June 30, 2022 |

Briefs

Submission to public hearings for regulatory amendments to Part 3, Occupational First Aid

A pdf of the complete submission can be found here(340 KB).

Introduction

The BC Federation of Labour (“Federation,” “BCFED”) appreciates the opportunity to provide our submission with respect to the proposed amendments to:

Part 3: Rights and responsibilities, Occupational first aid, Sections 3.1, 3.14-3.21 and Tables: 3-A Minimum Levels of First Aid and 3-1, Minimum requirements

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 3: Rights and responsibilities, occupational first aid, Sections 3.1 - 3.21

The Legacy of Ted Gramlich

In the early 2000's under the Liberal government's "Red Tape" program, the Occupational First Aid regulation was substantively changed. The requirement to follow the Schedule A tables which specified minimum levels of first aid required for workplaces were removed to guidelines, and employers were instead required to do a risk assessment to determine their own first aid requirements.

The BCFED and our affiliates warned that this gutting of the regulation would endanger workers and likely result in worker deaths. Unfortunately, our predictions became reality in the death of Ted Gramlich in 2006.

The veteran faller had been working on a remote, steep hillside when he was hit by the tree he was harvesting. Seriously injured, he died in hospital two hours later. There was no plan for emergency transportation to a hospital.

A Coroner's Inquest into his tragic death made several recommendations to improve health and safety for fallers. This included a recommendation to the WCB that, "Minimum first aid services and equipment be withdrawn from guidelines to be once again governed by regulation." The recommendation was implemented.

The BCFED supports this long overdue review of the Occupational First Aid regulation. Overall, we believe the changes are good. We are pleased the proposed amendments will enhance the first aid provided to injured workers.

As stated in the Explanatory Notes, the purpose of the review is to update the first aid requirements, with a focus on high-risk remote industries and to harmonize the regulation with the first aid training and the first aid kits requirements of the CSA Z1210-7 and CSA Z1220-17.

Schedule 3-A has not been reviewed for 20 years.

A review of the proposed changes since the public consultation.

The BCFED agrees with the following changes:

1. Section 3.16 (3.1) Basic requirements:

   We are pleased to see the proposed amendment to involve the Joint Occupational Health and Safety Committee and worker representative in the preparation, review and updating of the first aid assessment to ensure worker perspectives and needs are considered.

2. Section 3.16(4):

   First aid items must be readily available any time a worker is at the workplace.

3. Section 3.17 – First aid aid procedure:

   We agree with the proposed amendment to replace “worksite” with “workplace” but in our prior submission we recommended the addition of “workplace location” to further clarify workplace. This issue is addressed in the current guideline for conducting a first aid assessment.

The BCFED remains concerned with the following proposed amendments:

Section 3.1 (1) (a) (ii) When program required

Section 3.1 (1) (a) (ii) sets out the requirements for employers to have an occupational health and safety program. Under the current language the hazard rating is determined by the workplace assessment according to Section 3.16 (2) (b).

The WCB is proposing to amend Section 3.1 (1) (a) (ii) to determine hazard rating under Section 3.14 Definitions.

At least one workplace that has a hazard rating, within the meaning of Section 3.14 of moderate or high.

Section 3.14 Definitions

Hazard rating

In relation to a workplace means the hazard rating of low, moderate or high that is specified by the Board for the workplace classification under section 244 of the Act.

The BCFED has concerns with the establishment of the WCB hazard rating system.

The definition for hazard rating is reliant upon Section 244 of the *Workers Compensation Act* (WCA, Act) which sets out the authority of the WCB to assign classification units as follows.

Classification of industries

> ***Section 244*** *(1) The following classes are established for the purpose of assessment in order to maintain the accident fund:*

Class 1:	*Primary resources*
Class 2:	*Manufacturing*
Class 3:	*Construction*
Class 4:	*Transportation and warehousing*
Class 5:	*Trade*

Class 6:	*Public sector*
Class 7:	*General sector*
Class 8:	*Canadian Pacific Railway Limited, Teck Resources Limited*
Class 9:	*BNSF Railway Company*
Class 10:	*Air Canada, Canadian National Railway, Via Rail Canada Inc.*
Class 11:	*British Columbia Assessment Authority, British Columbia Ferry Services Inc., Government of British Columbia, Workers' Compensation Board.*

2. *The Board may do one or more of the following:*
    a. *establish new classes in addition to those referred to in subsection (1);*
    b. *divide classes into subclasses and divide subclasses into further subclasses;*
    c. *consolidate or rearrange any existing classes and subclasses;*
    d. *assign an employer, independent operator or industry to one or more classes or subclasses;*
    e. *withdraw any of the following from a class and transfer it to another class or subclass or form it into a separate class or subclass:*
        i. *an employer, independent operator or industry;*

        ii) a part of the class;

        iii) a subclass or part of a subclass;

f. *withdraw any of the following from a subclass and transfer it to another class or subclass or form it into a separate class or subclass:*
    i. *an employer, independent operator or industry;*
    ii. *a part of the subclass;*

    (iii) another subclass or part of another subclass.

