



WCB Consultation

**Submission on proposed amendments to Part
18 of the Occupational Health and Safety
Regulation: Traffic Control**

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Introduction

The BCGEU represents over 78,000 workers in various sectors and occupations in more than 550 bargaining units throughout British Columbia.

Thousands of our members are regularly involved in traffic control operations, whether as traffic control persons (TCPs), roadside workers, or road planning, policy and/or oversight staff. We represent highways maintenance personnel across the province whose day-to-day work is on BC roads. These members do roadside work, including traffic control, and work closely with contractors that provide traffic control services. Every day, BCGEU members manage traffic at inland ferry terminals. Similarly, our members in regional districts, municipalities, and the BC Public Service - like MOTI's policy and field staff, CVSE officers, FLNRORD engineering staff, natural resource officers, conservation officers, and many others - plan, conduct or oversee aspects of traffic control on BC roads – within cities, on provincial highways, and on BC's resource roads.

In addition, thousands of our members act as first responders, and are involved with traffic control in the context of emergency situations on BC's roads. These workers include our members that serve as forest firefighters in the BC Wildfire Service, regional district and municipal staff, MOTI avalanche control staff, highway maintenance personnel, Emergency Management BC staff, and many others.

The Board's statistics confirm that traffic control in BC continues to be extremely dangerous work, and workers, their families, and their communities pay a steep price. In the past decade, 13 roadside workers have been killed on the job, and hundreds more were injured after being struck by a motor vehicle.¹ In addition, traffic control workers regularly experience musculoskeletal injuries due to their working conditions, and are harmed by incidents of violence at work.

BCGEU members hold tremendous experience and knowledge about traffic control. This work entails huge risks for workers, and our members are deeply concerned about the how traffic control happens on our roads today. For many years, our members have been saying that significant changes are needed to improve worker safety. As such, we strongly support the review and revision of Part 18, and are pleased to provide our feedback on the proposed changes.

Overall, the BCGEU generally supports the proposed changes to Part 18. For the most part, we believe the proposed language will support better protection of workers. In the following submission, we address only those areas where we have concerns or would like to propose additional amendments.

General Requirements

Section 18.3.1 Risk Assessment

The BCGEU strongly supports the introduction of this section, which requires a qualified person to conduct a risk assessment for all categories of traffic control work, and includes requirements about

¹ Work Zone Safety Alliance, *"The Numbers: Roadside Worker Pedestrian Motor Vehicle Incident Claims (2009 – 2018)."* Available on the 'Cone Zone' website: <https://www.conezonebc.com/drivers/the-numbers/>.

specific factors that must be considered in the risk assessment. However, there are several parts of this section that should be strengthened to both improve clarity and better protect workers.

First, 18.3.1(1) requires a "qualified" person to complete a risk assessment for all categories of traffic control work. The proposed language states that:

- (1) An employer must ensure that a qualified person completes a risk assessment that meets the requirements of subsections (2) and (3) and that demonstrates an understanding of the risks to worker health and safety whenever traffic control is required for*
 - (a) emergent work,*
 - (b) brief duration work,*
 - (c) short duration work, or*
 - (d) long duration work*

Found in Part 1 Section 1.1 (1) of the OHSR, "qualified" means *"being knowledgeable of the work, the hazards involved and the means to control the hazards, by reason of education, training, experience or a combination thereof."* In many past submissions, the BC Federation of Labour has emphasized that this definition is much too general, and can lead to confusion as to who is a "qualified person." The BCGEU supports and echoes this view.

Along with the BC Federation of Labour, the BCGEU prefers the definition of "qualified person" in Part 6 Asbestos Section 6.1:

- Means a person who*
 - (a) has knowledge of the management and control of asbestos hazards through education and training, and*
 - (b) has experience in the management and control of asbestos hazards.*

Therefore, the BCGEU recommends Section 18.1 Definitions be amended to add "qualified person":

- (a) has the knowledge of the management and control of traffic where traffic is hazardous to workers through education and training, and*
- (b) has experience in the management and control of traffic where traffic is hazardous to workers.*

Secondly, the proposed requirements for risk assessments under section 18.3.1 do not have any specific provision for worker participation. This is a serious omission, as worker participation is critical to effectively assess safety risks, and is explicitly required in other parts of the OHSR where a risk assessments is required.² As such, we recommend that a requirement for worker representatives to participate in the risk assessment be added to Section 18.3.1.

