December 8, 2023 |

Briefs

Submission to the WCB re Draft 2024-2026 Regulatory Workplan

A pdf of the complete submission can be found here(258 KB).

The BC Federation of Labour (“BCFED,” “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,” “Board”) 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.

The BCFED appreciates the opportunity to comment on the proposed regulatory workplan for 2024-2026.

The BCFED will comment only on those regulations which require our recommendations.

New projects

Part 20 Construction, Excavation and Demolition – Flush toilets

Part 4 General Conditions, Section 4.85 Washroom Facilities

This past October, the BC government announced the introduction of a legal requirement for flush toilets on construction sites with 25 workers or more.

The government was responding to the BC Building Trades (“BCBT”) “Get Flushed” campaign initially launched following significant health and safety concerns in the construction industry

during the COVID-19 pandemic. The campaign was relaunched in 2023 to a wide media audience.[1]

The BCFED supported the BCBT campaign and is pleased construction workers across the province will have improved sanitary conditions on their worksites. The changes will ensure construction workers are treated with dignity and respect.

We understand the proposed regulatory changes will be added to Part 20, Construction, Excavation and Demolition.

In 2023, Ontario implemented new requirements for washrooms on construction sites and these may provide a model for the current WCB review.[2] They have gender designated washrooms for men and women.

The BCFED recommends the WCB require employers to provide undesignated washrooms with locking doors to provide improved protections for gender-diverse and women workers.

The BCFED supports the project providing flush toilets for construction workers.

The BCFED is concerned the flush toilets requirements will be restricted to the construction industry leaving thousands of workers without access to proper washroom facilities--industries such as agriculture, forestry, traffic control, highways maintenance, trucking and transit to name a few.

In 2005, the Liberal government in their “red tape” review of the *Occupational Health and Safety Regulation* (“OHSR”) made significant changes to Part 4, General Conditions, Section 4.85, Washroom Facilities. The changes did not benefit workers.

This regulation has not been reviewed for almost 20 years and if the COVID-19 pandemic has taught us anything, it is that proper washroom facilities are an important component of the layer of protective

measures preventing virial infections.

The BCFED recommends a complete review of Part 4, General Conditions, Occupational Environmental Requirements, Sections 4.84-4.87 be placed on the regulatory workplan for 2024-2026.

Part 8 Noise, Personal Protective Clothing and Equipment, Section 8.3, Selection, use and maintenance.

The WCB proposes to review Section 8.3 as there is no current standard of fit required for Personal Protective Clothing.

We agree with the WCB the current regulation does not reflect the diversity of workers, including those who are Indigenous, Black and People of Colour, gender diverse, non-binary and women.

We agree the current guidelines need improving because the gender inclusive approach is bare minimum.

> When different sized garments are created, they are often based on the same relative proportions, and as such may not properly fit all body shapes and sizes. For example, smaller sizes may still not provide a proper fit for women, or for others whose bodies don't conform to this "standard."[3]

Our affiliated unions, the International Union of Operating Engineers and the International Longshore Workers Union have met with the government and the WCB urging changes be made to Section 8.3.

The BCFED recommends the WCB look to the new Canadian Standards Association ("CSA") Standard in developing proposed amendments for Section 8.3.

Ongoing projects

5. Part 4, General Conditions, New Section - Psychological Safety

This regulatory review is a priority for BCFED and our affiliated unions. Mental disorder claims reported to the WCB have increased from 3,334 in 2017, to 6,352 in 2021. The increase in claims coincided with the 2018 and 2019 introduction of limited presumptive coverage for exposure to a traumatic event or events for certain occupations.

The COVID-19 pandemic had an impact on the mental health of thousands of workers, those who continued to come to work and those who worked remotely.

In BC there are no regulatory requirements to prevent the psychosocial hazards or factors contributing to psychological injuries. In 2013, the CSA introduced the Psychological Health and Safety in the workplace standard CAN/CSA-Z1003-13. This standard is voluntary and specifies requirements for a documented and systematic approach to develop and sustain a psychologically healthy and safe workplace. The standard was updated in 2022.

20 years ago, the standard put Canada on the leading edge of support for workers experiencing psychosocial hazards at work, often resulting in serious psychological injuries.

But it is voluntary. Many employers espouse the belief that psychological injuries are a societal issue, not caused by workplace culture and organizational factors. Therefore, they should not be held accountable.

Countries such as Australia and the European Union members have recognized the need for mandated requirements and have introduced regulations to prevent psychosocial hazards at work. The state of Queensland in Australia has introduced a regulation and a code of practice.[4]

It is time to develop a regulation to prevent psychosocial hazards in BC workplaces and we have international models to follow and to learn from.

