

**SUBMISSION
TO
WORKSAFE PUBLIC HEARINGS**

**BUILDING TRADES PERSPECTIVES AND PROPOSALS
ON MAINTAINING BOARD PRIOR PERMISSION
FOR UNCONVENTIONAL CONSTRUCTION PROJECTS
SWING STAGES AND WIRE ROPE GUARDRAILS**

**SUBMITTED JUNE 3, 2010 TO THE
WORKSAFE PUBLIC HEARINGS ON PROPOSED AMENDMENTS TO THE
OCCUPATIONAL HEALTH AND SAFETY REGULATION**

**British Columbia and Yukon Territory
Building and Construction Trades Council
#204 – 4333 Ledger Avenue, Burnaby, B.C. V5G 3T3
Tel: 604-291-9020 Fax: 604-291-9590
bcytbctc@bcbuildingtrades.org
www.bcbuildingtrades.org**



Introduction

The BC Building Trades Council and Bargaining Council of BC Building Trades Unions represent over 40,000 workers across BC affiliated to private sector construction industry unions. Our members are involved in every aspect of the industry; Residential construction and renovations, Highways, Bridges, Pipelines, Fresh and Waste Water facilities, Hydro Electric facilities, and Industrial/Commercial/ Institutional (ICI) construction and renovations.

Building Trades training plans invest close to \$10 million annually to ensure that apprentices learn the safest way to produce the highest quality product. We do this in a spirit of mutual respect and positive relationships with employers, governments (federal, provincial and municipal) and agencies including WorkSafeBC, the Ministry of Labour, the Industry Training Authority, Canada Revenue Agency and HRSDC – Service Canada. Our goal is to contribute to a functioning public system that fosters economic growth, apprenticeship training and fair play in the highly competitive construction marketplace.

This submission addresses proposed amendments to Part 13 (13.32), Ladders, Scaffolds and Temporary Work Platforms – relating to swing stages and prior permission; and also to Part 4 (4.58) Work Area Guards and Handrails – relating to fibre and wire rope guardrails and prior permission.

We would like to begin by publically presenting the on-line comments made to the Board in January this year.

Proposed Amendments Part 13 - Section 13.32 On-line Comments, January, 2010

The Building and Construction Trades Council is strongly opposed to the proposed amendment that will delete the requirement for WorkSafe Board permission in order to use swing stages, boatswain's chairs or portable powered platforms in the high risk circumstances outlined in the amendment overview.

The requirement that the Board provide prior permission is an outcome of the CIAC report (Construction Industry Advisory Council - April, 1982) following the deaths of four workers who fell from the top floor of Bentall Tower IV during construction in 1981. The requirement for Board permission in Part 13 is literally written in the blood of those four workers.

It's uncanny that four more workers fell to their deaths, on Christmas Eve just before these amendments, (Toronto on December 24, 2009 - see the link below to the Journal of Commerce story) -

<http://www.journalofcommerce.com/article/id37010>

Given the Toronto accident it's ironic that we are now asked to weaken Board requirements for temporary platforms.

According to the 'Overview' an employers' association is concerned about the "administrative burden" of prior Board approval. The overview statement about the purpose of the proposed amendment says that the permission permitting process often requires communication back and forth between employers and the Board. It is assumed that in the 'hurry up' environment of the construction industry requiring Board permission costs employers time and money. But is the hold-up in the permitting process the fault of the Board?

It is our contention that the 'back and forth' is because the plans submitted by the employer are inadequate. The delay is not caused by administrative processes at the Board but rather because of shortcomings by employers. The Board does provide permission to employers who submit plans that provide worker protection. The 'back and forth' could be eliminated by submitting appropriate plans. We suggest that employers should begin by looking at Board standards and submit plans that meet those standards in the first place.

Simply amending the current regulation to allow a professional engineer to design "or" certify the installation and use of this equipment in high risk situations is 'passing the buck' and weakens the current regulation.

We do not support patchwork, half hearted solutions as a stop-gap measure to meet employer timelines and deadlines. Workers must not be put at risk as a consequence of incomplete employer safety plans for these types of temporary work platforms.

We strongly oppose the proposed amendments.

Part 4, Section 4.58 – Work Area Guards and Handrails

On-line comments – January, 2010

The Building Trades Council does not support an amendment that removes the requirement to receive prior permission from the Board when fibre or wire rope guardrails are used.

The reason the Board requires that employers submit plans for these guardrails is to provide oversight of employers' safety plans. If the plans are adequate, Board permission is quick; there is little hold up to the construction process. If plans are not adequate then employers are asked to redesign and improve their safety plan. This is reasonable and removes some of the risk facing workers who are required to labour close to this hazard.

We understand that the reason the amendment is favoured by an industry association is because of delays caused by the permission process. Yet there were very few requests for permission (9 in 2008, and 16 in 2007). The permitting process required by this regulation is rarely exercised by employers. The regulation can hardly be blamed for holding up the wheels of industry.

By removing the requirement for Board permission employers are asking workers to take on the risk of inadequate guardrails.

The BCYT-BCTC strongly opposes the amendment proposed.

Public Hearing Submission

With regard to both proposed amendments (Part 13 and Part 4). We would like to return to WorkSafe's 'Explanatory Note' for proposing the amendment. That employers are frustrated by the complicated processes of back and forth review by the Board.

Again, let's review the infrequency of applications for Board approval. For Part 13.32, there were just 21 applications for Board review in 2008 and the same number 2007! For Part 4.58, less than 10 applications in 2009 and just 16 applications in 2007. Looking into the reasons for so few applications answers some of the questions relating to the need for Board review.

Construction jobs that require unique solutions to meet non-conventional designs only come up from time to time. In well over 95% of instances where swing stages or wire rope guardrails are required, employers can use a template system "off the shelf." An employer simply calls 'Steeple Jacks' or 'Aluma Systems.' These scaffolding, staging and safety equipment providers can solve almost every issue.

So we're really only talking about the rare unconventional jobs. These are precisely the projects that pose some the greatest safety hazards. These are also the projects that prudent employers invest the heaviest in prevention and planning. During the estimation and tender bidding experienced contractors will have already taken into account the challenge of the non-conventional job. The time and resources to hire engineering and design professionals will already be built into the tender bid. Ideally, before the bid is awarded, the successful bidder will have already developed certified engineering plans. If not, then there's been a failure in the tender bid process.

In any case delays blamed on prior approval by the Board should never be an excuse to ease regulations. The tender bidder should have had a certified plan in the first place. The Board must not be drawn into market

imperatives to provide exemptions to contractors who underbid an unconventional job.

We would like to finish this submission by reminding the Board about the industry. Among all industrial sectors construction suffers from the highest fatality rates. The injury rate in construction is soaring. Let's be clear, the amendment proposal eases Board oversight. Allowing employers to develop an engineering solution with no review from the Board will increase the risk for workers. We ask the question; why should workers be asked to shoulder increased risk for employers who are unable to properly estimate the cost of Board review in their tender bid?

We continue to urge the Board to reject the proposed amendments.