March 15, 2021 |

Briefs

Submission to WCB Public Hearings on proposed amendments to the OHSR, Parts 1, 5, 6, 7, 20, 22, 23 and 26

A PDF of the complete submission can be found here.

Introduction

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

- Parts 1, 5, 22 and 23: Flammable and combustible liquids
- Part 6: Hazardous drugs
- Part 7: Ionizing radiation – Dose limits for lens of the eyes
- Part 20: Concrete pump operators
- Part 26: Arborists
- Part 26: Forestry and similar activities - Logging truck load securement.

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.

The BCFED is pleased to have the opportunity to participate in the March 2021 virtual public hearings. And we are especially pleased to participate when our recommendations made in the public consultations are reflected in the proposed amendments.

We urge the Board of Directors (“Board”, “BOD”) to seriously consider our recommendations so we meet our goal to ensure that BC health and safety regulations set standards that will prevent workers from injury and death.

This submission was prepared in consultation with our affiliates.

Submission

Proposed amendments to Part 1, Definitions; Part 5, Chemical and biological agents; Part 22 Underground workings and Part 23; Oil and gas: Flammable and combustible liquids

The BCFED provided a submission on the proposed regulatory amendments for flammable and combustible liquids in the June 2020 public consultation. In our submission we proposed further amendments to those released for public consultation. The WCB made no changes to the proposed amendments, therefore we submit our proposals for reconsideration. The BCFED believes these amendments would further enhance worker safety.

The BCFED generally agrees the proposed amendments to the various sections of the Occupational Health and Safety Regulations (“OHSR”) will enhance worker safety.

As described in the explanatory notes:

> *The purpose of the amendments is to enhance worker safety in workplaces handling flammable liquids, flammable gases, and combustible liquids by ensuring:*
>
> - *the definition of “flammable liquid” in the OHSR is consistent with the BC Fire Code,*

- *the requirements around ignition sources, grounding and bonding apply to all liquids and gases that pose a risk of fire or explosion,*
- *written safe work procedures relating to the use of flammable liquids for manual cleaning no longer need to be submitted to the Board, and*
- *the terms "flammable liquid" and "combustible liquid" are used consistently throughout the OHSR."*

Part 1: Definitions

The WCB proposes to amend Section 1.1 by the changing the definition of "flammable liquid" to include "a vapour pressure of not more than 275.8 kPa at 37.8 degrees Celsius." The amendment ensures that the risks of fires or explosions from flammable liquids are consistent with the *BC Fire Code.* The BCFED agrees the proposed amendment will improve worker health and safety.

But we are concerned the WCB has not proposed to amend Section 1.1 to add definitions for "flash point" and "vapour pressure." We strongly believe these definitions must be easily available to employers and workers.

Recommendation

Therefore, the BCFED recommends the WCB include in Part 1, Section 1.1 the definition of "flash point" from the Occupational Health and Safety Administration (OSHA):

- *Flash point: the minimum temperature at which a liquid gives off vapor within a test vessel in sufficient concentration to form an ignitable mixture with air near the surface of the liquid. The flash point is normally an indication of susceptibility.[1]*

And the OSHA definition of vapour pressure:

- *Vapour pressure: is a measure of a liquid's propensity to evaporate. The higher the vapour pressure, the more volatile the liquid and thus, the more readily the liquid gives off vapours*. *[2]*

Part 5: Section 5.32 Manual cleaning

Section 5.32 sets out the requirements for the use of flammable liquids used for manual cleaning. The employer is required to thoroughly review alternative solvents when a suitable non-flammable substitute is not available and to minimize the quantity used. The employer is to develop and implement safe work procedures to effectively control flammability and health hazards and provide instruction and training to workers. And the work procedures must be submitted to the WCB.

The WCB proposes to amend Section 5.32 by removing subsection (c) requiring the work procedures to be submitted to the Board and provides the following explanation for deleting this requirement:

> *Section 5.32(e) currently requires safe work procedures for using a flammable liquid as a manual cleaning solvent to be submitted to WorkSafeBC. The proposed deletion of paragraph (e) is consistent with most sections of the OHSR requiring safe work procedures to be developed. It also eliminates confusion with regards to whether the procedures require approval from WorkSafeBC before work commences. Under section 5.32, it is the employer's responsibility to ensure the procedures are appropriate and available for inspection.*

In previous regulatory review submissions, the BCFED has strongly objected to the practice of the WCB to remove oversight requirements. And indeed, the WCB can now say with confidence the removal of subsection (e) is consistent with most sections of the OHSR.