The BCFED strongly urges the WCB to prioritize this regulation in the 2024-2026 workplan.

10. Part 7, Noise, Vibration, Radiation and Temperature, Multiple Sections - Cold Stress Limits

The WCB proposes to update and clarify the regulatory requirements of the 2018 ACGIH TLV for cold stress. Currently, the regulation is based on the terminologies and categorization system from the 1993 ACGIH Standard.

The BCED agrees with this review and is concerned that such an outdated standard is still in use, increasing the likelihood of injuries for workers exposed to cold temperatures.

23. Part 31, Firefighting, Multiple Sections -Wildland Firefighters

2023 saw the worse wildfire season on record. Fires raged across British Columbia and six young firefighters died: Devyn Gale, 19, Zak Muise, 25 and four who died in a vehicle accident on their way home from working a 14-hour shift.[5]

Predictions are wildfires caused by climate change will continue to increase in frequency and ferocity, risking wildfire fighters' physical and psychological health and safety.

The pre-consultation session for Part 31, wildland firefighters was held in the fall of 2021.

The BCFED urges the WCB to move this regulation review along quickly. There is no time to lose as the 2024 wildfire season is only months away. A new regulation will ensure employers provide safe and healthy workplaces for wildland firefighters.

Potential projects

2. Part 6, Substance Specific Requirements, New Section -Radon

The BCFED is disappointed the radon exposure review is designated as a potential project. Along with the BCGEU, we have been urging the WCB to prioritize a review of Part 7, Division 3, Radiation Exposure Section 7.18 (2).

> (2) This Division does not apply to medical or dental radiation received by a patient, or to natural background radiation, except as specified by the Board.

The WCB considers radon as natural background radiation and therefore exempted from the requirements of Part 7, Division 3.

In 2009, the WCB commissioned their own report on radon exposures in workplaces, Focus on Tomorrow, Radon in BC Workplaces by Dr. Ray Copes. The report made recommendations to improve the regulatory requirements for exposures to radon.

> Since WorkSafeBC has jurisdiction for radiation safety in general workplaces for the province, the Occupational Health and Safety Regulation should provide the specific requirements for worker protection. However, as identified in part 2.4 a) of this report, the Regulation does not give clear guidance on whether workplace exposure to radon (or radiation from NORM sources generally) should be considered as “background radiation” (and therefore exempt from the requirements of the regulation). Otherwise, it is should be treated as radiation exposure to which the regulation does apply, as with other sources of radiation identified under part 7 of the regulation. The Guidelines to the Regulation also do not clarify this issue further. However, Part 7.18 (2) of the Regulation permits WorkSafeBC to specify if and how the regulation would apply to radon if it is considered to be natural background radiation exposure. Alternately, the Board could amend the regulation to provide specific requirements on how radon and other sources of natural (background) radiation must be dealt with in BC workplaces. The results of past and recent testing for radon in a variety of workplaces in BC (and elsewhere) shows that the levels can result in workers receiving doses that would exceed the Action Level (Ionizing Radiation) of 1 mSv/y, as specified in part 7.18 (2) of the regulation, in some BC workplaces. [6]

The report clearly warns the WCB that the results of radon testing in a variety of BC workplaces showed workers were being exposed to levels of radon exceeding the levels specified in part 7.18 (2).

In 2016, Carex Canada estimated that 190,000 people across Canada are exposed to some levels of radon. 54% are women.

> Results show that approximately 190,000 Canadians are occupationally exposed to radon; 54% are female. Industries with the greatest number of exposed workers are elementary and secondary schools, provincial and territorial public administration, and universities. When radon exposure is examined by occupation, the groups with the largest number of workers are administrative assistants (9,200 workers exposed), general office support workers (8,700 workers exposed), receptionists (5,400 workers exposed), and elementary school and kindergarten teachers (5,100 workers exposed). However, the workers at risk of highest exposure to radon are people who work in underground mines.
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> The number of workers exposed to radon stayed approximately the same from 2006 to 2016. [7]

Carex recently released research showing increased levels of radon exposure in young people associated with COVID-19. “Consequences of changing Canadian activity patterns since the COVID-19 pandemic include increased residential radon gas exposure for younger people.”

