

# WCB CONSULTATION

Submission for regulatory amendments to  
Part 18, Traffic Control and Part 26,  
Forestry Operations and Other Similar  
Activities

January, 2020




## Authority

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This document is respectfully submitted on behalf of the Executive Officers of the BC Federation of Labour and represents the views of more than 500,000 affiliated members across the province of British Columbia.



**W. Laird Cronk**  
President

1510-20sub lc regulatory amendments parts 18 and 26/km 

## Introduction

The BC Federation of Labour (“Federation,” “BCFED”) appreciates the opportunity to provide our submission with respect to the proposed amendments to Occupational Health & Safety Regulation (OHSR):

Part 18: Traffic Control

Part 26: Forestry Operations and Other Similar Activities

The Federation represents more than 500,000 members of our affiliated unions, from more than 1,100 locals, working in every aspect of the BC economy. The Federation is recognized by the Workers’ Compensation Board (WCB) and the government as a major stakeholder in advocating for the health and safety of all workers in BC and full compensation for injured workers and their surviving dependents.

This submission was prepared in consultation with our affiliates.

## Part 18: Traffic control

Thousands of our members are involved in roadside work including traffic control operations, working as Traffic Control Persons (TCPs), workers who are involved in road maintenance and construction, and workers who are responsible for traffic enforcement.

TCPs have an important job on construction, maintenance and utility projects. They regulate the traffic at worksites to keep them safe for workers, motorists and pedestrians. 90% of TCPs in BC are women.

Safety of the motorist and worker is equal--your own safety comes first!

Key statistics from the Workers’ Compensation Board (WCB) show that roadside work is one of the most dangerous occupations in BC.

In a ten-year period between 2009 and 2018, 13 roadside workers were killed and 63 suffered serious injuries. 25,429 days were lost to work and \$15M in claims costs were paid. Over half of these workers were TCPs and in 2018, two TCPs died on the job.

The purpose of the proposed amendments to Part 18 Traffic Control is to update and harmonize the regulation with the 2020 edition of the Traffic Control Manual for Work on Roadways issued by the Ministry of Transportation and Infrastructure. The last update to Part 18 was completed in 1999. The BCFED is pleased the WCB is conducting this long overdue review of Part 18. We are generally in support of the proposed amendments. Our submission will address only those sections where we have concerns or have further amendments to propose.

## Section 18.3 Standards for traffic control

Proposed Section 18.3 (1) *The latest edition of the Traffic Management Manual for Work on Roadways issued by the Ministry of Transportation and Infrastructure (the Traffic Management Manual) (the Manual) applies to all work zones.*

### **BCFED recommendation:**

The “latest edition” of the Traffic Management Manual should be identified as the “2020 edition.”

There are a number of editions of the Manual and referencing the updated version will provide clarity and consistency for all end users. The WCB must, when referencing a standard in regulation, commit to updating the regulation when there are revisions to the standard.

Section 18.3 (2) proposes: *an employer must ensure that traffic control equipment, arrangements or layouts and procedures, to the extent practicable, meet the requirements of the Traffic Management Manual unless otherwise specified in this regulation.*

The use of the phrase “to the extent practicable” in Section 18.3(2) seriously undermines the requirement for employers to implement the Manual in Section 18.3(1). It gives the employer

broad discretion to determine what is practicable and what is not. For example, an employer may put cost and time considerations ahead of worker safety. Our member TCPs report this happens frequently.

The WCB's explanation for the addition of "to the extent practicable" recognizes in Part 18 that the Manual may not cover every situation likely to be encountered in practice. This is from Section 1.1.3 of the Manual--a wholly inadequate reason, and one that gives us no confidence that workers health and safety is a priority. If there are gaps in the Manual that may endanger workers, they must be addressed in the amendments to Part 18.

**BCFED recommendation:**

The employer must ensure that all roadway work zones comply with the requirements of the Ministry of Transportation and Infrastructure *Traffic Management Manual for Work on Roadways, 2020*, as amended from time to time, unless otherwise specified in this Regulation or Act.

### Section 18.3.1 Risk assessment

The BCFED is pleased to see the requirement for employers to conduct a risk assessment for all types of road work. Section 18.3.1 also includes a list of specific hazards that must be identified in the assessments.

The employer is required to have a qualified person conduct the risk assessment. The only requirement that must be met by the qualified person is that "the person must demonstrate an understanding of the risks to worker health and safety whenever traffic control is required."