3. *If the Board exercises authority under subsection (2), it may make the adjustment and disposition of the funds, reserves and accounts of the classes and subclasses affected that the Board considers just and expedient.[1]*

Section 244 does not mention hazard ratings. It very specifically deals with dividing industries into their classification units. The BCFED is concerned with this disconnect. It is unclear how the WCB determines hazard ratings. What is the methodology and who is responsible? Are the ratings reviewed and updated regularly and can the ratings be challenged by workers and employers?

If employers have questions about their classification unit, they are directed on the website to call Certification Services.

We have concerns about employers with “deposit accounts” that do not have classification units and clear hazard ratings, for example the BC Public Service. Within the public service there are very different kinds of hazards for workers depending on the nature of the work, for example, wildfire fighting, corrections, and office work. Health care has an overall designation of low risk when workers may be exposed to hazardous drugs, violence and musculoskeletal injuries.

Recommendation

The BCFED agrees with the proposed amendment to use the WCB system of hazard rating rather than relying on the employer’s assessment, but the WCB must publish their methodology, responsibilities, reviews and updates of the hazard rating system. While this information remains unclear, the BCFED cannot fully support the proposed amendment.

Section 3.14 Definitions

“Injury” includes an occupational disease or illness.

This is the current definition of injury in Section 3.14.

Recommendation

The BCFED proposes the WCB amend the definition of “injury” to include psychological injury or mental disorders. This would align the definition with WCA Part 4 Division Compensation for Injury, Mental Disorder and Occupational Disease, Sections 134-136 and ensure that psychological injury is clearly covered by the definition.[2]

Section 3.16 Basic requirements

Section 3.16 (1): *the employer must provide at each workplace such equipment, supplies, facilities, first aid attendants and services as are adequate and appropriate for*

a. *promptly rendering first aid to workers if they suffer an injury at work, and*
b. *transporting injured workers to medical treatment.*

The BCFED opines there is a need to clarify “workplace” in this section. We want to ensure employers are clear there is a need for site-specific conditions to be assessed and accounted for. For example, health authority employers develop generic exposure control plans that cover many separate work locations.

“Workplace” is defined in the WCA Part 2 Division 1 - Interpretation and Purposes Section:

"workplace" *means any place where a worker is or is likely to be engaged in any work and includes any vessel, vehicle or mobile equipment used by a worker in work.**[3]***

Our concern for the need to clarify “workplace” in relation to Section 3.16 is addressed in the guideline for conducting an assessment.

Step 1:

Identify the workplace.

First identify the workplace for which first aid is required. As a result of this step, you may determine that you have more than one workplace. An assessment of the first aid requirements for each workplace must be done.

Is the workplace at one location only?

For most workplaces with one location, there is one workplace. However, if there is more than one location or if there are lodgings, there may be more than one workplace.

Consider the factors in the following table to see if they apply to your workplace. In any situation, the factors may point to different conclusions. It is then necessary to weigh those factors indicating one workplace against those indicating separate workplaces. After considering all the factors, you should choose the option that provides the greatest level of first aid service.[4]

Recommendation

The BCFED recommends Sections 3.16 (1) and (1.1) be further amended to add “workplace location” to provide clarity and to ensure employers provide the highest levels of first aid in all locations.

Section 3.16 (2)

The BCFED is pleased the WCB is proposing to amend Section 3.16 (2) requiring the employer to prepare a written assessment. Documentation is an important element of an effective health and safety program.

Recommendation

This section should be expanded to reflect the first aid kits list of considerations from the CSA standard. For example, special needs (known medical conditions, persons with disabilities), history of injuries at the workplace location, and injury trends in sector/industry.

Section 3.17 First aid procedures

The BCFED generally agrees with the proposed amendments in Section 3.17, subsections 1 (C.1) and 4 to require the employer to consider how an injured worker will be accessed and moved and to conduct drills annually or when procedures change.

Subsection 3.17 (2) sets out requirements to ensure the procedures are posted and if that is not possible the employer must adopt other measures to ensure the information is effectively communicated. Posting information relies upon the workers to read the information rather than ensuring the employer proactively ensures workers know and understand the procedures. We would prefer workers are trained on the procedures, thereby ensuring active engagement.

Recommendation

The BCFED recommends the WCB consider either expanding Section 3.17 (1) and adding (g) to include training for all workers on the written procedures or include a training requirement in Section (2). This is a common requirement in other OHS regulations.

Section 3.17.1 Air transportation

Section 3.17.1 sets out the requirements when air transportation is the primary or only method of transporting an injured worker. Before the start of operations, the employer must make arrangements with an air service to ensure that:

(i) *an appropriate aircraft is reasonably available to the workplace during those operations.*

There is no explanation in this section as to what is contemplated by “reasonably available.” Section 3.17.1 applies when air transport is the primary or only method of emergency transportation. This suggests that medical treatment is not close by. The BCFED believes air transport must be available for the work to proceed. “Reasonably available” implies there are options for transportation.

Recommendation

The BCFED recommends Section 3.17.1 (a) (i) be amended by removing “reasonably” to require “an appropriate aircraft is available to the workplace during those operations.”

