the following change of wording is therefore proposed:

4.1.2 (2) – Before work commences in a workplace where there is or may be a risk to a person working in the workplace from an avalanche, a qualified avalanche professional must conduct an avalanche assessment.

Summary

Registered Professionals, Mountain Guides, and Avalanche Forecasters each bring different and equally important skill sets to the workplace. All play an important role in avalanche risk management, and the common denominator among them should be professional membership in the Canadian Avalanche Association. The division between terrain and snow should remain with the subject matter experts and the codes of practice they subscribe to through the CAA.

We respectfully submit these comments for the board’s consideration, along with the option of extending the timelines of the current regulatory process pertaining to avalanche assessments. This would afford both WorkSafeBC and the affected professional associations with the requisite time period to better understand the issues and adjust their practices accordingly – prior to the implementation of new regulations. This would enhance the avalanche safety profession, improve accountability, and ultimately result in improved worker safety – a goal to which both of our organizations are committed.

In closing, please note that Parks Canada was not contacted for consultation in this process. Our organization became aware of these regulatory amendments at a later stage and only then through a third party. Parks Canada is a major stakeholder with respect to avalanche risk issues in British Columbia. We request that we be considered directly in the future consultative processes.

If you require further information regarding these comments, please contact Grant Statham, Parks Canada’s Mountain Risk Specialist, at the above address, by telephone at 403-762-1568, or by email at grant.statham@pc.gc.ca.

Sincerely,



Ron Hallman
Executive Director, Mountain Parks
Parks Canada Agency