The proposed section 18.3.1(2) allows employers to develop general written work procedures and practices for emergent or brief duration work. There is also no provision for worker participation in this section. Especially in the context of such high risk work, written procedures that workers are required to follow are stronger when workers participate in their development. The BCGEU recommends that a specific requirement for worker representatives and workers familiar with the work be consulted in the development of written procedures for emergent or brief duration work be added to this section.

For short and long duration work, section 18.3.1(3) requires employers to complete a written risk assessment considering specified factors that influence risk, including work duration, type of work, traffic and work zone dynamics, environmental conditions, and additional considerations related to

² See, for example, Section 4.53(1).

when traffic control persons are required (escape routes, environmental conditions, positioning, break requirements, shift duration, and orientation and training). Section 18.3.1(3)(f), which requires employers to consider "any other reasonably foreseeable hazard," attempts to make the required list of considerations comprehensive. Again, the BCGEU strongly supports both the addition of the requirement for a written risk assessment, and the inclusion of a list of specific considerations to the regulation.

However, we have heard from our members that the risk of violence is very high for workers doing traffic control. BCGEU members have reported incidents ranging from verbal abuse to physical attacks. In our members' experience, this issue is not adequately recognized or addressed by employers. As such, we recommend that an addition is made under Section 18.3.1(3) to explicitly require employers to consider the risk of violence in the risk assessment. Although a violence risk assessment is already required under Section 4.28(1) of the OHSR, consideration of the risk of violence merits a specific reference here, as the issue of violence against workers is prevalent in traffic control operations.

Section 18.3.1(3)(g)(vi) requires that where traffic control persons are required, the risk assessment must consider "*whether orientation and training is required for traffic control persons at the work zone.*" Subsequently, Section 18.4(2)(f) requires that supervisors ensure that "*traffic control persons are provided with orientation and training at the work zone.*" In our view, the language in Section 18.3.1(3)(g)(vi) has the potential to create significant and unnecessary confusion over whether or not worksite orientation and training for traffic control persons is required, depending on the results of the risk assessment.

To be clear, good orientation and training at the worksite is critical to protecting workers' safety, and is a key part of workers' fundamental right to know about workplace hazards. The regulation must be consistent and unequivocal on this matter. As such, the BCGEU recommends that this language be significantly revised. We suggest instead that section 18.3.1(3)(g)(vi) should require that a risk assessment consider **what** will need to be included in the orientation and training for traffic control persons at that specific worksite, given the risks identified. For example, a traffic control person working near a BC Hydro line crew would need specific training on how to respond in the case of a downed power line.

Next, section 18.3.1(4) requires that the risk assessment be reviewed and updated by a qualified person when:

- (a) *there is a reason to believe the risk assessment is no longer valid, or*
- (b) *there has been a significant change in the scope or nature of the work to which the risk assessment relates*

In addition to these requirements, a regular review of the risk assessment is valuable. Even if there have been no "significant" changes, worker safety can be strengthened by periodically revisiting the risk assessment over time to ensure that it is still valid, and that nothing has been missed as operations proceed. The proposed section 18.3.2(2)(d)(ii) requires a regular review and updating of the traffic control plan. As such, the BCGEU recommends that the proposed language in 18.3.1(4) be amended to include a requirement for employers to also establish a schedule for periodic review and updating of the risk assessment. We also recommend that a provision for worker participation be added, so that workers are involved in the review and update of risk assessments, not just their initial development.

Section 18.3.3 Order of Control Measures

The proposed section 18.3.3 (1) Order of Control Measures provides guidance to employers that worker exposure to traffic should be eliminated *"to the extent practicable,"* and traffic control persons should only be used as a last resort. Certainly, the BCGEU strongly supports the adoption of language that demands employers strive to eliminate worker exposure to traffic as much as possible.