> A key takeaway message from this work, however, is that the onset of the COVID-19 pandemic marks a sudden and widespread alteration in human activity patterns, a behavioural determinant of health. While most people are not spending any more or less time indoors (still ~ 86% of life, post March 2020), there have been average increases of > 1000 h in the amount of time spent at home in a year (equating to 77% of life at home), and this remained consistent beyond the periods of enforced lockdowns that were part of the initial COVID-19 pandemic response in the study region. While we do not suggest that the ‘mid-pandemic’ magnitude in activity pattern shifts observed from 2020 to 2021 will be permanent, we speculate that they will not return to the pre-pandemic baseline of 66–69% of life at home, and will likely stabilize over the long term at an intermediate value (relative to the early pandemic extremes) due to the normalization and demand for hybrid work arrangements across sectors.
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> Changing activity patterns mean changing health risks driven by indoor environmental toxicants such as residential radon. This collateral consequence of the COVID-19 pandemic is widespread but not universal, and we find differs by age, work status, job type, employment

sector, community type, and other demographic variables. Those who are younger, in work, and who live in urban and suburban regions are among the most impacted, and are now experiencing significantly increased doses of radiation to their lungs from residential radon gas exposure. Based on all available information regarding radon exposure[2,9,10,11,13,14,16,20], this is expected to increase lifetime lung cancer risk for populations moving forward. Additionally, we note that the workers who are most impacted (i.e., those working in office/desk jobs that are now more likely to be performed from a residential property for at least part of the time) are a group that is not traditionally considered in occupational health campaigns. This marks a sudden but important shift in how those with responsibility for workers' health will need to consider cancer prevention programming in the future.[8]

According to Statistics Canada, radon is the second leading cause of lung cancer.[9]

There is increasing and more public dialogue about radon exposures from Health Canada,[10] and the Canadian Lung Association.[11] The National Collaborating Centre for Environmental Health has an excellent list of peer-reviewed Canadian radon literature.[12]

Given the abundance of supportive research, the BCFED is curious as to the reasons for the WCB's reluctance to move quickly to ensure there are regulatory requirements to prevent worker exposures to radon.

The BCFED strongly urges the WCB to make the regulatory review for radon exposures a priority for the 2024-2026 workplan.

3. Part 7, Noise, Vibration, Radiation and Temperature, Sections 7.27-7.32 Heat Exposure

We are pleased the WCB has included a review of the requirements for Division 4, Thermal Exposures Heat Stress, Sections 7.27-7.32.

Since 2021, thousands of workers in British Columbia have been exposed to increasing extreme weather events such as wildfires, heat domes and floods, and the coming years will continue to see an increase in worker exposures to these events.

The BCFED considers heat exposure hazards an urgent matter. It is a concern for both indoor and outdoor workers.

On reviewing the guidelines, we noted the ACGIH standard referenced is from 2007. This standard was developed long before the impacts of climate change. And there is an updated 2022 standard.

Ontario has been conducting a consultation with stakeholders on their heat stress regulation and attached is the excellent submission with recommendations from the Occupational Health Centre for Ontario Workers (OHCOW).[13]

The WCB is developing an app to help workers determine if they are exposed to heat stress. The app includes a list of precautions workers and employers can take. One of the recommended mitigations is for workers to be given appropriate breaks. Many of the most vulnerable and at-risk workers will not be given breaks until employers are required to provide breaks by law.

More prescriptive requirements for employers to prevent heat stress exposures will protect thousands of workers working in all industries in BC. And updating the requirements will align the WCB with other national and international standards.

The BCFED recommends the WCB add a review of the heat exposures requirements to the review of cold stress requirements in the ongoing projects of the 2024-2026 regulatory workplan.

[1] https://getflushed.ca/

[2] https://www.ontario.ca/laws/regulation/r23061#top

[3] https://www.worksafebc.com/en/law-policy/occupational-health-safety/searchable-ohs-regulation/ohs-guidelines/guidelines-part-08#SectionNumber:G8.3

[4] https://www.worksafe.qld.gov.au/laws-and-compliance/codes-of-practice/managing-the-risk-of-psychosocial-hazards-at-work-code-of-practice-2022

[5] https://bc.ctvnews.ca/4-wildfire-fighters-killed-in-collision-on-b-c-highway-1.6570312

[6] https://www.worksafebc.com/resources/about-us/research/radon-in-british-columbia-workplaces?lang=en&direct

[7] https://www.carexcanada.ca/profile/radon-occupational-exposures/

[8] https://www.carexcanada.ca/consequences-of-changing-canadian-activity-patterns-since-the-covid-19-pandemic-include-increased-residential-radon-gas-exposure-for-younger-people/

[9] https://www150.statcan.gc.ca/n1/pub/16-508-x/16-508-x2016002-eng.htm

[10] https://www.cbc.ca/news/canada/sudbury/radon-testing-lung-cancer-1.6660296

[11] https://www.lung.ca/radon

[12] https://ncceh.ca/resources/subject-guides/radon#h2-2

[13] https://bcfed.ca/sites/default/files/attachments/OHCOW_Heat_Stress_Submission_-_Sept_18_2023.pdf(1 MB)