

WCB CONSULTATION

Submission on Proposed 2016
Occupational Health and Safety
Regulation Amendments

April 2016



Authority

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.



Irene Lanzinger, President

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Introduction

The BC Federation of Labour (BCFED) appreciates the opportunity to provide our submission with respect to the Workers' Compensation Board's (Board) proposed Occupational Health and Safety Regulation amendments for 2016.

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 BCFED is recognized by the Board and the government as a major stakeholder in advocating for the health and safety of all workers in BC.

The BCFED's submission was prepared in consultation with its affiliates and supports the individual submissions of its affiliates.

Summary

The Board released the following proposed amendments to British Columbia's Occupational Health and Safety Regulation¹ (OHSR) for public consultation:

- Section 1.1, [Definitions](#)
- Section 4.43.1, General Conditions, new section, [storage racks](#)
- Section 4.56, General Conditions, [work area guards and handrails](#)
- Section 6.4, Substance Specific Requirements, [asbestos inventory](#)
- Section 6.58.1, Substance Specific Requirements, [lead](#)

¹ Occupational Health and Safety Regulation, B.C. Reg. 296/97; Retrieved from: http://www.bclaws.ca/Recon/document/ID/freeside/296_97_00

- Section 6.110, Substance Specific Requirements, [respirable crystalline silica and rock dust](#)
- Section 12.83.1, Tools, Machinery and Equipment, new section, [chassis dynamometer](#)
- Sections 13.11, 14.1 and 14.2, Cranes and Hoists, [construction material hoists](#)
- Section 14.5, Cranes and Hoists, [rated capacity indicators](#) and Section 14.11, Cranes and Hoists, support structures
- Section 14.81, Cranes and Hoists, [limit devices](#)
- Section 20.2, Construction, Excavation and Demolition, [notice of project](#)
- Section 22.12(1) and (2), Underground Workings, [underground supervisors](#)
- Section 23.69, Oil and Gas, [flow piping systems](#)
- Section 26.13.4, Forestry Operations and Similar Activities, new subsection, [saw chain shot](#)

The BCFED's submission on each of the above proposed amendments follows below.

Submission: Section 1.1 – Definitions

The Board proposes minor amendments to the definitions of “combustible liquid” and “flammable liquid” in Section 1.1 of the OHSR, removing the references to outdated Workplace Hazardous Materials Information System (WHMIS) terms. These proposed amendments are an interim measure pending further review of the new WHMIS 2015 requirements.

The BCFED is in agreement with these proposed amendments as the substance of the definitions remain the same and, therefore, the worker protections are unchanged.

➤ *The BCFED **supports** the proposed amendments to OHSR Section 1.1.*

Submission: Section 4.43.1 – Storage Racks

The Board proposes to introduce new regulation specific to the proper installation, inspection and maintenance of storage racks with steel shelving or a steel framework. As per the Board's discussion paper, storage racks are common in many workplaces across the province and pose hazards that have led to serious injury, and even death in other jurisdictions.

Instituting specific requirements for storage racks will identify for employers the steps necessary to mitigate the hazards posed by storage racks and ensure that Board Officers have standards that can be consistently enforced.

- *The BCFED generally **supports** the proposed new regulation with the exception of the issues outlined below.*

Section 4.43.1 (4)

Section 4.43.1 (4) states in part, "The employer must ensure that the instructions of the manufacturer or a professional engineer for safely installing, uninstalling, loading, unloading, using and inspecting..." It would seem that the terms "repair" and/or "maintenance" are missing and need to be added.

In review of the Board's discussion paper (page 3), the instructions "outline how to properly and safely *assemble* (install and uninstall), *use* (load and unload), and *maintain* (inspect and **repair**)" storage racks. [Emphasis added.] In the proposed regulation, the Board uses the more specific words, those in brackets, except for the word "use" and the missing word "repair." If the Board were to follow their own pattern consistently, section 4.43.1. (4) should actually read as follows, in part:

*"The employer must ensure that the instructions of the manufacturer or a professional engineer for safely installing, uninstalling, loading, unloading, ~~using and~~, inspecting **and repairing**..."*

- *The BCFED **strongly recommends** the Board of Directors (BOD) to amend the proposed OHSR Section 4.43.1 (4) to include the word "repair."*

Section 4.43.1 (7) & (8)

Section 4.43.1 (7) and (8) specifies the requirement for “regular” inspection and maintenance but does not define or specify any kind of parameter for what “regular” means. The BCFED understands that the disadvantage to specifying a particular inspection and maintenance interval is that issues that arise in advance of the define interval may be overlooked or ignored creating a hazard to workers.

However, it is our opinion that the disadvantages for not specifying some frame around what “regular” means is much greater. An employer may, intentionally or unintentionally, self-define “regular” in such a way as to allow hazards to remain unidentified and/or uncorrected for a lengthy period of time, leaving workers at serious risk of injury or death. The BCFED opines that either a specific interval be defined or a parameter be introduced to ensure that stakeholders have a consistent framework for “regular” inspections and maintenance.

For example, the language in Section 4.43.1 (7) could be amended as follows, *“The employer must ensure that a qualified person, in accordance with the instructions of the manufacturer or a professional engineer, regularly inspects the storage rack for wear, corrosion, damage, missing or incompatible parts, or signs of fatigue at intervals that will prevent the development of unsafe working conditions, but not less than [insert average interval defined by manufacturers or professional engineers] times per year.”*

It would also seem prudent to specify that an inspection is required following any incident that had the potential to cause damage to the structure, for example a rack being struck by a forklift or other mobile equipment.

- *The BCFED **strongly recommends** the BOD to amend the proposed OHSR Section 4.43.1 (7) and (8) to include a specified interval or parameter for inspections and maintenance, as well as a requirement to inspect and repair, if necessary, following an incident that had the potential to cause damage to the storage racks.*

Submission: Section 6.4-6.32 – Asbestos Inventory & Records

The Board seeks to introduce expanded regulatory requirements with respect to asbestos inventory in Section 6.4 of the OHSR, as well as consequential amendments to Sections 6.5, 6.6 and 6.32.

Section 6.4 (1)

The first amendment that the Board proposes for subsection (1) is to add owners to the existing requirement for employers to ensure that an asbestos inventory is done. The discussion paper describes situations that were not contemplated previously in the regulation in which the owner would be the logical person to authorize the collection of samples to test. Including owners in this regulatory requirement will ensure that employers, or owners, are able to fulfill their obligation to collect samples and prepare an asbestos inventory without impediment.

- *The BCFED **supports** adding owners as being responsible for fulfilling the requirements of OHSR Section 6.4 (1) as it allows for a higher likelihood of completing quality asbestos inventories which are necessary to provide proper control measures for workers.*

The second amendment to subsection (1) is to remove the word “, and” from the end of (1)(a) and add it to the end of the first sentence of (1)(b) due to the addition of a new subsection (c). With respect, it is our position that the addition to (1)(b) is unnecessary and unworkable. As subsection (b) has its own sub-bullets (i & ii) it reads as though the “and” applies to those sub-bullets which results in the subsection being difficult to read. It is our position that the “and” is implied with the bullets under subsection (1) and is therefore unnecessary to include.