The BCFED opines that a simple change to subsection (e) clarifying the safe work procedures must be submitted "prior" to manual cleaning would eliminate confusion around the timing of the approval process.

The current guideline clarifies the timing of the approval process:

> *Written safe work procedures that document effective means to control flammability and health hazards must be submitted to WorkSafeBC before a flammable liquid is used as a manual cleaning solvent.**[3]***

At the pre-consultation session on January 20, 2020, WCB staff stated, in response to labour's concerns with the proposal to eliminate subsection (e), that "very few manual cleaning safe work

procedures are currently received by WorkSafeBC and that the ones that are submitted typically relate to low-risk situations."

This statement greatly concerns the BCFED. The BCFED believes the WCB should have responded more robustly to the fact that they received few safe work procedures and those that were submitted were for low-risk situations. We worry that removing subsection(e) will send a signal to employers that this is not an issue they need to take seriously. Manual cleaning with flammable liquids is very hazardous work.

Many solvents used in workplaces are flammable liquids. Commonly used solvents include chemicals such as toluene, hexane, alcohols, glycol, ether, gasoline, and specially formulated proprietary solvent blends.

Flammable solvents often pose fire or explosion risk if safety measures for their use and storage are not followed. Workplace fires and explosions can result in catastrophic injuries to workers and property loss.

Recommendation

The BCFED strongly objects to the proposal to amend Section 5.32 by removing subsection (e). We believe that WCB monitoring safe work procedures for the use of flammable liquids in manual cleaning is critical to ensuring worker health and safety.

The BCFED recommends the WCB develop a template and a guideline to assist the employers with complying with the requirements of Section 5.32.

Proposed amendments to Part 6, Hazardous drugs

Definitions 6.42(b) Hazardous drugs

The WCB is proposing to define hazardous drugs as follows:

“Is identified as a hazardous drug by the United States National Institute for Occupational Safety and Health in the NIOSH List of Hazardous Drugs in Healthcare Settings, as amended from time to time.”

The BCFED has noted that reference was made in the pre-consultation session to the BC Cancer Agency’s (BCCA) list of hazardous drugs. While based on the National Institute for Occupational Safety and Health (“NIOSH”) list, the BCCA has other drugs listed.

Recommendation

The BCFED recommends that both the NIOSH and the BC Cancer Agency lists be referenced in Section 6.42 (b) and be included in the guidelines to provide easy access for employers, workers and WCB officers.

Definition for 6.42 “housekeeping”

As described in the proposed amendments issued for public consultation:

> *Changing, handling and laundering linens, and cleaning and disposing of things, contaminated with the excreta, vomit or bodily fluids of patients treated with hazardous drugs.*

Our response to this definition:

The BCFED believed this definition must include clothing and in researching other requirements for housekeeping, looked to the language used by the Centre for Disease Control and Prevention (CDC). The CDC uses the broader definition of items that require changing, handling, and laundering as “fabrics, textiles and clothing” rather than the term “linens.” [4]

The BCFED believes the CDC provides a plain language definition easily understood by workers and employers. Personal Protective Equipment (PPE) should be added to subsection (b) to be more inclusive.

We proposed to further amend subsection (b) to remove “of things” which quite frankly only adds confusion.

The BCFED recommended amending (b) as follows

> *Changing, handling, laundering, and disposing of fabrics, textiles, clothing, and Personal Protective Equipment contaminated with excreta, vomit or bodily fluids of patients treated with hazardous drugs.*

Since the public consultation, the WCB has proposed to further amend Section 6.42 definitions for housekeeping:

Housekeeping has been modified to include the following:

a. *routine cleaning*
b. *routine decontamination*
c. *changing, handling laundering or other cleaning and disposing of things contaminated with the excreta, vomit, or bodily fluids of patients.*

The BCFED agrees with the proposed changes in Section 6.42 Housekeeping sub sections (a) and (b).

