

REGULATORY AMENDMENTS TO

PART 6 Restricted intervals for pesticide application

PART 8 High visibility apparel

Part 8 Safety Headgear

Part 16 Mobile Equipment

Part 18 Traffic Control

Part 21 Blasting

BCFED Submission to the
Workers' Compensation Board
Public Hearings

December 2020




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.



W. Laird Cronk
President

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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:

Part 6: Substance Specific Requirements: Pesticides, Sections 6.89-6.90: Restricted entry intervals; consequential amendments to other sections within the same part

Part 8: Personal Protective Clothing and Equipment: Section 8.24, High visibility and distinguishing apparel

Part 8: Personal Protective Clothing and Equipment: Section 8.11 Safety Headgear

Part 16: Mobile Equipment

Part 18: Traffic Control

Part 21: Blasting

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.

This submission was prepared in consultation with our affiliates.

Submission:

Part 6: Consultation on proposed amendments to regulation on Pesticides, Sections 6.89-6.90: Restricted entry intervals (REIs)

According to the explanatory notes, the restricted entry levels (REIs) refers to the length of time that must lapse after the application of a pesticide, before an unprotected worker may be authorized to enter the treated area.

The purpose of the proposed amendments is to align the Occupational Health and Safety Regulation (“OHSR”) with Canada’s Pest Control Products Act (“PCPA”) and Regulation (“PCRP”) as well as the *BC Integrated Pest Management Act* (“IPMA”) and Regulations (“IPMR”). The amendments will clarify the conditions under which the REIs would default to the provisions currently outlined in Part 6: Pesticides.

The Regulatory Framework for Pesticides In BC

Federal

Health Canada’s Pest Management Regulatory Agency (PMRA), under the authority of the PCPA regulates pesticides in Canada.

Provincial

Provincially, the Ministry of the Environment and Climate Change’s (MECCS) *Integrated Pest Management Act and Regulation* regulates the sale, use and handling of pesticides in BC. They rely on the PCPA and the PMRA of Health Canada to evaluate and determine acceptable uses for pesticides registered for sale in BC. MECCS is responsible for the certification of pesticide applicators.

Municipal

Municipalities may establish bylaws for pesticide use on residential and municipal lands. These bylaws apply only to pesticides used to maintain outdoor trees, shrubs, flowers, other

ornamental plants and turf. Municipalities do not have the authority to develop bylaws restricting the application of pesticides in the following situations:

- for the management of pests that transmit human diseases;
- on the residential areas of farms;
- to buildings or inside buildings; or
- on land used for agriculture, forestry, transportation, public utilities or pipelines unless the public utility or pipeline is vested in the municipality.

Workers' Compensation Board

The WCB Occupational Health and Safety Regulation (OHSR) Part 6: Pesticides sets out the requirements for the safe application of pesticides to ensure the health and safety of workers.

Part 6 Sections 6.89 and 6.90 contain the requirements for REIs. At the time these sections were developed there was little information on REIs and it was determined that the safest reasonable duration was applied in the OHSR based on the toxicity of the pesticide; 24 hours and 48 hours.

Section 6.70 Definitions

The BCFED supports the new definitions for labels, treated area and toxic. The previously used definition of toxic as “slightly toxic” “moderately toxic” and “very toxic” has been amended to add the values of Lethal dose 50% or LD50 values to be consistent with the PMRA. The BCFED would like to have clarification on whether or not the Lethal Dose value is included on the pesticide label.

Section 6.73 Signs for treated materials

The BCFED recommends this section be changed from “placards and signs are provided” to placards and signs must be posted and contain the following information (a-c). This will ensure that workers have improved access to the information.

Section 6.76 Informing workers

The BCFED is pleased the WCB implemented our recommendation and added subsection (a.1) to ensure that workers occupying or who may access, a treated area where a pesticide is to be applied are informed of the name and type of pesticide to be used.

Section 6.77 Mixing, loading and applying pesticides

Qualifications

These are the work activities that account for the greatest risk of exposure to the pesticide.

