

BC Building Trades Supplemental Submission to WorkSafeBC

**Proposed amendments to Part 20 of the Occupational Health and Safety Regulation,
relating to washroom facilities on construction sites.**

January 12, 2024



SUMMARY

The BC Building Trades welcomes the opportunity to respond to feedback we heard during WorkSafeBC's public consultation on proposed changes to OHS Regulation Part 20 – Washroom Facilities on Construction Sites.

We were heartened to hear most of the presenters supporting the spirit of the proposed regulatory changes which are meant to deliver dignity to construction workers across the province. However, we also heard several comments and questions we would like to address.

It is important that WorkSafeBC's process of implementing these regulatory changes remains firmly grounded in facts.

We've outlined specific questions and areas of concern below.

Regarding Feasibility of a Requirement for Flush Toilets

On a number of occasions, we heard testimonials that questioned the feasibility and practicability of delivering flush toilets to construction sites in B.C.

The BC Building Trades would like to remind WorkSafeBC that British Columbia would not be the first province to implement a requirement for flush toilet facilities on construction sites.

In 2015, Quebec passed an amendment to the Construction Code addressing the requirement for flushed toilets for construction sites where there are or will be more than 25 workers¹. The province also requires hand washing stations.

If a more densely populated province, involving a larger construction industry, across a larger geographic area (over 1.5 times the size of B.C.) is able to implement this requirement, there is no reason why British Columbia cannot as well. In fact, Quebec and B.C. share several general contractors in common, including Kiewit, Aecon, and Pomerleau.

In Australia, WorkSafe Victoria has requirements and guidance for the use of flush toilets on construction sites². In the UK, the Health and Safety Executive has made it clear that plumbed or portable facilities with built-in water supply are the default requirement for toilets on construction sites where, "the work is notifiable (that is lasts more than 30 days or will involve more than 500 person days of work)"³.

These jurisdictions provide the evidence that provision of flush toilets in the construction industry is possible.

¹ Appendix 1 – Quebec, attached

² Appendix 2 – Other Jurisdictions, attached

³ Appendix 2 – Other Jurisdictions, attached

Regarding Construction-Industry-Specific Requirement for Flush Toilets

The Construction Industry has several unique characteristics that make construction-specific regulations necessary for sanitation. Construction is characterised by the mobility of both workers and employers. It is a cyclical, seasonal, and project-driven industry.

Construction employers are often small companies that have few if any fixed assets. Each worksite may involve different types of construction activity at various times, several different employers and a changing group of workers.

Several speakers addressed the composite nature of construction in their comments. This is the very reason why there needs to be a construction-specific focus when it comes to sanitation.

It's no longer acceptable to allow individual sub-contractors to ignore their responsibilities to provide plumbed or flush toilet facilities because they are not the only employer on site. This new regulatory change is meant to acknowledge the dynamic nature of the industry and provide the collective tools to employers to improve sanitation.

Going forward, it is reasonable to expect the general or prime contractor for a project will make arrangements for appropriate plumbed or flush toilet facilities and then share with the other employers involved the obligation for the costs and maintenance.

Regarding Evidence of Poor Sanitation in the Construction Industry

It was suggested that there is no evidence available to prove that non-flushing portable washrooms are an issue of concern for construction workers.

This assertion is untrue. Through our work on this issue, we have heard from thousands of construction workers who believe strongly that they deserve the dignity of sanitary, flush toilet washrooms.

During our first 'Get Flushed' campaign in 2021, 2,761 people sent letters to WorkSafeBC imploring them to enforce existing regulations and improve sanitation on worksites.

In our most recent iteration of the 'Get Flushed' campaign, more than 1,600 people sent letters to Premier David Eby denouncing filthy porta-potties and supporting flush toilets on construction sites. That campaign is ongoing.

Thousands of workers would not mobilize on an issue of health and safety if it were not real and of great importance to them.

Regarding Maintenance

We heard some presenters argue that maintenance is the key issue and that porta-potty facilities are sufficient when maintained properly. This is an old argument in our industry and one we would like to address on several fronts.

On suitability: Porta-potty facilities are wholly inadequate in terms of providing readily accessible, safe toilet, hand hygiene and washing facilities. They also lack sufficient illumination, heating and ventilation for optimal disinfection and cleaning.