Schedule 3-A Minimimum Level of First Aid, Division 1 - Interpretation

Section 1

“Remote workplace” means a workplace to which, under normal travel conditions, an ambulance that is a motor vehicle cannot travel from its base in 30 minutes or less, but does not include a ferry.”

The BCFED is pleased the WCB consulted with Emergency Health Services (EHS) regarding the current situation of lengthy wait times people are experiencing across BC. The wait times were exacerbated by the summer heat wave[5]combined with the opioid crisis[6] and the COVID-19 pandemic[7]. Given these conditions will continue, it maybe be unreasonable to expect an ambulance to reach an injured worker in 30 minutes or less. More employers may have to increase their first aid qualifications and provide emergency transportation during these times.

The BCFED strongly supports the proposed amendment to rely on ambulances to provide emergency transportation. We feel the professional services provided by the EHS will improve the care provided to injured workers.

Recommendation

The BCFED recommends additional guidance employer options for responding to unavailability of an ambulance within 30 minutes be added to the guidelines.

Division 2 - Minimum requirements

Schedule 3A (3) General minimum requirements

The BCFED is very concerned about the proposed amendments lowering the minimum requirements for providing dressing stations and first aid rooms and emergency transportation in some categories based on numbers of workers and lower hazard levels.

For example, lowering requirements for Class 1 Low hazard, 2-9 workers and Class 2 low hazard 2-5 workers requiring only a personal first aid kit with no first aid attendant. Reducing the requirements means these workers will not be provided with adequate first aid. It is unclear from the proposed amendment how many personal first aid kits are required, one for each worker or one for everyone? The personal first aid kit contents are in the guidelines and do not contain the basics of a medical respirator/surgical mask or gloves. If we have learned anything from the COVID-19 pandemic, it is the importance of respiratory protection.

Recommendation

The BCFED recommends the WCB reassess the contents of the Personal First Aid Kit and add appropriate respiratory protection and medical gloves.

The BCFED has the same concerns regarding the inadequate minimum requirements for Class 2, 2-5 and 2-9 workers for low, medium and high risk.

Coastal logging involves the high-risk work of hand and automated falling in remote locations. The work is often done by small, sub-contracted crews and requires more than a basic first aid kit and first aid attendant. Fallers continue to die in the forest industry as of this year.

There are many small numbers of workers working in dangerous occupations in less accessible workplaces: park rangers, wildfire fighters, community and social service workers.

We are not confident lower standards are covered off by Section 3.16(1)(b) requiring employers to provide adequate equipment, supplies, facilities, attendants and services necessary to ensure workers are promptly treated and transported. We believe that workers are best protected when proper first aid requirements are mandated in the regulation tables and not left up to the whims of the employers.

Recommendation

The BCFED recommends the WCB review the sections of the tables and ensure that appropriate minimum requirements are amended in the tables mentioned above.

Schedule 3A (4) Dressing stations and first aid rooms

The explanatory notes suggest a first aid room should be a room within a building or if that is not practicable a tent, vehicle or other suitable structure. We worry this advice may go into the guidelines and if so, will leave too much room for inventiveness.

Recommendation

The BCFED therefore recommends the WCB provide clarification of vehicle type (not your Mazda 3) and of other suitable structures for the purposes of meeting the requirements of Schedule 3A (4).

BC Ferries

Lastly, the BCFED is concerned with the proposal to exclude the ferries from the definition of “remote workplace” to the definition of “less accessible workplace.”

Therefore, ferries are no longer required to provide emergency transportation as they are now considered a mode of emergency transportation for bringing an injured worker to meet an ambulance.

The time to deliver an injured worker to an ambulance may take longer because of the length of ferry routes, weather conditions and other unexpected events. Such delays could endanger the injured worker.

Recommendation

The BCFED recommends the BC Ferries be required to in all circumstances to have an advance first aid attendant, basic first aid attendant and an advanced first aid kit, to ensure the appropriate level of care is provided to an injured worker until the ferry arrives at the terminal to be met by an ambulance.

Conclusion

The BCFED is pleased to provide our comments and recommendations on the proposed amendments to Minimum Levels of First Aid.

We urge the WCB to consider our recommendations to ensure that injured workers are given the best treatment and transportation.

The changes to this regulation are substantial and the WCB is obligated to provide the resources to workers, employers and prevention officers to ensure effective implantation.

[1] https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/19001_05#section244

[2] https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/19001_04#division_d1e10886

[3] https://www.worksafebc.com/en/law-policy/occupational-health-safety/searchable-ohs-regulation/workers- compensation-act/part-2-occupational-health-and-safety#SectionNumber:Part2Div1Sec13

[4] https://www.worksafebc.com/en/law-policy/occupational-health-safety/searchable-ohs-regulation/ohs-

[5] https://globalnews.ca/news/8017380/bc-ambulance-crisis/

[6] https://www.cbc.ca/news/canada/british-columbia/bc-paramedics-overdose-calls-record-1.5998950

[7] https://www.citynews1130.com/2021/06/02/bc-paramedics-staffing-issues/