Section 6.77 (2) has been amended to clarify that assistant applicators are exempt from the qualification requirements set out in Section 6.77(1) providing they are acting in accordance with the IPMR.

Recommendation

The BCFED recommends a further amendment be added to describe the IPMR requirements for the supervision of assistant applicators.

- must not be more than 500m from each assistant applicator;
- must maintain continuous visual or auditory contact with each assistant applicator;
- must review the recode kept by the authorization holder for each assistant applicator;
- and
- must not permit an assistant applicator to apply a pesticide unless satisfied that the assistant applicator has completed the course required by the Ministry of Environment and Climate Change.

Section 6.89 Restricted entry intervals

The BCFED is very concerned about the requirements for pesticide labels. As noted in the pre-consultation session there are some gaps: the lethal dose value is not required; some older pesticide labels do not have REIs; and some pesticides will not have the REIs on their label if

they have not been evaluated by PMRA. Workers rely on the labels for important information.

Unfortunately, pesticides in Canada are excluded from WHMIS due to a successful lobby by manufacturers and end-use industries. Some countries, including the European Union, Australia and Turkey have adopted the Global Harmonization System (GHS) for pesticides. The advantage of adopting GHS for pesticides will be in standardizing pesticide classification and product labelling. The current GHS model for industrial chemicals will require some modifications especially for labelling such as instructions for use, re-entry intervals and specific first-aid requirements.¹

The greatest advantage for workers in having a single system for industrial chemicals and pesticides is the clear obligation of the employer under Part 5, Chemical and biological Agents Section 5.3 to 5.18, to have a WHMIS program, provide worker education and training, and ensure access to legal SDS.

Although this is not in the mandate of the WCB, the BCFED believes that the WCB has a responsibility to work with the federal government to have pesticides included in WHMIS thereby providing better protection for workers.

Pesticides have Safety Data Sheets (SDS) but employers are not required to provide them to workers as per WHMIS. Health Canada advises they should be made available. The BCFED strongly agrees the SDS should be available to workers.

Section 6.89 (2)(a) sets out the requirements when the label does not state the REI on the label but the pesticide is listed on Schedule 2 of the IPMR, there is no restricted entry interval. Section 6.89 2(b) If the label does not state the REI and the pesticide is not listed on Schedule 2 of the IPMR then the REIs are:

- (i) 24 hours if the pesticide is classified as slightly toxic; or (ii) 48 hours if the pesticide is classified as moderately or very toxic or is part of a mixture in which a moderately or

¹ https://www.chemsafetypro.com/Topics/GHS/GHS_for_pesticides.html

very toxic pesticide is present.

No information is provided in the Explanatory Notes on how the 24-hour and 48-hour requirements became the default REIs. Indeed, a statement was made at the pre-consultation meeting that “they were pulled out of the sky” and have no scientific basis.

The BCFED is concerned about a scenario in which a pesticide has not been evaluated by PMRA, there is no REI on the label, the 24-hour and 48-hour REIs apply and once the pesticide is evaluated the REI is longer, for example, seven days. In this scenario workers have been exposed to a very toxic pesticide.

Recommendation

The BCFED strongly believes the requirements of Section 6.89(b) do not provide workers with the highest level of protection for REIs and we recommend the WCB review and amend the regulation with REIs that are science-based to better protect workers.

The BCFED recommends that Schedule 2 or the IPMR be made available in the guideline G6.89 to ensure ease of access for employers, workers and WCB officers.

Section 6.90 Authorization to enter before restricted entry interval expires

This section sets out the employer’s obligations when a worker is authorized to enter a treated area before the restricted entry interval expires and during an emergency before the restricted entry interval expires.

Section 6.90 (1) (c) included in the definition of an emergency is a set of circumstances “that requires a worker to enter a treated area during a restricted entry interval because no alternative practices would prevent or mitigate”

(i) injury to persons, or

(ii) a substantial economic loss due to crop loss or property loss.

The BCFED is concerned about the implications of considering crop and property loss as

emergencies. This requirement may increase pressure on workers to respond to a situation that falls into the employer's domain.