But we propose further amending sub-section (c) to remove “things” and add “material” to be consistent with Section 6.46.3 (f)(i):

> *(i) any material that comes into contact with a hazardous drug*

Recommendation

That sub-section 6.42 Housekeeping (c) be further amended:

Changing, handling, laundering, and disposing of fabrics, textiles, clothing, personal protective equipment, and materials contaminated with excreta, vomit or bodily fluids of patients treated with hazardous drugs.

Definition for 6.42 “precautionary period”

Section 6.42 has been further amended by the WCB to add the term “Precautionary period”:

> *Means the period during which the excreta, vomit, or bodily fluids of a patient to whom a hazardous drug has been administered may contain the hazardous drug or a metabolite of the hazardous drug.*

The BCFED agrees with the addition of “precautionary period” in Section 6.42 but finding any information on these time frames was very difficult. It appears from our research, the standard time-period is 48 hours and is referred to in the policy document from BC Women’s and Children’s Hospital, “Hazardous Drugs: Handling Precautions”:

> *HCPs will adhere to safe handling precautions, when handling hazardous drugs and when handling body waste contaminated with hazardous drugs (within the 48- hour precautionary period), as outlined in Appendix B: “Hazardous Drug Handling Precautions – Health Care Providers”.*
>
> *• Note that the handling precautions are specific to the C&W Hazard Categories (high/medium or low).[5]*

This regulation applies to a broad section of workers who may not have access to information on the precautionary periods, for example home and community care workers and workers who transport hazardous drugs.

Recommendation

The BCFED recommends the WCB amend the definition of precautionary period to include references to where this information can be found to improve access for employers and workers.

The BCFED is also concerned not all hazardous drugs will have the same precautionary period. Indeed, Alberta Health Services identifies those hazardous drugs that have a precautionary period greater than 48 hours.

Appendix C: Precautionary Period for KNOWN Hazard Medication

KNOWN Hazard Medications Requiring PPE for Longer than 48 Hours*

Hazardous Medication	Detected in Urine	Detected in Stool or E
brentuximab vedotin	24% excretion for up to 7 days	72% excretion up to 7 days
carmustine	60% excretion for at least 4 days	--
CISplatin	At least 5 days	--
cyclophosphamide	Detected in urine up to 5 days	--
DOCEtaxel	9% excretion for up to 7 days	Less than 8% excretion for up
DOXOrubicin	5% - 12 % excretion for up to 5 days	40% biliary excretion for up to
eribulin mesylate	7% excretion (greater than 40 hours)	72% excretion (greater than 40
etoposide	25% excretion for least 5 days	44% excretion for at least 5 da
gemcitabine	10% excretion for at least 7 days	--

imatinib mesylate	5% **excretion for up to 7 days	20%* excretion for up to 7 days
ixabepilone	5.6% excretion for up to 7 days	16% excretion for up to 7 days
mitoXANTRONE	7% excretion for up to 5 days	Up to 5 days
temsirolimus	4.6% excretion for up to 14 days	76% excretion for up to 14 day
teniposide	40%** excretion for up to 5 days	--
vinCRIStine	10% - 37% excretion for up to 3 days	80% excretion for up to 3 days
vinCRIStine liposomal	8% excretion for up to 4 days	--
vinorelbine	8% excretion for at least 3 days	50% biliary excretion for at leas

*All KNOWN hazard medications on the AHS Hazardous Medication List require 48 hours handling precautions except those listed above. For further questions contact AHS Drug Information.

**All percentages are for active/unchanged drug unless denoted by an asterisk.

Note: Based on information from the American Society of Health-System Pharmacists, 2009; Bdikian et al, 2006; “Cyclophosphamide,” 2015; Hospira Inc., 2013; Wolters Kluwer, 2015.

Source: Oncology Nursing Society – Safe Handling of Hazardous Drugs, 3rd Edition, 2017, p. 48.[6]

Recommendation

The BCFED recommends the WCB amend Section 6.42 the definition of “precautionary period” to include references to those hazardous drugs that have longer precautionary periods than the typical 48 hours. At a minimum, these references should be placed in the guidelines.

Section 6.46 Exposure control plan

Section 6.46 (1) (a)(i) must meet the requirements of Sections 5.54 (f) which requires health monitoring.

The BCFED believes, given the seriousness of occupational disease hazards for workers exposed to hazardous drugs, employers must be required to implement a health monitoring program in Part 6.

Part 6, Lead, section 6.67 Health protection sets out the requirements for employers to 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. Similarly, health monitoring is required for exposures to biological agents and pesticides.