The BCFED has previously expressed our concerns with the term "qualified person." The proposed definition in Part 1 Section 1.1(1) of the OHSR states that "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.*"

We are concerned that this definition is too general and can lead to confusion about who is the qualified person.

The BCFED 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.*

**BCFED recommendation:**

Section 18.1, Definition, be further 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 of and control of traffic where traffic is hazardous to workers.

### Section 18.3.1 Risk assessment – Subsections

The BCFED is also concerned the proposed amendments for risk assessments in Section 18.3.1, Sub-sections 1 to 5 do not include a requirement for the “qualified person” to consult with workers. Including workers in the process of identifying hazards, conducting risk assessments and recommending corrective measures, is a right that is established in the *Workers Compensation Act (WCA)*.

WCA Part 3, Division 4, Section 130, Duties and functions of a joint committee, clearly prescribes the requirements for involvement of Joint Occupational Health and Safety Committees:

*A joint committee has the following duties and functions in relation to its workplace:*

- (a) to identify situations that may be unhealthy or unsafe for workers and advise on effective systems for responding to those situations;*
- (b) to consider and expeditiously deal with complaints relating to the health and safety of workers;*
- (c) to consult with workers and the employer on issues related to occupational health and safety and occupational environment;*
- (d) to make recommendations to the employer and the workers for the improvement of the occupational health and safety and occupational environment of workers;*
- (e) to make recommendations to the employer on educational programs promoting the health and safety of workers and compliance with this Part and the regulations and to monitor their effectiveness;*
- (f) to advise the employer on programs and policies required under the regulations for the workplace and to monitor their effectiveness;*
- (g) to advise the employer on proposed changes to the workplace, including significant proposed changes to equipment and machinery, or the work processes that may affect the health or safety of workers;*
- (h) to ensure that accident investigations and regular inspections are carried out as required by this Part and the regulations;*
- (i) to participate in inspections, investigations and inquiries as provided in this Part and the regulations;*
- (j) to carry out any other duties and functions prescribed by regulation.<sup>1</sup>*

This requirement established in the WCA is reinforced in the OHSR Part 4 Ergonomics (MSI) Requirements Section 4.53 (1):

- (1) The employer must consult with the joint committee or the worker health and safety representative, as applicable with respect to the following when they are required by the Ergonomics (MSI) Requirements*

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<sup>1</sup> <https://www.worksafebc.com/en/law-policy/occupational-health-safety/searchable-ohs-regulation/workers-compensation-act>

- (a) risk identification, assessment and control*
  - (b) The content and provision of worker education and training*
  - (c) The evaluation of compliance measures taken*
- (2) *The employer must, when performing a risk assessment, consult with*
- (a) workers with signs and symptoms of MSI, and*
  - (b) a representative sample of workers who are required to carry out the work being assessed.* <sup>2</sup>

In order to ensure that workers are involved in the process of risk assessment, the development of the traffic control plan and control measures, the BCFED recommends further amending Part 18 by adding a new section 18.3.1.(6) Consultation.

**BCFED recommendation:**

New section: 18.3.1.(6) Consultation

The employer must consult with the joint committee or the worker health and safety representative, as applicable with respect to the following when they are required by the Traffic Control Requirements

- (a) Risk assessment and any reviews
- (b) Traffic control plan,
- (c) Control measures,
- (d) The content and provision of worker education and training, and
- (e) The valuation of compliance measures taken.

The BCFED supports the proposed amendment to include a list of specific hazards to be considered in the risk assessment in Section 18.3.1(3) for short and long duration work. We agree with the BCGEU, having heard from their members' concerns, that the risk of workplace

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<sup>2</sup> <https://www.worksafebc.com/en/law-policy/occupational-health-safety/searchable-ohs-regulation/workers-compensation-act>



violence is high. Incidents ranging from verbal threats to physical assaults are common. Workers are concerned these incidents are not taken seriously by the employers; no investigations and no corrective actions. We believe workplace violence needs to be added to the list of hazards.

**BCFED recommendation:**

To clarify employer responsibility to prevent workplace violence, Subsection (3) be further amended to add workplace violence to the list of hazards that are considered in the risk assessment.