- *The BCFED **strongly recommends** removing the addition of “, and” to OHSR Section 6.4 (1)(b) in order to ensure clear understanding and interpretation of this section.*

The third amendment for subsection (1) is the addition of prescriptive requirements for the minimum information to include in the asbestos inventory. According to the Board, these requirements are similar to those recommended in their *Safe Work Practices for Handling*

Asbestos² handbook and are already included as best practice by many employers. Including the requirements in the regulation will clarify for employers and owners the minimum information expected when creating an inventory, as well as ensure consistent enforcement by Board officers.

➤ *The BCFED supports the inclusion of prescriptive requirements in OHSR Section 6.4 (1)(c).*

Section 6.4 (2)

The Board proposes amendments to Section 6.4 (2) of the OHSR in order to allow for suspected asbestos containing material (ACM) to be deemed as ACM without testing if it is not practicable to sample – this is in addition to the current exemption for suspected ACM that is inaccessible.

The new proposed subsection reads as follows:

*(2) If a qualified person suspects that a material in the workplace contains asbestos but **decides** that the material is inaccessible or not practicable to sample, the material must be treated under this Part as asbestos containing material unless a qualified person, **in accordance with subsection (1)**, determines that the material is not asbestos-containing material. [Emphasis added.]*

The BCFED has multiple concerns with this proposed language, as discussed below.

The BCFED does not support adding the provision for not taking samples of suspected ACM that is “not practicable” to sample. The primary concern is that the proposed language states that the suspected ACM **must** be treated as ACM, unless it’s determined that it’s not. The question is, how does the qualified person make this determination without taking a sample? The regulation provides no direction around this issue and therefore the new language does not provide the level of protection from asbestos exposure that the BCFED would expect for workers.

² Available on the Board’s website at:

http://www.worksafebc.com/publications/health_and_safety/by_topic/assets/pdf/asbestos.pdf

The fact that the suspected ACM is simply impracticable to sample is not the same as the current language that provides for ACM that is *inaccessible* to sample. The inaccessible nature of some suspected ACM leads one to the conclusion that it is material with which workers would be unlikely to be in contact.

On the other hand, the Board's discussion paper provides the following examples of suspected ACM that would be impracticable to sample:

“For example, there may be situations where the action of taking a sample of suspect material could compromise the integrity of the product, e.g., brake pads and gaskets, or could deface the material, e.g., a decorative wall coating. Taking a representative sample of certain roofing material could jeopardize the weatherproofing qualities of the applied material. In these cases, a qualified person may decide not to take a representative sample, but would need to provide the rationale for not taking a sample.”

The above examples all include materials – suspected ACM – of which workers would have a high likelihood of exposure. They are being deemed as “not practical” to sample due to the potential to compromise the integrity of the product for use or for aesthetic purposes – this is simply not sufficient enough rationale to avoid taking a sample. With respect to “new” brake pads, gaskets, and roofing materials – that an employer would have for sale or installation or as part of their building or equipment – one would presume that there were Material Safety Data Sheets or some other form of manufacturer's documentation that clearly identified what materials were contained in the product. In this case of “used” products that were being accessed for repair or maintenance, there is no concern of compromising the integrity of the products by sampling them. In all other cases, the suspected ACM should be treated as ACM – there should be **no provision** for a qualified person to make a determination that the materials are not ACM that are so easily accessible to workers.

- *The BCFED **opposes** the amendment to Section 6.4 (2) of the OHSR which allows for a suspected ACM that is “not practicable” to be tested to be exempt as this significantly increases the risk of asbestos exposure for workers.*

In addition to the overall objection to this amendment, the BCFED submits the following specific concerns about the proposed language. The proposed new language states that the qualified person “decides³” whether the suspected ACM is inaccessible or not practicable to sample. The BCFED’s position is that the word “decides” is too casual and weak in the serious context of this proposed regulation. It would be preferable to either remove the word entirely, as in the existing language, or to replace the word “decides” with a stronger word, such as “determines⁴.” This may seem trivial with respect to the formal definitions of these two words, but the common connotation and inference of the word “decide” in this context makes it sound as though there was some subjective choosing, rather than a more formal determination based on an examination of the facts or evidence to suggest that the material was inaccessible or impracticable to sample.

- *If the BOD choose to approve the amendment, the BCFED **opposes** use of the word “decides” in the proposed Section 6.4 (2) of the OHSR and **strongly recommends** that the BOD replace this with a stronger word.*

The existing and new language provides that a qualified person can determine that suspected ACM is **not** ACM, without sampling, “in accordance with subsection (1).” The phrase “in accordance⁵ with” implies that the determination could only be made if it complied, conformed or agreed with, whatever rule, standard, or requirement being referenced. However, subsection (1) does not provide any direction with respect to how to determine whether suspected ACM is in fact ACM without sampling. In fact, in the existing language it makes

³ The online Merriam-Webster Dictionary provides the following simple definition for *decide*: “to make a choice about (something); to choose (something) after thinking about it.” Retrieved from: <http://www.merriam-webster.com/dictionary/decide>.

⁴ The online Merriam-Webster Dictionary provides the following simple definition for *determine*: “to officially decide (something) especially because of evidence or facts: to establish (something) exactly or with authority.” Retrieved from: <http://www.merriam-webster.com/dictionary/determine>.

⁵ See the online Merriam-Webster Dictionary at <http://www.merriam-webster.com/dictionary/accordance>.

reference to subsection (1)(b) which, upon review, specifically references the testing methods acceptable for sampling. Therefore, the BCFED submits that the proviso to allow a qualified person to determine that suspected ACM is not ACM without sampling should be completely removed unless the Board provides specific requirements with respect to what would be acceptable methods of making this determination without sampling. For example, this may include verifiable documents from the manufacturer that the product does not contain asbestos.