However, the use of the vague phrase *"to the extent practicable"* in section 18.3.3(1) serves to seriously weaken the requirement for employers to implement practices that actually keep workers away from traffic. This language allows employers broad discretion to determine what is "practicable," and to choose to minimize the safety of workers in relation to other priorities. In practice, what is often "practicable" is to prioritize time and cost considerations over worker safety. We know that this is the current reality for traffic control workers, of which 13 have been killed on the road over the past decade. Instead, we urge the Board to remove the phrase *"to the extent practicable"* and revise the language to clearly outline the specific considerations or conditions under which the Board deems it is acceptable to expose workers to traffic in a work zone.

Section 18.4 Supervision

The proposed section 18.4(1) requires the employer to ensure that a qualified supervisor is designated whenever traffic control is required. The BCGEU strongly supports the addition of a requirement to have a "qualified" supervisor designated. However, we reiterate our previous comments related to the vague term "qualified," and urge the Board to adopt more specific language that requires supervisors of traffic control operations to have training and experience in traffic control operations that pose a hazard to workers.

The proposed section 18.4(2)(e) requires supervisors to ensure that the *"work zone is inspected at intervals appropriate to the risks."* This language does not specify who should actually inspect the work zone, does not require a supervisor to actually ever be present at the worksite, and it does not require an effective means of communication between workers and the supervisor to be established. In short, the current reality where the designated traffic control supervisor is often totally absent and inaccessible to workers would be allowed to continue under the proposed language. The BCGEU urges the Board to revise this language to require supervisors to have an actual physical presence at traffic control worksites, and for workers to have an effective way to communicate with their supervisor.

Traffic Control Persons (TCPs)

Section 18.6 Prohibitions

Here, the Board proposes to add 18.6(a), which prohibits the use of traffic control persons when speed limits are greater than 70km/hr. The BCGEU supports the introduction of specific language that limits the exposure of workers to vehicles travelling at high speeds. Although the Board does not publish (and has not offered during the pre-consultation process for this review) any analysis of the role of traffic speed in roadway work zone incidents in BC, national statistics from the US demonstrate that speeding is often a primary contributing factor to fatalities in roadway work zones, and the large majority of crashes (60%) in work zones occur where the posted speed limit is 55mph or higher (88 km/hr). These statistics are summarized in a 2014 report from the University of Vermont's Transportation Research Center:

*In 2009, the Fatality Analysis Reporting System recorded 667 people across the United States who died in roadway work zones (FARS 2011). Of the 582 crashes that resulted in these deaths, speeding was identified as a primary contributing factor to 178 crashes, or more than 30% (FARS 2011). In addition, about 50,000 people are injured in work zones nationally each year, which is roughly equivalent to one injury every 10 minutes (NCHRP 2005). Considering both fatal and non-fatal crashes, around 60% occur on non-interstate roads posted for 55mph or higher (NCHRP 2005), making high speeds a significant concern in work zone traffic control.*³

Certainly, conditions in BC are analogous to those in the US, and the experience of ongoing injury and deaths among roadside workers in our province clearly justifies minimizing the exposure of workers to traffic travelling at high speeds. In our view, a higher level of safety would be achieved for roadside workers in BC by reducing the speed limit at which traffic control persons can be used in section 18.6(a) to 50km/hr, and we urge the Board to adopt this limit.

Section 18.6.1 Emergency Scene Management

In this section, the proposed amendments require "emergency responders" (a fire truck, ambulance, highway rescue, search and rescue, tow truck, road authority, or road maintenance worker) to be trained before they direct traffic during an emergency. This change effectively moves existing language from WCB Guideline *G18.4(1) Supervision – Traffic control person training in a manner acceptable to WorkSafeBC* into the OHSR, and the BCGEU is generally in strong support of this addition to the regulation.

However, this section must be revised to strengthen the training requirements for emergency responders. If emergency responders are to be exposed to traffic, and allowed to direct traffic for up to two hours, they must have adequate training and equipment. The proposed language requires training, but does not require the Board to approve the training, nor does it explicitly require a practical component to the training. It does not require any assessment of workers' knowledge or practical competency as part of the training. Under the proposed language, employers could effectively meet the requirements of the regulation by creating and delivering their own one-hour long online course. This is clearly unacceptable, and only serves to continue the current reality where emergency responders are regularly exposed to the risks of traffic without adequate training in traffic control.