Section 18.3.1(3)(g)(vi) requires the risk assessment to consider “*whether orientation or training is required for traffic control person at the work zone.*” This section appears to conflict with Section 18.4(2)(f) that requires supervisors to ensure that “*traffic control persons are provided with orientation and training at the work zone.*”

Workers have a right to training and education, to know the hazards of the workplace and we believe there must be no confusion. Hazards can change from work zone to work zone and it is essential that workers understand the hazards present at each work zone.

**BCFED recommendation:**

In order to ensure there is consistency on this matter, Section 18.3.1(3)(g)(vi) be further amended to state:

(vi) what orientation and training are required for traffic control persons at the work zone.

Section 18.3.1(4) requires the risk assessment to be reviewed and updated by a qualified person when:

- (a) *there is a reason to believe the risk assessment is not longer valid, or*
- (b) *there has been a significant change in the scope or nature of the work to which the risk assessment relates.*

The BCFED agrees with the above requirements but believes there must be a regular review of the risk assessment as proposed in Section 18.3.2(2)(d)(ii). Under this section the employer must ensure that the Traffic Control Plan has a schedule for regular evaluation and updating. Routine evaluations and updates can improve worker safety, providing an opportunity for the employer and workers to review the accuracy and effectiveness of the risk assessment.

**BCFED recommendation:**

The proposed requirements of Section 18.3.1(4) be amended to include a new section 18.3.1(4)(c), a requirement to establish a schedule for a periodic review and updating of the risk assessment.

### Section 18.3.3 Order of control measures

The BCFED supports the proposed requirement for employers to practice the hierarchy of controls, to begin with eliminating the risk of worker of exposure to traffic in a work zone. TCPs should be used as a last resort. Unfortunately, this requirement is diminished by the fuzzy phrase “to the extent practicable.” The BCFED has previously in this submission addressed our concerns with “to the extent practicable” and these same concerns are applicable to this section.

**BCFED recommendation:**

The WCB to remove this phrase “to the extent practicable” Subsection (1) and amend the language to clearly outline the specific considerations or conditions which the WCB deems are acceptable to expose workers to traffic in a work zone.

### Section 18.4 Supervision

A quote from a practicing TCP to the BCFED:

“The responsibility of field level traffic management often falls to the traffic control person based on little information given by the employer. Work and risk assessments are done “on the fly” (if the work is not planned) we are essentially given the employer’s responsibility as soon as we arrive on site.”

Section 18.4(1) requires the employer to ensure there is a qualified supervisor designated whenever traffic control is required. The BCFED strongly supports this amendment but the language needs to be strengthened to ensure the designated supervisor is on the ground and present at the work zone. The regulation must prevent the reality as described in the quote above, that supervisors are often absent from the work zone. And supervisor responsibilities must inevitably be done by the TCPs at the work zone.

**BCFED recommendation:**

To ensure there is an on-site qualified supervisor, Section 18.4(1) be further amended as follows:

- (1) The employer must ensure that a qualified supervisor is designated to be present at any work zone where traffic control is required.

## Traffic Control Persons (TCPs)

### Section 18.6 Prohibitions

The WCB proposes to in Section 18.6(a) to prohibit the use of TCPs when speed limits are greater than 70km/h. This requirement has been adopted from the manual but the WCB’s explanatory notes provide no rational or research evidence for using 70km/h.

Any speed puts a TCP at risk of injury or death and obviously the higher the speed the greater the likelihood of serious injury or death.

The 1999 US Department of Transportation, National Highway Traffic Safety Administration literature review on vehicle travel speeds and pedestrian injuries found:

*The idea that the faster a striking vehicle is traveling, the more damage is done to a struck pedestrian, is almost too obvious to require proof. Yet the relationship has been documented in a number of studies. Pasanen (1992) reviewed three studies relating collision speeds and pedestrian injury severity, finding their results quite consistent and that the probability of pedestrian death reached nearly 100% for speeds over 80 km/h (50 mph). **Modeling the data from Ashton (1982), Pasanen estimated that about 5% of pedestrians would die when struck by a vehicle traveling 20 mph. The pedestrian fatality percentage would rise to about 40% for vehicles traveling 30 mph, (emphasis) about 80% for vehicles traveling 40 mph, and nearly 100% for speeds over 50 mph.***

*Numbers comparable to these are cited in a number of other references. For example, in the UK Department of Transport Traffic Advisory Leaflet 7/93 (TAU, 1993), figures quoted are, **for 20 mph impact speeds: 5% death, 65% injured, and 30% uninjured; for 30 mph impact speeds: 45% death, 50% injured, and 5% uninjured; for 40 mph impact speeds: 85% death and 15% injured. (emphasis)**<sup>3</sup>*

A 2014 statistical report by the University of Vermont's Transportation Research Center found a majority of crashes in work zones occur when the posted speed limit is 55mp(88km/hr).