- *The BCFED **vehemently opposes** the provision in the OHSR Section 6.4 (2) that a qualified person can determine that suspected ACM does not contain asbestos without sampling “in accordance with subsection (1).”*
- *The BCFED **strongly recommends** that the BOD remove the incorrect reference noted above and, if deemed necessary to continue to allow for an exemption, replace it with appropriate requirements or parameters to make a determination that suspected ACM does not contain asbestos without testing.*

Section 6.4 (6)

In the proposed subsection (6) of OHSR Section 6.4, the Board requires the employer to ensure that a copy of the inventory is “readily available at the workplace.” The BCFED is in support of this requirement, however, in accordance with Section 6.11 (b) of the regulation, it is our position that workers should be made aware of the inventory and where it can be accessed, as well as made aware of the areas of ACM identified in the inventory. The BCFED recommends that the regulation be amended, with examples as follows:

1. “The employer must ensure that workers are instructed as to the content of the inventory, in accordance with Section 6.11 (b), and that a copy of the current version of the inventory is readily available at the workplace.”
2. “The employer must ensure that a copy of the current version of the inventory is readily available at the workplace **and that workers are instructed how to access the inventory and the contents of it, in accordance with Section 6.11 (b).**”

- *The BCFED **strongly recommends** that the BOD amend OHSR Section 6.4 (6) to include the instruction of workers as to the existence, whereabouts and contents of the asbestos inventory, in keeping with Section 6.11 (b) of the OHSR and the overriding principle of workers' right to know.*

Section 6.4 (7)

The Board's proposed language for subsection (7) introduces new requirements to retain and maintain asbestos inventories as long as there is ACM in the workplace, as well as to retain the records of any changes made to the inventory, for example, as a result of abatement activities, for thirty (30) years after all of the ACM has been removed.

The BCFED is pleased with the Board's decision to increase the retention requirements for these important records. The Board suggests in their discussion paper that this amendment would benefit employers with respect to providing a record for due diligence purposes and that it would assist Board Officers in understanding the history of the existence and mitigation of ACM. However, from the BCFED's perspective, the most important reason to keep these records is to provide historical evidence in support of workers who are diagnosed with asbestos-related disease, often following a lengthy latency period (sometimes more than twenty years).

- *The BCFED **vehemently supports** the new retention requirements proposed in OHSR Section 6.4 (7) as it increases protections for workers as well as maintains an historical record of potential asbestos exposures in the workplace.*

Section 6.32

In keeping with the submission above for Section 6.4 (7), the BCFED is in support of amending Section 6.32 to reflect the documents not covered by the proposed Section 6.4 (7), and ensuring that all of these documents are retained for at least ten (10) years.

- *The BCFED **supports** the proposed amendments to Section 6.32 of the OHSR.*

Submission: Section 6.58-6.66 – Lead

The Board seeks to significantly clarify the requirements for the handling and prevention of exposure to lead-containing products in their proposed amendments to Section 6.58 to 6.66 of the OHSR. The proposed regulation outlined is more prescriptive than the existing regulation, providing more detailed instruction to employers and workers with respect to how to control exposure to lead, ultimately leading to healthier and safer workplaces. Although the BCFED generally supports the proposed new regulation, there are a number of areas that require further consideration.

6.58.1 Definitions: Lead Process

The BCFED generally supports the list of work activities and processes provided as examples of lead processes. However, upon review, there are adjustments that could be made to ensure:

- the most hazardous work activities are identified,
- clarity of interpretation by utilizing common language and full-scope definitions, and
- that guidelines and other education materials are developed to promote awareness about preventing of lead exposures.

Firstly, the BCFED recommends that the proposed Section 6.58.1 (h) referring to “lead-acid accumulators” is changed to “lead-acid storage batteries” or “lead-acid batteries.” In doing research for this submission, the majority of the sources refer to “batteries”⁶ rather than “accumulators.” The regulation should be in plain language, reflecting terms and references that are commonly used to ensure that the regulation is easily understood.

➤ *The BCFED **strongly recommends** that the BOD amend proposed Section 6.58.1 (h) from “lead-acid accumulators” to “lead-acid storage batteries,” “lead-acid batteries,” or at least to add the reference to batteries, to ensure the regulation is easily understood.*

⁶ For example, references by the U.S. Department of Health and Human Services’ Agency for Toxic Substances and Disease Registry, CAREX Canada, International Agency for Research on Cancer, Health Canada, and Environment and Climate Change Canada.

Secondly, the BCFED finds the term “spray painting” in subsection (n) to be incomplete and somewhat misleading. It is our position that this should be amended to read, “applying lead-containing surface coatings” or “applying surface coatings.” This phrase more properly captures the full-scope of the activity and is in keeping with the term and definition proposed under Section 6.58.1, “coating” (referencing paint and similar materials), the language used in the Board’s existing publication, *Lead-Containing Paints and Coatings: Preventing Exposure in the Construction Industry* (“WCB-Lead/Construction”)⁷, as well as the Surface Coating Materials Regulations (SCMR)⁸ annexed to Canada’s *Hazardous Products Act*.⁹

Further, based on the exemptions listed in the SCMR Section 4(2), it would seem that spraying is not the only method of application that could expose workers to these lead-containing paints and surface coatings.

➤ *The BCFED strongly recommends that the BOD amend proposed Section 6.58.1 (n) from “spray painting” to “applying of lead-containing paint and surface coatings,” or “applying surface coatings,” to ensure the regulation is capturing the full-scope of the activity or work process.*

The occupational estimates of lead exposures by industry in Canada¹⁰ are reproduced in Table 1 below based off the data provided by CAREX Canada on their website. This data clearly identifies the largest number of workers exposed, as well as the largest number of high-level exposures, in public administration, including police officers (34,000 exposed) and the repair and maintenance occupations, including welders (77,000 exposed) and mechanics.

⁷ Workers’ Compensation Board of BC. (2011). *Lead-containing paints and coatings: preventing exposure in the construction industry*. Retrieved April 2016, from: http://www.worksafebc.com/publications/health_and_safety/by_topic/assets/pdf/LeadContainingPaintCoatings.pdf. [WCB-Lead/Construction]

⁸ Surface Coatings Materials Regulations, SOR/2005-109; Retrieved from: <http://www.laws-lois.justice.gc.ca/eng/regulations/SOR-2005-109/FullText.html>

⁹ Hazardous Products Act, R.S.C., 1985, c. H-3; Retrieved from: <http://www.laws-lois.justice.gc.ca/eng/acts/H-3/>

¹⁰ CAREX Canada. (December, 2012). *Lead*. Retrieved April 2016, from: http://www.carexcanada.ca/en/lead/occupational_estimate/#level_of_exposure

Table 1: Levels of Lead Exposure by Industry in Canada

	Low Exposure (n)	Moderate Exposure (n)	High Exposure (n)	Total Workers Exposed (n)
911-913: Public administration	16,000	100	25,000	41,000
811: Repair and maintenance	2,700	17,000	20,000	40,000
238: Specialty trade contractors	28,000	7,900	900	36,000
332: Fab. metal product mfg	9,000	14,000	800	23,000
336: Transport equipment mfg	4,100	12,000	3,100	19,000
333: Machinery manufacturing	11,000	200	100	12,000
331: Primary metal mfg	1,800	5,800	3,000	11,000
611: Educational services	1,100	5,800	2,600	9,400
236: Construction of buildings	5,400	3,900	0	9,300
441: Motor vehicle parts dealers	1,500	6,800	0	8,300
237: Heavy and civil engineering construction	5,300	0	0	5,300
326: Plastics and rubber products manufacturing	2,600	1,500	0	4,000