Recommendation

The BCFED strongly disagrees with a worker's life being at risk to prevent crop and property loss and recommend this section be amended to remove (ii).

Section 6.90 (2)(f) specifies the rescue provisions if a worker becomes incapacitated after entry must meet the requirements of Section 6.80.

Section 6.80 sets out the requirements for rescue when a worker may be incapacitated during the application or prior to the expiry of the REI. "The work must be done in such a manner that a rescue can be effected by another worker equipped and able to do so."

We think these requirements are not prescriptive enough, what does "equipped mean?" There is no link to the first aid requirements as set out in OHSR Part 3, Occupational First Aid, Section 3.14-3.21. Are the workers first aid qualified? Has the employer completed a risk assessment? Are there written procedures? And workers must have the option of calling 911.

The mushroom farm accident comes to mind, where workers were sent by their employer to rescue their co-workers and died or were seriously injured.

Recommendation

The BCFED recommends further amendments be considered for Section 6.80 and Section 6.90 2(f) to, at a minimum, reference the requirements of the Occupational First Aid regulation.

Sections 6.80 2 (b) and (c) require a "qualified person" to assess the hazards to the worker and to evaluate the ventilation of the treated area. In the guideline G.6.90, the pesticide applicator is considered "qualified."

The qualified person who performs the hazard assessment under section 6.90(1)(a) of the Regulation will need to be able to read, understand, and implement all information and instructions provided on the pesticide label. This includes the hazards involved with entering

the area where the pesticide has been applied, first aid, required PPE, and re-entry procedures.

A person with a valid pesticide applicator certificate will typically meet this requirement.

Recommendation

The BCFED recommends this section be amended to identify the qualified person as the certified pesticide applicator to provide clarity and consistency.

Section 6.90 (2) (c) requires the treated area to be effectively ventilated using either natural or mechanical means, and

- (i) the atmosphere has been tested, if practicable; or
- (ii) evaluated by a qualified person and declared safe to enter.

Recommendation

The BCFED believes that atmosphere testing and an evaluation must be done prior to a worker being required to go into a treated area before the REI has ended and therefore recommend removal of the word “practicable” and “or.”

Section 6.90.1 (a-c) sets out the requirements for the employer to ensure there is a record completed within 24 hours of a worker entering a treated area before the REI expires. The employer must record if there was an emergency, the date and location, the time the emergency started and ended, and the description of the emergency including an estimate of the amount or type of injury that would have occurred without the early re-entry. The name of the worker and the REI that applies under Section 6.89(2) must also be recorded.

Recommendation

The BCFED recommends the name of the pesticide must also be recorded to ensure possible health effects can be identified.

Section 6.90.(2) required the employer to keep records for 10 years.

The BCFED is concerned that keeping records for 10 years does not account for the latency period of some occupational illnesses. For example, the latency period for cancer is defined as the amount of time that elapses between the initial exposure to a carcinogen (cancer causing substance) and the diagnosis of cancer. Workers may be exposed in their early working years and not develop the cancer until later in life.

The US Occupational Safety and Health Administration recommends that exposure records be kept for a minimum of 30 years.

Recommendation

The BCFED recommends amending Section 6.90(2) to keep records for at least 30 years.

Section 6.91 lists the exemptions from Sections 6.85 to 6.90.1 of structural pesticide application. The employer is exempted if the application is:

- *a spot treatment for small amounts of slightly toxic pesticides;*
- *crack and crevice treatment of moderately toxic pesticides; and*
- *the handling and distribution of biocides and slimicides.*

A qualified person is required to conduct risk assessments to ensure workers are not at risk of exposure when doing a spot treatment; and for a crack and crevice application to notify persons occupying the treated area before the application of any entry precautions and to inspect the treated area after application.

The BCFED supports the proposed amendments for exemptions.

Conclusion

The BCFED is concerned without the amendments that we have recommended throughout the consultation process many vulnerable workers will not be provided the highest level of protection regarding restricted entry levels. The explanatory notes list of cancers that are

presumed to be associated with occupational pesticide exposure and pathologies.