*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*

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<sup>3</sup> <https://one.nhtsa.gov/people/injury/research/pub/hs809012.html>

*higher (NCHRP 2005), making high speeds a significant concern in work zone traffic control.<sup>4</sup>*

The BCFED believes that the ongoing injuries and deaths of roadside workers in BC clearly warrants reducing the speed used to determine the use of TCPs.

**BCFED recommendation:**

The WCB reduce the speed limit in Section 18.6(a) to 50km/hr from the proposed 70km/hr.

### Section 18.6.1 Emergency scene management

Section 18.6.1 sets out the requirements for emergency responders to be trained before they direct traffic in an emergency. The list of those workers considered emergency responders includes a fire truck, ambulance, highway rescue, search and rescue, tow truck, road authority or road maintenance worker. Curiously, this section refers to workers and then proceeds to identify a “fire truck, ambulance .....and tow truck” in the list.

**BCFED recommendation:**

Section 18.6.1(1) be further amended to provide clarity to the emergency worker definition:

- (1) In this section “emergency responder” includes, when present at an emergency scene in a work zone, firefighter, paramedic, highway rescue and search and rescue workers, tow truck operator, road authority worker or road maintenance worker.

Section 18.6.1(3) sets out the requirements for the training of emergency responders assigned to direct traffic during an emergency. The BCFED believes this section must be amended to improve the training requirements for emergency responders. There is no requirement to have

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<sup>4</sup> <https://www.uvm.edu/sites/default/files/media/2014 - 05 Work Zones and Travel Speeds.pdf> p.2

the training approved by the WCB, no requirement for length of the course, or for an assessment of the knowledge level and no practical application.

Section 18.6.1(4) allows for an emergency responder to direct traffic for up to two hours without having taken the TCP training in Section 18.6.2. If the work is more than two hours in duration they must have the TCP training required in Section 18.6.2.

The Manual requires the following for emergency responders:

*If the traffic control situation will persist for more than two hours, the emergency responders directing traffic are expected to be trained in a manner acceptable to WorkSafeBC for high-risk traffic control or to be replaced by personnel who have this training.*

There is no rationale provided in the WCB explanatory notes or the Manual as to why the two-hour criteria is used to determine the level of training for emergency responders. But in discussion with our affiliate IAFF, they stated that firefighters responding to an emergency would not be doing traffic control, the fire department would be calling the local police to do traffic control. It is not a firefighter's job to do traffic control, it is to mitigate the emergency." The BCFED agrees with the two-hour limit for emergency response training and anytime beyond that the emergency responder must have the two-day TCP course in 18.6.2.

Section 18.6.1(3) exempts peace officers from the emergency responders training requirement, they are also exempted from subsection (4) and the restriction to direct traffic more than two hours. The original amendments referred to "police and other peace officers."

The BCFED believes that police should be specifically noted in both sections and that a reference be made to some peace officers. For example, Correctional Officers are peace officers but would never be doing traffic control and CVSE, Commercial Vehicle Safety and Enforcement Officers are peace officers who may be responsible for traffic control.

The BC Municipal Safety Association (BCMSA) has developed a one-day course for first responders but it is unclear in our research if this the only course available for emergency responders.

**Course description:** *This course is for emergency responder employees who have responsibility for setting up emergency scene traffic control as a regular or occasional part of their work. It will be valuable for a variety of first responders in fire and emergency services roles. The course will also be useful for supervisors.*

**Course outline:**

- *Unit 1 – Legal Guidelines and Responsibilities*
- *Unit 2 – Scene Equipment*
- *Unit 3 – Setting Up the Scene*
- *Unit 4 – Directing Traffic Safety*
- *Unit 5 – Review and Exam*
- *Practical application in on-road situation*

Although the proposed amendment has no requirement for assessing knowledge or for practical application the BCMSA has included these components in their course.

**BCFED recommendations:**

The BCFED supports the training for emergency responders but proposes the following amendment to Section 18.6.1(3):

An emergency responder other than a police officer or some peace officers may not direct traffic under subsection (2) unless the emergency responder has completed a Board-approved traffic control training program for emergency responders.