*Numbers may not add up due to rounding

The Board has produced a few publications and bulletins focusing on preventing lead exposures, with specific information regarding lead-containing paints in the construction industry¹¹ and lead exposures in plumbing, renovation and restoration¹². While these publications are appropriate and useful, there is no specific information produced with respect to repair and maintenance or public administration. For example, the Board's publication, *Lead: Preventing Exposure at Work*,¹³ does not even mention these two industries (aside from radiator maintenance) as being work activities that expose workers to high levels of lead. Considering the level of exposure documented in these industries, the BCFED strongly

¹¹ WCB-Lead/Construction, *supra* note 7

¹² For more information, see the Board's webpage, *Exposures – Hazardous Materials Exposures: Lead*, retrieved from: <http://www2.worksafebc.com/Topics/OccDisease/HazMatExposure.asp?ReportID=36950>

¹³ Workers' Compensation Board of BC. (2011). *Lead: preventing exposure at work*. Retrieved April 2016, from: http://www.worksafebc.com/publications/health_and_safety/by_topic/assets/pdf/lead.pdf. Pp. 2-3.

encourages the Board to develop an education and awareness campaign with respect to these lesser known occupations that have high lead exposure, in particular, police services.

- *The BCFED strongly recommends that the Board develop education and awareness materials for preventing lead exposures in police services as well as repair and maintenance occupations.*

In addition to those mentioned above, the Board's explanatory notes from the current discussion paper, as well as the description provided in the Board's publications, are missing specific references to other occupations and uses with notable lead exposures that may not be obvious to workers and employers. The following are some examples that could be more explicitly identified in the Board's publications:

- Manufacture of cable sheathing, circuit boards, lining for chemical baths and storage vessels, chemical transmission pipes, electrical components, polyvinyl chloride (PVC) as a chemical stabilizer, nuclear and radiation shielding (television, video, computer screens, nuclear waste containers, x-ray shielding aprons¹⁴), water repellents, dyes, varnishes and resins, automotive parts, explosives, and paper coatings.¹⁵
- Lead pigments and compounds¹⁶ (the second largest use of lead after lead-acid batteries), mainly for plastics, glass (including glass blowing) and ceramics, and paint primers (lead tetraoxide) for steel and iron.^{17,18}

¹⁴ U.S. Department of Health and Human Services' Agency for Toxic Substances and Disease Registry. (2007). *Toxicological Profile for Lead*. Retrieved from: <http://www.atsdr.cdc.gov/toxprofiles/tp13.pdf>. Pp. 19, 294

¹⁵ Health Canada. (2013). *Risk Management Strategy for Lead*. Retrieved from: http://www.hc-sc.gc.ca/ewh-semt/alt_formats/pdf/pubs/contaminants/prms_lead-psgr_plomb/prms_lead-psgr_plomb-eng.pdf. [Health Canada] P. 13.

¹⁶ This is of particular concern as in the Board's explanatory notes on page 9 of their discussion paper, *Proposed Amendments to Part 6: Substance Specific Requirements*, it refers to "pigments and coatings" as consumer products such as art materials. Clearly these pigments and compounds are used in the production of various products as well as in surface coatings applied by workers.

¹⁷ International Agency for Research on Cancer [IARC]. (2006). *IARC Monographs on the Evaluation of Carcinogenic Risks to Humans: Inorganic and Organic Lead Compounds*. (Volume 87). Retrieved from: <http://monographs.iarc.fr/ENG/Monographs/vol87/mono87.pdf>. [IARC-Lead] Pp. 69, 70, 165

¹⁸ Health Canada, *supra* note 15 at 13

- Lead chromate is used extensively as the yellow pigment in road markings and signs.^{19, 20}

➤ *The BCFED **strongly recommends** that the Board includes all of the above potential occupations, work activities, and processes in their publications and educational materials for stakeholders.*

Section 6.59.1 – Risk Assessment: Exposure Assessment

The Board proposes a new section, Section 6.59.1, outlining the requirements for a risk assessment to determine if workers are exposed to lead. While the BCFED supports the principle of identifying and assessing hazards in order to determine the need to eliminate or control these hazards, the Board’s proposal fails to address exposure assessments.

Section 6.59.1 (3) lists the things that must be considered in the risk assessment. Subsection (1) defines exposure monitoring. Subsection (4) specifies that *existing* monitoring data may be used to assess the effectiveness of existing control measures. However, there is nothing requiring the employer to actually conduct air sampling to assess the potential for overexposure if no data exists, pursuant to Section 5.53 of the OHSR.

In this scenario, if the employer does not have existing monitoring data but the risk assessment determines that the worker may be at risk of overexposure, there is no requirement to sample to assess this potential. This is of grave concern as the results of the risk assessment and the level of potential exposure identified is the criteria from which the other requirements flow from to protect workers, including the implementation of appropriate control measures, ongoing air monitoring, health monitoring, etc.

The BCFED understands that the intent of the substance specific requirements under Part 6 are to establish requirements that exceed the general requirements under Part 5, Chemical Agents and Biological Agents. In particular, the proposed regulations for lead specify that an exposure control plan must be developed and implemented if workers *may* be exposed to lead, rather

¹⁹ IARC-Lead, *supra* note 17 at 70

²⁰ This information is noted in the Board’s publication specific to surface coatings in construction (see note 7), but not in the general publication regarding preventing lead exposures (see note 13).

than only if exposures are found in excess of 50% of the exposure limit as provided in Section 5.54 (1).

The BCFED supports this improved requirement for lead due to the potential devastating effects of exposures to lead. However, because of the seriousness of lead exposures, it is our position that the principles of Section 5.53 must be incorporated into Section 6.59.1. It makes no sense to provide for the use of existing data with no provision to get data if an employer does not have any existing data, in order to assess the levels where a potential overexposure is identified. Sections 5.53 (2) and (3) state:

(2) If the walkthrough survey required by subsection (1) reveals that a worker may be at risk of overexposure to an airborne contaminant, the employer must ensure that **air sampling** is conducted to **assess the potential for overexposure**.

(3) Additional workplace monitoring to reliably determine worker exposure is required if

(a) the assessment under subsection (2) reveals that a worker may be exposed to an air contaminant in excess of 50% of its exposure limit, or

(b) measurement is not possible at 50% of the applicable exposure limit.

[Emphasis added.]

It is important to note that Section 5.53 (2) is *exposure assessment* sampling which is distinct from the air monitoring requirement proposed in Section 6.61 that requires employers to conduct air *monitoring* where a potential for **hazardous** exposure to airborne lead is identified. It is difficult to understand how an employer would identify *hazardous* or overexposures without conducting air sampling (or possessing objective data from an equivalent work operation). Incorporating this requirement into Section 6.59.1, whether explicitly or by reference to the Section 5.3, will also ensure the employer is in compliance with their obligations under Section. 5.48, Exposure limits, of the OHSR.