The US Occupational Safety and Health Administration (OSHA) guideline on controlling exposure to hazardous drugs recommends implementing a medical monitoring program. The screening program is performed at specific intervals:

- before job placement;
- periodically during employment;
- following acute exposures; and
- at the time of termination or transfer.

Guideline G5.54-5 Health monitoring is an excellent guide to the requirements for a monitoring program and includes consultation and permission of workers to be involved in the program. Health monitoring is important to determine if risk assessments and hazard controls are effective. Indeed,

Section 6.45, subsection (3)(c) requires the employer to review a risk assessment when exposure monitoring or health monitoring of a worker indicates exposures. A medical monitoring program can be a tool to ensure prevention measures are effective and provide indications when a program may need to be reassessed and revised.

Recommendation

The BCFED recommends amending Section 6.46 to add subsection (5) to require the employer to implement an exposure and health monitoring program in consultation with workers and the permission of workers to participate.

Section 6.54.1 Storage of hazardous drugs

Subsection (1) An employer must ensure that a hazardous drug is stored:

a. *in a designated area for the hazardous drug, unless it is not practicable to do so*.

The Explanatory Notes list all the workplaces that are covered by the provisions for proper storage of hazardous drugs, from manufacturing, hospitals, residential and community-based care, retail pharmacies, veterinary clinics through to private home care.

The BCFED believes this diverse group of workplaces requires mandatory obligations for employers to ensure hazardous drugs are stored in a designated area to provide the strongest protection for workers.

Recommendation

Therefore, the BCFED recommends amending subsection (a) to remove “unless it is not practicable to do so”

Section 6.58 Records

Subsection (2) sets out the requirements for retaining records for the duration of the worker’s employment plus 10 years. The record must include the names of the drugs prepared and

administered and if practicable, the number of preparations and administrations per week.

The BCFED recommends removing “if practicable” for the reasons addressed previously.

OSHA guidelines for controlling exposure to hazardous drugs recommends records, including workplace monitoring, biological monitoring and safety data sheets be available for at least 30 years. Worker medical records related to hazardous drugs must be available for workers for the duration of their employment plus 30 years.[7]

Recommendation

Therefore, the BCFED recommends Subsection (2) be amended to require records to be kept for the duration of the worker’s employment plus 30 years. These records must be made available to workers at any time. Many occupational cancers have a latency period, developing years after the exposure. Workers must have exposure information available for the purposes of filing a WCB claim.

Section 6.58.1 Consultations

This section sets out the requirements for the employer to consult with the joint health and safety committee or the worker representative on the risk assessment, the exposure control plan and written work procedures and the instruction and training or workers.

The BCFED strongly supports the requirement for consultation with the joint committee but believes there must be a consultation with workers such as there is in the ergonomics regulation:

Section 4.53

(2) The employer must, when performing a risk assessment, consult with

a. *workers with signs or symptoms of MSI, and*
b. *a representative sample of the workers who are required to carry out the work being assessed.* ***[8]***

Recommendation

The BCFED recommends Section 6.58.1 be further amended to require the employer to consult with individual workers when conducting a risk assessment.

Proposed amendments to Part 7, Noise, vibration and temperature; Ionizing radiation

Section 7.19 Dose limits for the lens of the eye

According to the Explanatory Notes attached to the proposed amendments to Section 7.19 Exposure Limits, the purpose of the proposed amendments is to protect exposed workers from developing occupationally induced lens changes (including cataract formation), and to harmonize the OHSR with international standards and leading regulatory agencies.

The dose limit currently listed in the OHSR for the lens of the eye is an annual equivalent dose of 150 millisieverts (“mSv”). This dose limit is not up to date with current scientific understanding of harmful levels of ionizing radiation exposure and can result in the development of occupationally induced cataracts and lens injury.

In 2011, the International Commission on Radiation Protection (“ICRP”) released their Statement on Tissue Reactions in which they recommended an equivalent dose limit of 100 mSv over five years, with no single year exceeding 50 mSv.

Jurisdictions in Canada and around the world have amended or are planning to amend the regulatory requirements to align them with the ICRP 2011 recommendation.

Section 7.19(1)(a)

The WCB is proposing to amend Section 7.19(1) to change “annual” to “any 12-month period” to define the exposure period. The BCFED supports this amendment as it provides a clear definition of the time-period of exposure.