Amending Section 18.6.1(4) adding:

An emergency responder other than police or some peace officers may not direct traffic under subsection (2) more than two hours after the commencement of the emergency unless the emergency responder has completed the TCP training specified in Section 18.6.2 of this regulation.

Adding new Subsection (5), Successful completion of the emergency responders training program must include as assessment of

(a) knowledge of subject matter

(b) practical competency

## Section 18.6.2 TCP training

This section sets out the requirements for TCP training, that it must be WCB approved and includes theory and practical competency assessments. The training must be based on criteria for training and certification based on a list of accepted standards. The course must include assessment of the knowledge of the subject matter and practical competency.

The proposed amendments to Section 18.6.2 set out very general and nonprescriptive requirements for course content. There is no list of course content as there is in the proposed amendment for emergency responders training. The standards that are listed as acceptable criteria set general requirements for the development of certification programs for bodies that provide certification.

Currently, the BC Construction Safety Association (BCCSA) is the recognized provider of the two-day TCP training program. The program is accepted by the WCB.<sup>5</sup> The BCFED is very concerned that the current course does not adequately prepare TCPs for the important and dangerous work of traffic control. The BCFED strongly believes the TCP course curriculum must be included in the regulation in order to ensure quality and consistency in the TCP training. A list of course requirements will also assist the WCB in determining which course they will

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<sup>5</sup> <https://www.bccsa.ca/traffic-control.html>



approve. The current BCCSA does not include any content about the prevention of workplace violence, as previously mentioned our members experience significant levels of violence.

**BCFED recommendation:**

The BCFED recommends Section 18.6.2 (2) be amended to include a list of required course content which must include the prevention of workplace violence.

We also believe that the TCP training program should be 2-4 weeks in length with a robust requirement for on the job practicum. We agree with the BCGEU that the course include a one-month apprenticeship with an experienced TCP.

The BCFED recommends the WCB consult with the stakeholders and set up a working group to redesign the TCP training.

### Section 18.6.3 Traffic assistant training

The regulation is being amended to introduce the new position of Traffic Assistant. Traffic assistants direct traffic to or from parking spaces in workplaces such as parking lots, terminals, large events. Employers expressed concern at the pre-consultation that these workers do not need the same training as TCPs. The risks are different and perhaps not as high due to reduced speed of the vehicles being directed.

Section 18.6.3(1) sets out the requirements for training for the traffic assistant. The training must address the hazards, must be specific to the work site and must include course work and a practical component. The BCFED believes the course must be approved by the WCB and recommend the following amendment:

**BCFED recommendation:**

Section 18.6.3(1) be amended to read: An employer must ensure that a traffic assistant receives Board-approved workplace training that addresses the hazards specific to the work site and includes course work and a practical component.

Subsection (2) lists required course work or content. The BCFED has heard from our affiliate, the BC Ferry and Marine Workers Union, their grave concerns about the extreme levels of violence their members are exposed to, particularly, those members doing traffic control at the terminals.

**BCFED recommendation:**

Section 18.6.3 (2) be amended to add sub-section (e) to include the prevention of workplace violence

## Section 18.8 Location of traffic control person

This section sets the requirements for where a TCP should be located, and the location must be identified in the risk assessment.

When it relates to TCP positioning, the fundamental rule is to stand in a location for maximum visibility to approaching traffic with one or more planned escape routes.

Dependant upon the conditions, nature of work, and the type of traffic being controlled, this position will vary with the prime consideration to providing maximum visibility between the TCP and the traffic being controlled. This is to achieve the best chances of success to gain the attention of the driver, communicate what is required of them, and provide enough time and space for the driver to comply and perform the driving maneuver. The TCP also needs to be able to see the approaching vehicle from the greatest distance to assess the approaching vehicle for threatening behaviors such as speed, inattention, rage, distraction, or other impairment which threatens the safety of the zone. In other words, this is enough time to assess the approaching traffic, and if successful communication cannot be achieved, enough time and space for the TCP to get out of the way and warn the work crew of the errant vehicle.

### **Section 18.8.2 (a)(ii)**

*" if the closed lane is not the opposing lane even when the opposing lane is being controlled by another traffic control person or device,"*

The question is why that position would not be allowed to control traffic as the lane has been controlled by other devices, and the TCP position is protected under the *Motor Vehicle Act* with respect that traffic cannot cross over yellow road lines. The TCP has a greater ability to communicate with and read the traffic and spot errant vehicles for safety of the crew. Additionally, the TCP has a greater field for making evasive maneuvers and options for an escape route, dependent on the conditions.