- *The BCFED **strongly recommends** that the Board amend proposed Section 6.59.1 to include the requirement to conduct air sampling to assess the potential for overexposure if a risk of overexposure is identified.*

Section 6.60 – Exposure Control Plan

Section 6.60 outlines the required components of the exposure control plan, including subsection (3) (d) which requires written procedures for “the correct selection, use, care and maintenance of any required personal protective equipment and clothing.” However, the proposed language does not provide any direction about how to achieve this.

The BCFED opines that Section 6.60 (3) (d) must at least make reference to Part 8, Personal Protective Clothing and Equipment, of the OHSR. The preferred option would be to develop specific regulations under this section for PPE and clothing, similar to those provided in Sections 6.29-6.31 regarding asbestos.

For example, in the U.S., the Occupational Safety & Health Administration (OSHA) Standard for lead, Section 1910.1025²¹, subsection (f) provides very specific requirements for National Institute for Occupational Safety and Health (NIOSH) approved respiratory protection, as well as for protective clothing in subsection (g). These provisions provide very clear direction for the employer, the worker, and the Board Officers with respect to how best to protect workers from lead exposure when using PPE and clothing.

- *The BCFED **strongly recommends** that the Board amend the proposed regulations to include specific direction for the selection, use, care and maintenance of PPE and clothing, in accordance with the OSHA requirements.*

Section 6.60.1 – Elimination or Control of Exposure

In Section 6.60.1 (1) the Board proposes the following, in part:

An employer must, to the extent it is **reasonably practicable**, ... [Emphasis added.]

²¹ Occupational Safety & Health Administration [OSHA]. (2001). Regulations (Standards-29CFR). Retrieved from: <http://www.nmic.org/nyccelp/laws/29CFR1910.1025.htm>. [OSHA-Lead]

This is followed in subsection (2) as follows, in part:

If it is not ***reasonably practicable*** to eliminate the risk of worker exposure to lead dust, fumes or mist, the employer must control the risk below the exposure limit by...
[Emphasis added.]

First, it is the position of the BCFED that there is no need for the redundancy of “reasonably practicable” in subsections (1) and (2) of the same section. In fact, the BCFED submits that the insertion of this phrase in subsection (1) lessens the impact, or connotation, of subsection (1) with respect to the employer’s responsibility to eliminate the hazard.

The BCFED prefers the language provided in Section 5.55 which states, in part:

(1) If there is a risk to a worker from exposure to a hazardous substance by any route of exposure, the employer must eliminate the exposure, or otherwise control it below harmful levels and below the applicable exposure limit established under [section 5.48](#) by...

Section 5.55 then goes on to make the allowance for elimination or substitution not being practicable in subsection (3) (a). Again, this ensures that the stakeholders are clearly aware that the first requirement is to eliminate or substitute the hazardous substance.

➤ *The BCFED **strongly recommends** that the Board remove the phrase “to the extent it is reasonably practicable” from proposed Section 6.60.1 (1).*

Secondly, throughout the balance of the existing regulations in Part 5 and Part 6 of the OHSR, the descriptor “reasonably” is never used in conjunction with “practicable” or “not practicable.”²² In lieu of this, the addition of the word “reasonably” in this new proposed

²² There are 14 references to “practicable” in Part 5 of the OHSR, including references to “not practicable” in Sections 5.14 (3)(b), 5.31, 5.55 (3)(a), 5.57 (2), 5.64 (2), 5.89 (1), 5.90 (1) and 5.91. There are 20 references to the word “practicable” in Part 6 of the OHSR, including references to “not practicable” in Sections 6.5, 6.10 (2), and 6.126 (1)(b).

language could be argued to be a new standard open to interpretation – it is certainly not clear as to the difference between “not practicable” and “not *reasonably* practicable.”

➤ *The BCFED strongly recommends that the Board remove the word “reasonably” from Section 6.60.1 (1) and (2).*

In addition, due to the carcinogenic properties of lead, Section 6.60.1 (1)(b) should make reference back to the requirements in Section 5.57 with respect to designated substances.

Section 6.60.1 (2) seeks to define the hierarchy of controls required to reduce the risk of exposure. However, again, the proposed language is confusing and inaccurate. Section 5.55 clearly defines the hierarchy of controls required if elimination is not possible as follows:

- (a) Substitution,
- (b) Engineering control,
- (c) Administrative control, or
- (d) Personal protective equipment.

The proposed language in Section 6.60.1 confuses this hierarchy as described below.

Elimination and Substitution

Subsection (1) discusses requirements for elimination, but has included substitution as well in subsection (b). Whereas substitution is sometimes grouped with elimination, this in fact is incorrect, or at least misleading. Elimination is at the top of the hierarchy as it completely removes the hazard. On the other hand, substitution is the second best method of control as it *reduces* the hazard by replacing a hazardous substance for a less hazardous one. For example, substituting a different substance often still exposes the workers to a hazardous substance, although less than that of the original substance – a hazard is not eliminated. Additionally, substituting a different form of the same substance, or using a product with less of the same

substance, may significantly reduce the risk to the worker, but it still has not eliminated the hazard.^{23,24}

Engineering Controls

The next step in the hierarchy is supposed to be engineering controls. The proposed subsection (2) (c)(i) states:

the design and use of appropriate lead dust, fume or mist reduction systems and engineering controls, and the provision and use of suitable work equipment and materials.

First, it is not clear why it says “**and** engineering controls,” as an engineered reduction system **is** an engineering control. It would be much more clear and accurate to frame it something like this:

- “the design and use of engineering controls, including...”; OR
- “engineering controls, including...”

Further, the phrase “*the provision and use of suitable work equipment and materials*” is very vague and does not sound like an engineering control as currently worded. If the Board was attempting to get at ventilation, or something similar, it would be clearer to explicitly state it as an example. On the other hand, what is glaringly missing is an explicit example of containment measures which are referred to in the proposed Section 6.60 (3)(a).²⁵

Administrative Controls

The next step in the hierarchy is administrative controls. Section 6.60.1 (2) (c)(ii) makes the same mistake as noted above by stating “including administrative controls” as opposed to identifying work practices as an example of administrative controls.

²³ Health Canada. (2009). *Environmental and Workplace Health: Workplace Control Measures*. Retrieved from: <http://www.hc-sc.gc.ca/ewh-semt/pubs/occup-travail/work-travail/index-eng.php>.

²⁴ Canadian Centre for Occupational Health and Safety [CCOHS]. (2014). *Hazard Control*. Retrieved from: http://www.ccohs.ca/oshanswers/hsprograms/hazard_control.html.

²⁵ Ibid

In addition, it would be useful to include as further examples: education and training, good housekeeping, emergency preparedness and personal hygiene.