We urge the WCB to consider our proposed recommendations in the interest of providing workers with better protections.

Part 8: Personal protective clothing and equipment

Section 8.24 High visibility and distinguishing apparel

The WCB is proposing further amendments to Section 8.24 resulting from concerns raised at the public hearings in 2019. These concerns were raised by representatives of firefighters, the police and paramedics and were centred on concerns the requirements of the CSA Z97-15 did not permit the use of acceptable alternate high visibility apparel.

The BCFED supports the proposed amendments to Section 8.24 Subsection (3) (a, b and c) to permit modifications to the CSA Z97-15 to allow emergency response personnel to use alternate high visibility apparel and the amendment to subsection 3(a) to allow the firefighters to wear a protective coat that meets the requirements of the 2007, 2013 or 2018 edition of the NFPA, Standard on Protective Ensembles for Structural Firefighting and Proximity Fire Fighting.

The BCFED also supports the proposed amendments to Subsection 8.24 (4) to modify the requirements for Class 2 apparel. The Explanatory notes provide no rationale for these proposed amendments but we support them in the belief these modifications set a standard requirement leaving less room for creative license.

While the BCFED supports the new amendments, we resubmit our previous submission and urge the WCB to consider our recommendations.

Section 8.24 of the Occupational Health and Safety Regulations (OHSR) sets out the requirements for a worker to wear high visibility and distinguishing safety apparel when they are exposed to the hazards of vehicles or mobile equipment.

The current requirements follow the WCB Standard Personal Protective Equipment Standard 21997, High Visibility Garment. This standard was developed before the Canadian Standards Association (CSA) CSA Z96 was issued.

The proposed amendments in Section 8.24 (1) and (2) are intended to adopt the high visibility requirements of CSA Z97-15.

The WCB proposed amendment includes reference to both vehicles and mobile equipment to avoid confusion if mobile equipment is a subset classification of vehicle.

The BCFED agrees with this clarification as many workers are working in the vicinity of mobile equipment.

In Section 8.24 (1) speeds in excess of 30 kilometres per hour remain unchanged as the determination for the use of Class 2 or Class 3 apparel according to CSA Z96-15.

Section 8.24 (2) establishes 30 kilometres as the upper limit for determining the use of Class 1 apparel.

The WCB has maintained the current 30-kilometre limit and not adopted the 40-kilometre requirement from CSA Z96-15.

The BCFED believes the reliance on the single criteria of speed to determine the appropriate high visibility apparel will not provide the best protection for workers from vehicles

and mobile equipment. The BCFED agrees with the requirement of the CSA standard that a risk assessment must be done. A risk assessment will consider factors other than vehicle speed that must be analysed in determining the appropriate high visibility apparel.

The CSA Z96-15 recommends the following to be considered in conducting a risk assessment:

The CSA Standard recommends that a hazard assessment be carried out on each job site to evaluate the workplace or work site for known or potential hazards a worker can encounter while performing a job or task. This assessment helps determine the risk to workers of being hit by moving vehicles and the environmental conditions under which work is performed.

When doing a hazard assessment where high visibility safety apparel might be required, be sure to consider:

- *The type and nature of the work being carried out - including the tasks of both the HVSA wearer and any drivers.*

- *Whether workers will be exposed to heat and/or flames (if so, flame-resistant HVSA would be required).*
- *Work conditions, such as indoor or outdoor work, temperature, work rates, traffic flow, traffic volume, visibility, etc.*
- *The workplace environment and the background workers must be seen in (e.g., is the visual area behind the workers simple, complex, urban, rural, highway, filled with equipment, cluttered).*
- *How long the worker is exposed to various traffic hazards, including traffic speeds.*
- *Lighting conditions and how the natural light might be affected by changing weather (sunlight, overcast sky, fog, rain, or snow).*
- *Factors that affect warning distances and times, such as the volume of traffic, the size of vehicles, their potential speeds, the ability to stop quickly, and surface conditions.*
- *If there are any engineering and administrative hazard controls already in place (e.g., barriers that separate the workers from traffic).*
- *Any distractions that could draw workers attention away from hazards.*
- *The sightlines of vehicle operators, especially when vehicles are operated in reverse.*
- *If certain jobs, or the function being done, need to be "visually" identifiable from other workers in the area.*

Once a hazard assessment is complete, the employer can select appropriate controls. The first line of defence for workers' safety would be to control the design of the workplace and reduce the exposure of workers to moving vehicles (e.g., through the use of physical barriers and other engineering and administrative controls).