Peace officers are explicitly excluded from the training requirements for emergency responders under section 18.6.1(3), and the restriction to direct traffic for no more than two hours under section 18.6.1(4). The use of the general term "*peace officers*" serves to exempt workers that are not police officers. Specifically, BCGEU members that are CVSE officers with the Ministry of Transportation and Infrastructure are provincial peace officers, and are sometimes called to respond to emergency situations on BC roads, and may do traffic control in this context. It does not make sense for these workers to be excluded from training requirements for emergency responders simply based on their status as peace officers.

In this section then, we urge the Board to require emergency responders to have a minimum of 16 hours of initial training related to traffic control in the context of an emergency, plus refresher training annually. We propose this level of training is required because it is equivalent to the existing Board-

³ Brian Yee, Dale Azaria & Sean Neely (March 2014), "Work Zones and Travel Speeds: The Effects of Uniform Traffic Officers & Other Speed Management Measures," University of Vermont Transportation Research Center, p.2.

approved training for TCPs. Emergency responders are serving as TCPs when they are directing traffic for up to two hours on BC roads, and they should therefore be trained as such. The training for emergency responders should be required to include both classwork and practical components, include an assessment of practical competency, and be approved by the Board. Finally, the language should be revised to include some peace officers under the training requirements for emergency responders.

Section 18.6.2 TCP Training

This section requires that TCPs complete a training program that is approved by the Board, and includes theory and practical competency assessments developed based on accepted certification standards, and requires an assessment of knowledge and practical skills to complete. In general, the BCGEU supports the requirement for training to be approved by the Board, and to include both classwork and practical components. We are pleased that these requirements have been moved from WCB guideline *G18.4(1) Supervision – Traffic control person training in a manner acceptable to WorkSafeBC* into the regulation.

Currently, the BC Construction Safety Association's 2-day training program is accepted by the Board. In preparing this submission, it was clear that BCGEU members feel strongly that the current TCP training requirements are grossly inadequate. This work is important and dangerous. It requires extensive knowledge and skills to plan and execute appropriate traffic control measures, and to safely manage the interaction between the work area and traffic control operations. Today in BC, traffic control is largely provided as a contracted service, and it is very common that TCPs are the only workers knowledgeable about traffic control at the worksite. This reality demands greatly expanded training requirements.

First, to acknowledge the reality of the work of TCPs, the BCGEU recommends that traffic control persons be renamed "traffic control technicians (TCTs)." In this section, the Board should require training for traffic control technicians that is at least 2-4 weeks in length, and requires a period of at least one month of apprenticeship with another experienced TCT. The task of revising the training requirements for should involve all stakeholders, including workers. The BCGEU recommends that the Board create a working group to redevelop and strengthen the training requirements for TCTs.

18.6.3 Traffic Assistant Training

This section creates a requirement for training for a newly-created role of "traffic assistant." In general, the BCGEU supports clear training requirements that are specific to workers directing traffic in parking areas. While vehicles are mostly travelling at lower speeds, traffic control in this context still poses significant risks to workers. However, as with the training requirements proposed for emergency responders in section 18.6.1(3), it is our view that the proposed language is much too vague. Although both course work and practical components are required, there is no minimum length for this training, no requirement for an assessment of practical competency, and nor does the training have to be approved by the Board. Without these requirements, training for traffic assistants could effectively be brief and totally inadequate, but still meet the new regulatory requirement. The Board can and should demand better.

The BCGEU recommends that this section be strengthened to require that training for traffic assistants be approved by the Board, include an assessment of practical competency, and be a minimum of 16 hours in length.

Section 18.16 Long Periods of Delay

The Board proposes to remove the requirement in this section for signs or other effective means to be used to inform traffic of long periods of delay. In our view, ensuring traffic is well-informed about delays plays an important role in preventing violence against roadside workers. As such, the BCGEU recommends that section 18.16 be retained.

Conclusion

The BCGEU appreciates the opportunity to provide our feedback and recommendations on your proposed amendments to Part 18 – Traffic Control. We would also like to take this opportunity to register our full support for the BC Federation of Labour's submission on this matter.

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MoveUP / FA-824
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