Personal Protective Equipment

As an alternative to the recommended amendments under the subheading [6.60 – Exposure Control Plan](#) above, the amendments could be included in Sections 6.60.1 (2)(c)(iii).

➤ *The BCFED strongly recommends that the Board amend Section 6.60.1 as outlined above.*

Section 6.61.1 – Exceptions to Monitoring Requirements

Section 6.61.1 proposes that employers are not required to implement the exposure monitoring required under Section 6.61 if a qualified person determines that the controls in place are effective based on:

(b) The employer

- (i) has previously monitored for airborne concentrations of lead during equivalent work operations and there is no reason to believe that the results of the previous monitoring would not continue to apply, or
- (ii) has objective exposure monitoring data that was collected during equivalent work operations through industry surveys or peer-reviewed or scientific studies using sampling and analytical methods, referred to in section 6.61(2).

The Board's discussion paper states that this section adds the option for employers to "estimate" the level of worker exposure in order to implement controls, "bypassing" the requirements in section 5.53, by using:

- Information already published in literature, or
- Previous exposure data.

The Board provides the following rationale:

1. Air monitoring on construction sites is challenging because of the changing nature of work;
2. It is difficult to implement exposure monitoring in construction, especially among small and medium sized employers; and
3. It is difficult to obtain reliable data due to the short duration of work activities.

The BCFED has serious concerns with respect to the proposed regulation and the rationale provided. Developing regulation that allows employers to “bypass” existing requirements and “estimate” workers’ exposure is outrageous and frightening – it undermines the entire premise of the regulations developed to prevent workers’ exposure to hazardous substances, such as lead. In fact, these same arguments could be used by many industries with respect to any of the regulations in the OHSR – it is a slippery slope to allow blanket exception to regulations for the reasons outlined.

The rationale provided by the Board is not sufficient to support this regulation considering the construction industry has the potential for high levels of exposure to lead, requiring even stricter adherence to the regulatory requirements to ensure workers are adequately protected. Contrary to developing a regulatory work around, the fact that the work activities and processes are more precarious in construction provides an excellent reason for the Board, perhaps in conjunction with the construction industry, to commission studies on these work activities and processes to assist in developing more prescriptive regulations for the industry to implement without the need for an exposure assessment.

Additionally, although the BCFED understands that it may be cost prohibitive for small employers to obtain the exposure data required by the regulations, it is our position that there are already provisions in place for specific exemptions to the requirement. Section 164 of the *Workers Compensation Act*²⁶ allows for variance from a provision of the regulations for a specific workplace or work process of an employer. A variance order is the appropriate way to

²⁶ *Workers Compensation Act*. RSBC 1996. c. 492.

address this rationale as the Board would oversee the collection of data and implementation of controls.

The BCFED takes particular exception to Section 6.61.1 (2)(b)(ii) which allows employers to use “industry surveys.” It is not at all clear as to what “industry surveys” actually are. In the pre-consultation sessions for this section, employer stakeholders suggested the use of other employers’ exposure monitoring data for equivalent work operations – this seems starkly different from industry “surveys.”

- *The BCFED **vehemently opposes** the proposed Section 6.61.1, as it increases workers’ risk of exposure to lead, and strongly encourages the BOD to remove this section.*
- *If the BOD chooses to approve this section, the BCFED **strongly recommends** that the Board amend Section 6.61.1 (2) to tighten up the industry data allowed.*
- *If the BOD chooses to approve this section, the BCFED also **strongly recommends** that the Board develop comprehensive guidelines for the use and enforcement of this new section and ensure that there is strict enforcement of this requirement.*

Health Protection, Health Monitoring & Medical Removal

The BCFED has concerns with respect to the references to health protection, health monitoring, and medical removal in the proposed regulations.

Section 6.59.1 (1) – Risk Assessment: Health Monitoring

The proposed Section 6.59.1(1) defines “health monitoring” as monitoring conducted in accordance with:

- (a) an exposure control plan under section 5.54(2)(f), or
- (b) a health protection program under 6.67.

Section 5.54(2)(f) does not define health monitoring, but simply lists it as part of an exposure control plan, “when required.” The guidelines for this section, G5.54-5 Health Monitoring, provide direction as to when and what kind of health monitoring is recommended and include

the recommendation to conduct health monitoring for lead exposures. Health monitoring is also referenced in Section 6.11 regarding asbestos and in Section 6.79 with respect to pesticides – the guidelines for these sections refer back to G5.54-5 for direction.

As Section 5.54 does not outline any health monitoring requirements with which to conform, the definition that states that it is monitoring “in accordance” with Section 5.54 is inaccurate, as well as confusing to employers. This is also true for the reference to Section 6.67 discussed below. The regulation should be amended to provide explicit direction as to when and how health monitoring is required for lead exposures.

Section 6.67 – Health Protection

As noted above, Section 6.59.1 states that health monitoring may also be done in accordance with Section 6.67, which states:

The employer must develop and implement an effective health protection program, in a manner acceptable to the Board, if a worker is exposed to potentially hazardous levels of lead.

Health protection is not mentioned in Part 5 of the OHSR, and only mentioned one other time in Part 6, Section 6.79 specific to pesticides, which states:

Where, in the opinion of the Board, it is necessary to provide health monitoring for workers exposed to pesticides, employers and workers must participate as required by the Board, and records must be maintained in a manner acceptable to the Board.

The guidelines for these two sections do not provide any direction as to what a health protection program is, rather G6.67 references back to health monitoring under Section 5.54(2)(f). And G6.79 states its purpose as establishing the manner acceptable to the Board with respect to maintaining records of health monitoring. There is no guidance with respect to what a health protection program “*acceptable to the Board*” entails.

Once again, as there is no direction provided in Section 6.67, or the guidelines for any other reference to health protection programs, as to what a health protection program is, the

statement that “health monitoring” is monitoring in accordance with, or conforming to, Section 6.67 is at the very least vague. In contrast, the OSHA Standard Section 1910.1025 (j)²⁷ provides in-depth requirements for the medical surveillance of workers exposed to lead.

After going back and forth between the various references in the regulation and the guidelines, one is led to assume that a “health protection program” is in fact, “health monitoring” – in which case, why is the regulation using two different terms to mean the same thing?

- *The BCFED **strongly recommends** that the Board amend the definition of “health monitoring” in Section 6.59.1(1) to be more accurate and explicit as to the definition or requirements.*
- *The BCFED **strongly recommends** that the Board amend Section 6.67 to clearly prescribe what is required for a health protection program.*
- *The BCFED **strongly recommends** that the Board add the requirement for the worker to receive a copy of any health monitoring data.*

Section 6.58.1 – Definitions – Medical Removal

The Board proposes to add the definition of “medical removal” in Section 6.58.1 to assist with the interpretation of the existing Section 6.69(c) of the OHSR with respect to establishing provisions for the medical removal of workers in primary lead smelters. Section 6.69 provides that primary lead smelters are exempt from maintaining lead concentrations below the exposure limit, as long as they have a health protection plan and medical removal provisions.