On volume of use: *G4.85(1)1 Washroom facilities — Sufficient facilities*, stipulates the number of washrooms employers must provide, outlining one toilet for nine or fewer workers, two toilets for 10 to 24 workers, plus one more toilet for each additional 25 workers. This means that an employer need only provide five porta-potty toilets for a construction crew of 99. Five toilets that will be used all day, every day where the waste will accumulate. The shockingly low number of toilets required to service such a workforce will, by design, become filthy and unhygienic almost immediately – regardless of the efforts by workers to keep them clean. Flush facilities that transport waste to a secondary tank are much more hygienic.

On durability: Building Trades unions have been calling for improved washroom facilities for decades. During the COVID-19 pandemic, those calls became more urgent. Some contractors took steps to improve sanitation and install handwashing stations and we commend them. But, for much of the industry, progress was not maintained. It's clear the industry cannot be left to regulate itself on the maintenance of washroom facilities and that superior flush facilities with appropriate servicing are required to create enduring change.

Regarding Miscommunication on Plumbed vs Flush Toilet Facilities

Section 4.85 of Occupational Health and Safety regulations currently state:

1. Except as provided by subsection (2), the employer must ensure that a sufficient number of plumbed washroom facilities are readily available for workers.

In the past, the BC Building Trades has attempted to work within the language in the regulation to encourage compliance with plumbed washroom facilities. We have noted our disagreement with WorkSafeBC's interpretation that plumbed necessarily means connected to a sewer system.

Nevertheless, the new draft regulations outline a requirement to provide flush facilities. These can be plumbed or non-plumbed toilet trailers or wash carts.

Some presenters focused exclusively on their perceived impracticality to provide plumbed washrooms. We hope WorkSafeBC fully understands the distinctions between these types of units and the new range of flexible options that are available with the addition of flush facilities to the regulations.

Regarding The Practicality of Flush Facilities on Vertical Projects

We heard some contractors concerned about the practicality of installing flush toilet facilities on multiple floors in the construction of vertical projects. We understand this concern but would note that employers are welcome to provide additional porta-potty toilets at heights if they have sufficient flush toilet facilities at the base of the project to support the entire workforce.

Conclusion

The BC Building Trades welcomes this change to sanitation in our industry. It is our desire to support industry to be successful in implementation. We hope this supplemental submission has helped to clarify our position and answer outstanding questions. We remain available to respond to any additional issues the Board may have.

Appendix 1 - Quebec

Act Respecting Health and Safety (Chapter S-2.1, 2.4, s. 223) Safety Code for the Construction Industry

3.2.7. Toilets:

As of the first day of work, a toilet must be placed at the disposal of workers. If 25 or more workers are to occupy the site at the same time, a flushing toilet must be placed at their disposal, even if all the workers are not yet present on site. If there never will be more than 24 workers on site, a chemical toilet may be at their disposal.

One toilet is provided per group of 30 workers or fewer.

If a flushing toilet is not connected to a waterworks or sewer system in accordance with the Construction Code (chapter B-1.1, r. 2), it must collect the waste in a tank to process the waste chemically and be built in accordance with the standard Sanitation – Nonsewered Waste – Disposal Systems – Minimum requirements, ANSI Z4.3-1995 (R. 2005), published by the American National Standards Institute.

The obligation to place a toilet at the disposal of workers is met if the workers are authorized to use the sanitary facilities of an establishment located at a distance that complies with section 3.2.7.1

3.2.7.1. Toilets

must be located at a distance not exceeding 150 m (500 ft.) from the work area and must not be more than 4 storeys higher or lower than the work area.

3.2.7.2. A toilet must be

- (4) within easy access;
- (5) free from any obstacle or obstruction that could prevent the toilet from being used;
- (6) built so that the occupant is sheltered from view and protected from the weather and falling objects;
- (7) provided with natural or artificial lighting;
- (8) equipped with a seat and cover;
- (9) provided with toilet paper;
- (10) heated to a minimum of 20 °C; and
- (11) ventilated.

The toilet must be maintained in good operating condition and in a clean and sanitary condition and be kept free of vermin, rodents and insects.

Any cracked or damaged toilet seat must be replaced immediately.

3.2.8. Sinks:

The employer shall provide the workers who handle corrosive or toxic materials with sinks or showers that comply with section 3.2.15 and that enable them to wash with clean water, and likewise provide them with paper towels or individual hand towels.