The BCFED fully supports that TCPs need training and supervision to learn to discern the safest location to control traffic from, and we feel the proposed language in the section creates a condition where it may eliminate safe options when complicating factors arise which might require alternative positioning, something that should be left to the risk assessment.

The traffic management manual allows for flexibility in positioning stating:

*Regardless of the rules listed above, TCP safety is paramount. Therefore, always stand where you can see and be seen by approaching drivers, in a position that is suitable for safely stopping traffic and/or directing traffic through the work activity area, and where there is an escape route.<sup>6</sup>*

**BCFED recommendation:**

The BCFED recommends amending Section 18.8 (1):

An employer must ensure that a traffic control person is located in a safe location that has been identified in the risk assessment and included in the traffic control plan.

The BCFED recommends amending Section 18.8 (2):

A safe location referred to in subsection (1) is one which

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<sup>6</sup> <https://www2.gov.bc.ca/assets/gov/driving-and-transportation/transportation-infrastructure/engineering-standards-and-guidelines> P.5-15

(a) makes the traffic control person stand out against the background or appear as conspicuous as possible to approaching traffic,

(b) provides the TCP with an unobstructed path to escape errant vehicles or traffic, and

## Section 18.16 Long periods of delay

The WCB 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. The BCFED believes that informing drivers there will be a long delay is essential to preventing violence against roadside workers.

### **BCFED recommendation:**

Section 18.16, Long periods of delay, remains.

## Part 26: Forestry operations and similar activities

Part 26 is being amended to include proposed new regulations applicable to arborists and arboricultural work. As recognized in the WCB's explanatory notes, arboricultural work can be dangerous with the potential for serious injury or death. The intent of the proposed amendments is to address the regulatory gaps in order to cover the range of work activities undertaken by arborists.

### Section 26.1 Definitions

The definition for "qualified arborist" sets out the work activities undertaken by a qualified arborist. Of the activities included there is no mention of work activities that would be done from a bucket truck. This is really the preferred method for pruning, repairing, maintaining and removal. An arborist who works from a bucket is required to wear a safety harness and be strapped into the bucket.

The Ontario Arborists Manual devotes a section to operating aerial devices.<sup>7</sup> The purpose of this section is to outline the safe work practices involved in operating an aerial device and working in the bucket.

**BCFED recommendation:**

Amend Section 26.1 (a) adding subsection (v) operation of an aerial device and  
Section 26.1 (b) adding subsection (v) operation of aerial device.

## Section 26.2.1 General requirements

In subsection (4) the employer must amend the workplan when there is a change in work activities or conditions of the workplace that create known or reasonably foreseeable hazards “as soon as practicable.”

And in subsection (5) the employer must ensure that “as soon as practicable” after the plan is amended, the amended plan must be communicated to workers.

The BCFED believes the language “as soon as practicable” seriously undermines the requirement for employers to amend the workplan and to ensure that workers are informed of the changes. This is very problematic given that this is high risk and dangerous work. It gives the employer broad discretion to determine what is practicable and what is not. For example, an employer may put cost and time considerations ahead of worker safety.

**BCFED recommendation:**

The BCFED recommends subsections (4) and (5) be amended and the phrase “as soon as practicable” is removed in order to provide better health and safety for workers.

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<sup>7</sup> [https://www.wsps.ca/WSPS/media/Site/Resources/Downloads/arborist\\_manual\\_3rd\\_edition\\_final2.pdf](https://www.wsps.ca/WSPS/media/Site/Resources/Downloads/arborist_manual_3rd_edition_final2.pdf)

## Section 26.12.0.1 (1) Tree Climbing Activities: Requirements respecting tree-climbing activities

This section requires the employer to ensure that only a qualified arborist or trainee arborist engages in tree-climbing activities.