First, it is unclear as to why the provision for medical removal is confined to primary lead smelter operations. In the U.S., the OSHA Standard Section 1910.1025 (k)²⁸ requires temporary

²⁷ OSHA-Lead, *supra* note 21

²⁸ OSHA-Lead, *supra* note 21

medical removal for workers who are exposed to lead at or above the “action level”²⁹ in *any industry*, with the following criteria:

- Blood lead level at or above 60 micrograms per 100 grams (60µg/100g) of whole blood—based on a periodic and follow-up sampling test;
- Blood lead level at or above 50µg/100g of whole blood – based on an average of the last 3 sampling tests (unless the last test showed levels at or below 40µg/100g;
- Final medical determination that a worker has a medical condition that places the worker at increased risk of impairment with further exposure.

The BCFED submits that medical removal should be required for workers in other industries that meet requirements similar to those outlined in the OSHA Standard. This would ensure that all workers exposed to high levels (hazardous levels) of lead would be monitored and removed if the medical data supported it, protecting them from further effects of lead exposure.

➤ *The BCFED strongly recommends that the Board expand the requirements for medical removal to include workers meeting specific requirements, similar to the OSHA Standard, in any industry.*

Further, contrary to the OSHA Standard, the Board does not provide any requirement for the employer’s responsibility to the worker who has been medically removed. For example, Sections 1910.1025 (k)(1) (iii), (iv), (v) and (k)(2) outline the requirements of the employer to return the worker to their former job status, remove special protective measures or limitations, follow up with medical surveillance (health monitoring) and medical removal protection benefits. Medical removal protection benefits require the employer to maintain the worker’s earnings, seniority, employment rights and benefits as if the worker was at work for up to eighteen (18) months.

²⁹ OSHA defines “action level” in Section 1910.1025 (b) as “employee exposure, without regard to the use of respirators, to an airborne concentration of lead of 30 micrograms per cubic meter (50 µg/m³) of air averaged over an 8-hour period.” This is approximately 50% below the Permissible exposure limit of 50 µg/m³ (or 0.05 mg/ m³), which is similar to the trigger level requiring additional workplace monitoring and an exposure control plan in Sections 5.53 and 5.54.

These requirements recognize that the worker requiring medical removal is not at fault and therefore should not suffer any loss as a result of the medical removal. It clearly prescribes the path for the employer to follow to ensure a smooth process for returning to work. It is the position of the BCFED that the Board should implement similar requirements for BC workers requiring medical removal as a result of overexposure to lead.

- *The BCFED **strongly recommends** that the Board develop comprehensive requirements for the medical removal of a worker, as discussed above, including medical removal protection benefits.*

Submission: Section 6.110-6.115.1 – Silica

The BCFED's recommendations for lead are the same for the silica sections listed below:

- [Risk Assessment](#) (6.112)
- [Exposure Control Plan](#) (6.112.1)
- [Elimination or Control of Exposure](#) (6.112.2)
- [Exception to Monitoring Requirements](#) (6.112.4)

In addition to the above, the BCFED submits the following.

Section 6.110.1 – Definitions: Silica Process

The BCFED generally supports the list of work activities and processes provided as examples of silica processes. However, upon review, there are adjustments that could be made to ensure that all of the potential hazardous work activities are identified.

According to CAREX Canada, the largest industrial group is construction – building construction and trade contractors make up approximately 54% of the exposed workers – with the largest occupational groups within that being: labourers, heavy equipment operators, plasterers and drywallers.³⁰ Aside from heavy equipment operators, these occupations are not easily identified under the silica process definition. In addition, occupations such as a traffic controllers (flaggers) are not identified.

Other industries or activities that may expose workers to crystalline silica and not easily identified in the silica process definition are: agriculture (including plowing and chemicals), glass (including fibreglass), ceramics (including bricks, tiles, porcelain, refractories, vitreous enamels), silicon, rubber and plastics, paints, soaps and cosmetics, asphalt and roofing felt, dental material, paint, etc.³¹

³⁰ CAREX Canada. (June, 2015). *Silica (Crystalline)*. Retrieved April 2016, from:

[http://www.carexcanada.ca/en/silica_\(crystalline\)/](http://www.carexcanada.ca/en/silica_(crystalline)/)

³¹ IARC. (1997). *IARC Monographs on the Evaluation of Carcinogenic Risks to Humans: Silica, Some Silicates, Coal Dust and Para-aramid Fibrils*. (Volume 68). Retrieved from

<http://monographs.iarc.fr/ENG/Monographs/vol68/mono68.pdf>. [IARC-Silica] Pp. 62-63

- *The BCFED **strongly recommends** that the Board includes all of the above potential occupations, work activities, and processes in their publications and educational materials for stakeholders.*

Section 6.110.1 – Definitions: Dust Reduction System

The Board's proposed requirements for a dust reduction system in 6.110.1 places the substitution of silica for a less hazardous product or process at the bottom of their list (d). This method should properly be at the top of the list indicating its priority of effectiveness in preventing exposures. In the Board's explanatory notes, page 15 of the discussion paper, the dust reduction system methods are listed in their proper order, with a minor adjustment:

1. Using a different process or material (substitution)
 2. Containing the RCS dust (engineering)
 3. Local exhaust ventilation (engineering)
 4. Using wet methods (engineering or administrative, depending on how its implemented)
- *The BCFED **strongly recommends** that the Board reorder the bullets in the definition of “dust reduction systems” in Section 6.110.1 to reflect the hierarchy of controls in accordance with Section 5.55 of the OHSR.*

Submission: Section 12.83.1 – Chassis Dynamometer

The Board proposes to move the requirements of the existing Policy R12.2-1 of the *Prevention Manual*³² with respect to safeguarding requirements for testing motor vehicles on chassis dynamometers into Part 12 of the OHSR. The BCFED supports this proposal as the OHSR is the appropriate place for occupational health and safety requirements for tools, machinery and equipment.

- *The BCFED **strongly supports** moving the safety requirements for chassis dynamometers from policy into the OHSR.*

Submission: Section 13.11 – Engineering Required: Scaffolds

Section 13.11 of the OHSR specifies the work platforms that must be constructed, installed and used in accordance with engineering instructions. The Board seeks to add a new subsection (e) which requires a scaffold be used to support a crane or hoist to be engineered.

- *The BCFED **supports** the amendment to Section 13.11 of the OHSR.*

Submission: Part 14 – Cranes and Hoists

Section 14.1 – Definitions

The Board proposes to remove the definitions for “miscellaneous material hoist” and “safe working load” from Section 14.1 of the OHSR as these terms are not used in Part 14.

