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Briefs

Submission to the WCB on proposed regulatory amendments to OHSR Part 14, Tower Cranes

A pdf of the complete submission can be found here(176 KB).

The BC Federation of Labour (“Federation” “BCFED”) appreciates the opportunity to provide a submission on the proposed amendments to Part 14, Tower Cranes, Sections 14.73.1- 14.75, Notice of Project (NOP).

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” “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.

This submission was prepared in consultation with our affiliates. The BCFED thanks our affiliates the International Union of Operating Engineers (IUOE Local 115) for their assistance with this consultation.

Background

In Kelowna, on the morning of July 12, 2021, the arm of a crane fell about 25 storeys as it was being dismantled at the site of a residential tower under construction by the real estate company Mission Group. It smashed into a neighbouring office building and a seniors' home.

Four construction workers were killed: Cailen Vilness, Jared Zook and brothers Eric and Patrick Stemmer. Brad Zawislak, who was working in the office building, also died. A fifth construction worker was injured in the collapse.

These deaths have devastated the families, co-workers and the community. Meanwhile, two years later, the WCB has not released their completed investigation report while they wait for the RCMP to conclude their criminal investigation.

Both the IUOE Local 115 and the United Steelworkers District 3 have urged the parties to release their reports. Workers and families need to know what went wrong so that protective measures can be put in place to prevent further tragedies.

We urge the WCB to consider a further review of Part 14 in response to the findings of the investigation report into the Kelowna crane collapse incident.

The BCFED supports the work of the WCB on these regulatory amendments and strongly believes the NOP requirements for tower cranes will improve the safety of workers and the public.

We will only comment on the sections where we believe there needs to be further amendments.

Submission

Section 14.74.1 Notice of Project Subsection (5)

Section 14.74.1 (1) sets out the requirements for a NOP for crane activity.

And crane activity includes the following work activities:

a. Erecting a tower crane;
b. Climbing a tower crane;

c. Repositioning a tower crane; and
d. Dismantling a tower crane.

Subsection (5)

The proposed amendment for Subsection (5) states:

> If it is necessary to climb, reposition or dismantle a tower crane prevent immediate risk of injury to a person or damage to property, despite subsection (2), that crane activity may begin immediately after the Board has been notified of the intended crane activity.

The BCFED notes “erecting” a tower crane which is included in the definition of crane activity in Section 14.75.1(1) has not been included in Subsection (5).

The Explanatory Notes state that Subsection (5) does not include “erecting” a tower crane because this activity does not occur in an emergency.

We are concerned the omission doesn’t consider the possibility of using a self-erecting crane in an emergency, for example, in an incident of a building collapse and it is needed to protect lives and property.

In Section 14.73.1, Definitions, “tower crane” means a tower crane that is erected on sight of component parts or that is self-erecting.

Recommendation

Therefore, the BCFED recommends the WCB further amend Subsection (5) and add “erecting” crane activity to address the possibility of using a self-erecting crane in an emergency event.

Section 14.74.1 (7)

This section sets out the requirements that if the NOP provided to the Board changes significantly, the employer and the prime contractor have to submit the new information, in writing, as soon as possible.

(7) If any of the information included in a notice of project provided to the Board changes significantly, every employer responsible for the crane activity to which the notice of project relates and either the owner or any person engages by the owner to be the prime contractor must ensure that.

(a) the Board receives the new information, in writing, as soon as possible.

The BCFED questions the use of “significantly” to describe changes that must be provided to the Board. This language is consistent with other NOP requirements in the Occupational Health and Safety Regulations (OHSR). For example, Section 20.2 (5) NOP for construction [1]and Section 20.2.1 (7) NOP for hazardous substances, both speak to the requirement to submit information if the original NOP changes significantly.

The BCFED opines there will be differing interpretations and decisions made on what is considered significant, e.g., differences between common usage and the legal interpretations of statutes and regulations.

The Explanatory Notes provide some examples of what the WCB would consider significant changes, including changing the type of crane or changing the qualified supervisor. But if the supervisor is the same, changing a worker would not be considered a significant change.

Despite the frequent use of “significant” in the OHSR, the WCB does not provide a definition or guidance on how to determine if the NOP is significantly changed in any of the previously mentioned regulations.

Subsection (7) applies to the requirements for the NOP in Subsection (3)(a-g).

The BCFED strongly believes any changes to these requirements must be reported to the WCB. Tower crane work is dangerous work as acknowledged in the Explanatory Notes. The NOP is intended to assist the WCB with inspections and enforcement.

We are curious as to what types of changes in Subsection (3)(a-g) the WCB would consider insignificant and not reportable?

Recommendation

The BCFED strongly recommends the WCB amend Subsection (7) and remove the word “significantly” ensuring that all changes to the NOP are reported.

Subsection (7)(b)

The proposed amendment for Subsection (7)(b) states:

> If the new information is information described in subsection (3)(a) to (e), an updated notice containing the new information is posted at the workplace as soon as possible and remains posted for the duration of the crane activity.

Subsection (3)(f) ensures that work procedures established specifically for the workplace to ensure the safety of a person during the crane activity at that workplace.

Again, we are curious about the reasons for the WCB excluding posting of the changes to the work procedures.

Work procedures are developed after a process of hazard identification, risk assessment and implementation of control measures--a process that involves consultation with the joint committee or worker representative. Work procedures are essential to ensuring safe work and workers have a right to know. And if changes are made, workers have a right to know that information. Employers communicate important health and safety information by posting and making the information readily available.

Workers also have a right to know if there is a change in supervisors, that the person is qualified to do crane activity work.

Recommendation

The BCFED strongly urges the WCB to further amend subsection (7)(b) to require employers to post any changes made to subsection (3)(a-g).

Conclusion

We appreciate the opportunity to provide our comments on these proposed amendments. The BCFED urges the WCB to seriously consider making further amendments based on our recommendations.

We urge the Board of Directors to ensure the appropriate resources are available to ensure workers, employers and prevention officers have the support to properly implement the requirements.

[1] https://www.worksafebc.com/en/law-policy/occupational-health-safety/searchable-ohs-regulation/ohs-regulation/part-20-construction-excavation-and-demolition#SectionNumber:20.2.and 20.2.1