The Ontario Arborists Manual requires a ground assistant be present during tree climbing activities:

*Arborists engaged in climbing trees must be accompanied by at least one ground assistant.*

*At least one ground assistant at any given work site, where tree climbing is being performed, should be trained in climbing and emergency response.<sup>8</sup>*

The use of a ground assistant is also recommended by the US Forest Service Tree Climbing Guide:

*2.2 Working as a Team A climber and a ground person make up the basic climbing team. One ground person can serve several climbers, but must be able to maintain visual and voice communication with all climbers at all times. Roles are interchangeable, so all team members shall be certified climbers who are qualified to perform every aspect of the climbing assignment. All team members shall have current medical training equivalent to at least an American Red Cross basic firstaid course. The team shall establish radio communications with the forest or district office or central dispatch from the climbing site before climbing. An established sign-out system shall also be in effect with the local forest/district office or central dispatch. All team members shall be completely equipped to climb and shall thoroughly rehearse the climbing methods and techniques they will use. Working as a team includes the following:*

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<sup>8</sup> [http://www.wsps.ca/WSPS/media/Site/Resources/Downloads/arborist\\_manual\\_3rd\\_edition\\_final2.pdf](http://www.wsps.ca/WSPS/media/Site/Resources/Downloads/arborist_manual_3rd_edition_final2.pdf) p.29

- 1. All team members shall perform an equipment check on each team member's equipment before climbing.*
- 2. The ground person and the climber should switch roles, as necessary, to prevent undue fatigue. Alternating roles from tree to tree gives the climber an opportunity to rest. The ground person shall NOT sleep, but shall remain alert while climbers are aloft.*
- 3. Both climber and ground person should remain alert to hazards in the tree and the environment, discussing potential problems as they arise.*
- 4. The ground person should carefully watch the climber and communicate any problems; it is often easier for the ground person to identify hazards and recognize unsafe climbing practices than it is for the climber to do so.*
- 5. The ground person should assist the climber by helping with harness adjustments, inspecting equipment, and attaching or removing items from the haul line.*
- 6. The ground person should maintain verbal and visual contact with the climber. When the climber is collecting cones, the ground person should assist by pointing out areas where cones can be collected.*
- 7. The ground person shall be prepared to perform a rescue or render first aid at all times.*
- 8. The ground person shall not be directly underneath the climber at any time unless first cleared by the climber to be there. Whenever a ground person is underneath a climber, the climber remains in an "at rest" position until the ground person is no longer there.<sup>9</sup>*

The proposed requirements for Tree-Climbing Activities in Section 26.12.0.1 (1) do not require a ground person to be present when arborists are tree-climbing and we think this a serious

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<sup>9</sup> [https://www.fs.fed.us/treeclimbing/policy/2015\\_04\\_22NTCGweb.pdf](https://www.fs.fed.us/treeclimbing/policy/2015_04_22NTCGweb.pdf) P.12

omission and puts arborists at greater risk. The US Forest Service requirements set out all the reasons to have a grounds person.

Having a ground person present may assist the employer with being in compliance with the WCB Regulation Part 4 General Conditions, Sections 4.20.1 to 4.22 Working Alone.

**BCFED recommendation:**

The BCFED recommends Section 26.12.0.1(1) be further amended to require that arborists engaged in tree-climbing activities must be accompanied by a ground person who is trained in climbing and emergency response. This could be another arborist or trainee arborist.

## Section 26.12.0.2 Tree structure assessment

This section requires a “qualified person” to conduct a tree structure assessment referred to in Section 26.12.0.2(a). The WCB’s explanatory notes do not provide any explanation about who this qualified person is, and we assume it is not a qualified arborist. In our consultation with our member arborist it was explained that a tree structure assessment can only be done by a certified tree assessor.

The certification is under the jurisdiction of the International Society of Arboriculture (ISA). This certification is supported by the WCB:

*arboriculture operations, workers who have completed the Tree Risk Assessment Qualification (TRAQ), administered by the International Society of Arboriculture (ISA), can assess and manage dangerous trees in urban areas and in urban/rural interface areas.<sup>10</sup>*

**BCFED recommendation:**

The BCFED recommends section 26.12.0.2 be amended to define “qualified

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<sup>10</sup> <https://www.worksafebc.com/en/health-safety/education-training-certification/dangerous-tree>



person” as a person who is certified by the ISA to conduct tree structure assessments. This will provide clarity for workers, employers and WCB officers.

The BCFED is generally in support of the proposed amendments applying to arborists and arboricultural work. For too long this high-risk, dangerous industry has had no specific regulatory requirements.

## Conclusion

The BCFED is pleased to provide our recommendations for further amendments to Part 18: Traffic Control and to Part 26: Arborists. We strongly encourage the WCB Board of Directors to seriously consider the recommendations. We believe our proposed amendments will improve the health and safety of workers.