- *The BCFED **supports** the proposed amendments to Section 14.1 of the OHSR.*

Section 14.2 – Construction Material Hoist (Light Duty)

Section 14.2(8) of the OHSR requires construction material hoists to meet the CSA Standard for Material Hoists. Section 14.96 also relates to construction material hoist requirements prior to

³² Workers’ Compensation Board of BC. (2014). *Prevention Manual*. Retrieved from: http://www.worksafebc.com/publications/policy_manuals/Prevention_Manual/Assets/PDF/prevmnl.pdf

use and refers to the same CSA Standard, but allows an exemption for light duty portable material hoists in subsection (3).

The current guideline G14.96 explains that light duty portable construction material hoists were never intended to be covered by Section 14.2(8) as many requirements of the CSA Standard do not apply to these hoists. As this practice has been in place for some time and as the BCFED is unable to find any evidence to the contrary at this time, we are prepared to support the amendment to align Sections 14.2(8) and 14.96(3).

➤ *The BCFED **supports** the proposed amendments to Section 14.2 of the OHSR.*

Section 14.5 – Rated Capacity Indicators

The Board proposes amendments to Section 14.5(1) and (2) of the OHSR, clarifying that subsection (1) does not apply to subsections (2) and (3). In addition, it proposes to clarify a term that will allow for the deleting of Policy R14.5-1 of the *Prevent Manual*.

➤ *The BCFED **supports** the proposed amendments to Section 14.5 of the OHSR.*

➤ *The BCFED **supports** deleting Policy R14.5-1 of the Prevention Manual.*

Section 14.11 – Support Structures

The proposed amendments for Section 14.11 of the OHSR clarifies that the rated capacity of the structure must not be exceeded by the rated capacity of the crane or hoist. The BCFED supports this amendment as it improves worker safety.

Additionally, the Board proposes to delete the accompanying Policy R14.11-1 of the *Prevention Manual* as the requirements contained in the policy are already provided for in other sections of the OHSR. However, the Board is contemplating including some of the explanatory information from the policy in a guideline, which the BCFED supports in order to not lose this important guidance.

➤ *The BCFED **supports** the proposed amendments to Section 14.11 of the OHSR.*

- *The BCFED **supports** the deletion of Policy R14.11-1 of the Prevention Manual but recommends the retention of any pertinent guidance information in a guideline.*

Section 14.81 – Limit Devices

The Board proposes to move the requirements for testing limit devices on tower cranes in Policy R14.81-1 of the Prevention Manual into the OHSR. The BCFED supports that regulation is the appropriate place for safety requirements of cranes and hoists.

The Board explains that reference to the CSA Standard in the existing policy will not be put into the regulation as the Board's proposed regulation is stronger.

In addition, the Board proposes to amend the regulation to ensure that the malfunction of any warning devices, limit devices or safety devices are remedied before use.

- *The BCFED **supports** the proposed amendments to Section 14.81 of the OHSR.*
- *The BCFED **supports** the deletion of Policy R14.81-1 of the Prevention Manual, moving the requirements into the OHSR.*

Submission: Section 20.2 – Construction, Excavation, Demolition: Notice of Project

The Board proposes amendments to Section 20.2 of the OHSR with respect to notice of projects (NOP), as well as introducing new requirements for the notice of project for hazardous substances under Section 20.2.1 (formerly section 20.2(1)(c)).

Subsection 20.2(3) is amended to add the requirement for the NOP to be posted for the duration of the project – this is extremely important for the ongoing safety of workers as well as for Board officers' enforcement activities.

Section 20.2(5) has been amended to require information to be sent to the Board if the conditions of the original NOP change significantly. This is also an important amendment for the same reason described above.

➤ *The BCFED supports the proposed amendments to Section 20.2 of the OHSR.*

Section 20.2.1 contains the existing requirements of Section 20.2(1)(c) but adds the requirement for employers responsible for work activities with hazardous substances to ensure the Board gets a copy of the NOP. This is an important improvement due to the workers' potentially significant exposures to hazardous substances.

The Board also proposes in subsection (1) that the NOP be provided 72 hours prior to the work activity, as opposed to 24 hours. This amendment is proposed to allow the Board officers more time to review the work procedures and for the employer to amend any procedures that the Board identifies prior to work beginning. It is the position of the BCFED that increasing the notice to 72 hours is not overly onerous on employers in comparison to the risk of exposing workers to hazardous substances without adequate controls. This amendment will lead to the greater protection of workers potentially exposed to hazardous substances.

➤ *The BCFED supports the proposed amendments to Section 20.2.1 of the OHSR.*

Submission: Section 22.12 – Underground Supervisors

The Board proposes significant amendments to Section 22.12 respecting underground supervisors, described as follows in the Board's discussion paper:

The purpose of the proposed amendments is to reduce the number of variance requests made by employers. The proposed amendments to section 22.12 of the Occupational Health and Safety Regulations ("OHSR") incorporate the qualifications that are deemed "acceptable to the Board" in the variance process. The proposed amendments broaden the qualification requirements for the underground working supervisor beyond the certifications issued under the Mines Act.

The BCFED and affiliated subject-matter experts participated in the fulsome pre-consultations for these amendments. The main concern during consultation was that the qualifications for underground supervisors remain comprehensive in order to maintain a high level of safety in

these very high risk work activities, while still allowing employers flexibility in identifying these qualified workers.

The BCFED is satisfied with the adjustments made by the Board to these proposed amendments following the pre-consultation sessions and generally supports the amendments as proposed.

➤ *The BCFED **supports** the proposed amendments to Section 22.12 of the OHSR.*

Submission: Section 23.69 – Oil and Gas: Flow Piping Systems

The Board proposes substantial changes to Part 23 of the OHSR, in particular to Section 23.69 regarding flow piping systems. At this time, the BCFED has not identified any reduction of worker safety with these changes. However, the BCFED retains the right to raise concerns upon further review.

➤ *The BCFED **tentatively supports** the proposed amendments to Sections 23.1, 23.14, 23.26.1, 23.69 and 23.72 of the OHSR.*

Submission: Section 26.13.4 – Saw Chain Shot

The Board proposes the addition of a regulation, Section 26.13.4, requiring mobile equipment in forestry-related operations to be equipped with windows that protect the worker from saw chain shot. The BCFED is in agreement with this new requirement but is concerned with the implementation date of February 2018, as it continues to leave workers exposed.

During pre-consultations, industry indicated that this was necessary due to the time it would take for mobile equipment manufacturers to design and test the new thicker windows along with the other protective equipment. While the BCFED understands this rationale, leaving workers unprotected from saw chain shot for another two (2) years is troubling.

➤ *The BCFED **supports** the proposed amendments to Section 26.13.4 of the OHSR, but **strongly recommends** that the BOD reduce the timeframe for implementation.*

Conclusion

The Federation appreciates the opportunity to provide a submission regarding the proposed OHSR amendments. We are confident that the Board of Directors will seriously consider this submission and revise the proposed regulations based on our recommendations, in support of healthier and safer workplaces and work activities.