Section 7.19(1)(b)(c) and (d) have been added to specifically deal with radiation exposure limits to the eyes, skin and hands and feet.

Subsection (b) with respect to exposure to the lens of an eye is amended as follows:

> *(i) an equivalent dose of 50 mSv over any period of 12 consecutive months that starts on or after April X, 2021 [effective date of amendment to 7.19], and*
>
> *(ii) an equivalent dose of 100 mSv over any period of 60 consecutive months that starts on or after April X, 2021 [effective date of amendment to 7.19].*

Subsection (i) reduces the dose radiation for lens of the eye from 150 mSv to 50 mSv over any period of 12 consecutive months. This is a significant reduction.

Subsection (ii) establishes the acceptable level of 100mSv over a period of 60 months.

Proposed sections 7.19 (c) and (d) are added to maintain the existing ionizing radiation equivalent dose limits for the skin, hands, and feet.

The BCFED supports the harmonization of the recommendations from the ICRP with the OHSR as the proposed amendments provide greater protection for workers. The BCFED supports the submission from the Health Sciences Association of British Columbia (HSA).

In previous regulatory submissions, the BCFED has expressed concerns regarding the WCB's practice of harmonizing with other standards. In this case, the BCFED finds it unacceptable that it has taken over ten years for the WCB to align the recommendations of the ICRP with the OHSR. For ten years workers have been exposed to significantly greater levels of radiation over a 12-month period.

Recommendation

Therefore, the BCFED recommends the WCB develop a process that ensures regular reviews of regulations where other standards are applied or referenced. The development of this process would involve consultation with the stakeholders.

Proposed amendments to Part 20, Concrete pump operators

Concrete pumps and placing booms are complex pieces of equipment. The activity of concrete placing requires workers to work near the pump and at the discharge end. An incident with this equipment places the worker at serious risk of injury or death.

Concrete pumps and placing booms should be operated by competent workers. The purpose of the proposed amendments is to enhance worker safety on construction sites by requiring concrete pump operators to hold a certificate granted by a certification authority designated by the WCB.

Changes were made after the public consultations to Sections 20.26.4(2) and 20.26.6(34) Owner responsibilities which had originally required the employer, the owner to of the workplace and the prime contractor to ensure the concrete pump operators and supervisors could operate the equipment safely. They were also required to ensure the operator was properly certified.

The proposed amendments now place these responsibilities on the employer and the prime contractor and only on the owner if a prime contractor has not been designated.

In Section 20.26.5(1) Certification authority, the WCB is proposing to remove the term “person” and replace with “organization” to clarify that an individual would not be designated as the certification authority.

The BCFED supports the proposed changes.

The BCFED made recommendations to the proposed amendments that were released for public consultation in July/August 2020, and we submit these recommendations to the public hearings for reconsideration.

Section 20.26.4 Duty to ensure operators competence

Section 20.26.1 Subsection (1) sets the requirement for an employer to ensure, prior to operation, the person who operates the concrete pump or placing boom is competent and can do so in a safe manner. An employer must consider the following criteria in determining competency: (a) the class or type of concrete pump or placing boom being operated, and (b) the circumstances of the workplace. The BCFED believes the “circumstances of the workplace” in (b) could better be described by amending to “site specific circumstances.” The word “site” is a commonly used term to describe the workplace, for example a “construction site.”

Recommendation

The BCFED recommends the proposed amendment be further amended to “site specific circumstances” to provide clarity.

Section 20.26.5 Certification authority

Subsection (1) provides the WCB the authority to designate a certification authority for the purposes of the operator certification program. Subsection (1)(a) requires the WCB to review the certification program to ensure that it meets the requirements of one or more of the following standards:

i. ISO/IEC 17024:2012, Conformity assessment – General requirements for bodies operating certification of persons;
ii. ANSI/ICE 1100: 2019, Standard for assessment-based certificate programs; and
iii. ASTM International ASTM E2659-18, Standard practice for certificate programs.

The BCFED believes the International Organization for Standardization (ISO) standard has the most comprehensive requirements and should be the standard with which the certification authority must comply. The 2012 ISO standard was reviewed and confirmed in 2018. [9]

The ISO has been developed with the object of establishing a globally accepted process for assessment and periodic reassessments of the competence of certified workers. Therefore