3.2.8.1. Flushing toilet accessories:

A sink containing clean and temperate water must be placed at the disposal of workers for each flushing toilet. The sink must be maintained in good operating condition and in a clean and sanitary condition and the following products must be placed at the disposal of workers:

- (a) soap or another cleansing agent;
- (b) a hand dryer, roller towels or paper towels;
- (c) where paper towels are used, waste paper baskets for their disposal.

A notice indicating that the water is not suitable as drinking water must be displayed so that it is visible to workers, where applicable.

Appendix 2 – Other Jurisdictions

United Kingdom

The use of portable plumbed washrooms is common in other workplace jurisdictions such as the United Kingdom (UK). The UK Health and Safety Executive (HSE) has extensive guidelines regarding the requirements for use of plumbed portable washrooms on construction sites. The guidance regarding provision of toilets includes the following:

FLUSHING TOILETS — provide these where possible. Connect them to mains water and drainage systems where available. Otherwise, use toilets with a built-in water supply and drainage tanks.

CHEMICAL TOILETS — portable chemical toilets (also known as plastics) are acceptable where flush toilets cannot be provided. They may be the only achievable way of providing toilet facilities at the start and/or end of some projects. They are more common on temporary and smaller sites or in addition to permanent facilities on more remote parts of larger sites. See: Construction welfare — Toilets and washing — Managing occupational health risks in construction ([hse.gov.uk](https://www.hse.gov.uk))

Further HSE Publications pertaining to the provision of “Welfare Facilities” during construction work note the following:

So far as is reasonably practicable you need to provide flushing toilets and running water, connected to mains water and drainage systems. If this is not possible, facilities with a built-in water supply and drainage tanks should be used. Portable chemical toilets are acceptable only if it is not reasonably practicable to make other adequate provision. Toilets must be adequately ventilated, lit, and maintained in a clean condition. The frequency of cleaning will depend on usage. Basic daily cleaning may not always be sufficient. See: Provision of welfare facilities during construction work ([hse.gov.uk](https://www.hse.gov.uk))

This publication further indicates:

Construction workers need adequate toilet and washing facilities, a place to warm up and eat their food and somewhere to store clothing. However, these basic requirements are often neglected. A cold water tap and chemical toilet on their own are not adequate facilities. Good facilities can positively benefit health and well-being and can help to prevent dermatitis.

Victoria, Australia

WorkSafe Victoria in Australia also requires the use of flush type washroom facilities in construction. See: [ISBN-Compliance-code-facilities-in-construction-2018-03.pdf](https://www.worksafe.vic.gov.au) ([worksafe.vic.gov.au](https://www.worksafe.vic.gov.au)).

More specifically, Toilets Section 43 states:

Employees need to have access to clean and hygienic toilets at all times while on site.

Design of toilets Section 46 states:

The toilet facilities need to, so far as is reasonably practicable, be connected to a sewerage system. Where it is not reasonably practicable to connect to the sewerage system, self-contained fresh water flushing type toilets (for example, portable water seal toilets) or an equivalent need to be provided. Pan type closets or straight drop toilets do not meet hygiene requirements.

Design of toilets Section 48 states:

Each toilet needs to include hand washing facilities (general washing facilities may be used if it is located adjacent to the toilet facility).

WorkSafe Victoria has also published the following guidance documentation relating to compliant facilities for medium-sized construction workplaces. The facilities must be self-contained and use fresh water-flushing portable toilets, specifically noting:

Toilets

A conveniently located toilet with hand washing facilities should be provided from the start of the construction work for health and hygiene purposes. Additional toilets should be added as the workforce increases. These may be portable type toilets, toilets available within an existing building, toilets that become available within the new building under construction or a combination of these. The number of toilets on a MRD site should be provided at a ratio of one male closet per 10 male persons and one female closet per 10 female persons who normally work at the site. One unisex closet may be provided where:

- the total number of persons who normally work at the site is 10 or fewer, and*
- there are two or fewer persons of one gender. Where toilets are not connected to a sewerage system, they should be self-contained and fresh water flushing portable toilets or similar. Recirculating flush type toilets should not be used.” [emphasis added]*

See WorkSafe Victoria publication: “Workplace facilities on medium sized residential construction developments” : Information about: Workplace facilities on medium sized residential construction developments (worksafe.vic.gov.au)