Using high-visibility apparel would be the last line of defence against accidents by providing more warning to vehicle operators that workers are on foot in the area.

A further reason for not using speed to determine appropriate high visibility apparel is the fact that any speed puts a worker at risk of injury or death.

The 1999, US Department of Transportation, National Highway Traffic Safety Administration

literature review on vehicle travel speeds and pedestrian injuries found: ²

The idea that the faster a striking vehicle is traveling, the more damage is done to a struck pedestrian, is almost too obvious to require proof. Yet the relationship has been documented in a number of studies. Pasanen (1992) reviewed three studies relating collision speeds and pedestrian injury severity, finding their results quite consistent and that the probability of pedestrian death reached nearly 100% for speeds over 80 km/h (50 mph). Modeling the data from Ashton (1982), Pasanen estimated that about 5 percent of pedestrians would die when struck by a vehicle traveling 20 mph. The pedestrian fatality percentage would rise to about 40 percent for vehicles traveling 30 mph, (emphasis) about 80 percent for vehicles traveling 40 mph, and nearly 100 percent for speeds over 50 mph.

Numbers comparable to these are cited in other references. For example, in the UK Department of Transport Traffic Advisory Leaflet 7/93 (TAU,1993), figures quoted are, for 20 mph impact speeds: 5 percent death, 65 percent injured, and 30 percent uninjured; for 30 mph impact speeds: 45 percent death, 50 percent injured, and 5 percent uninjured; for 40 mph impact speeds: 85 percent death and 15 percent injured. ³

Workers, like pedestrians have a large risk of severe injury when colliding with a motor vehicle.

The difference in mass is huge and the collision energy is mainly absorbed by the lighter “object.” In addition, workers are completely unprotected: no iron framework, no seatbelts, and no airbags to absorb part of the energy.⁴

The BCFED disagrees that the proposed amendments go far enough to provide the most effective protection for workers who work in and around vehicles and mobile equipment.

² <https://one.nhtsa.gov/people/injury/research/pub/hs809012.html>

³ <https://www.gov.uk/government/collections/traffic-advisory-leaflets>

⁴

https://ec.europa.eu/transport/road_safety/specialist/knowledge/speed/speed_is_a_central_issue_in_road_safety/speed_and_the_injury_risk_for_different_speed_levels_en

Recommendations

To prevent fatalities and injuries for the thousands of workers in BC who are exposed to vehicles or mobile equipment, the BCFED strongly recommends the proposed changes in Section 8.24 (1)(2) are amended to include the requirement for employers to conduct a hazard identification and risk assessment process as recommended by CSA Z96-15.

The BCFED also recommends the requirements of Section 8.24 be updated at such time as CSA Z9615 is reviewed.

Part 8, Personal Protective Clothing and Equipment- Safety Headgear

Introduction

The BC Federation of Labour (“Federation,” “BCFED”) appreciates the opportunity to provide our submission with respect to the proposed amendments to: Part 8: Personal Protective Clothing and Equipment, Safety Headgear, Section 8.11 General Requirement.

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.

The proposed amendments to Part 8, Personal Protective Clothing and Equipment, Safety Headgear Section 8.11 General Requirement

According to the Explanatory Notes attached to the proposed amendments to Section 8.11 Safety Headgear, General Requirements, the purpose of this section is to require safety headgear be worn by a worker where there is a danger of head injury from falling, flying or thrown objects, or other harmful contacts.

The request for an amendment to this regulation came from the Ministry of Labour (MOL) on behalf of the Sikh community who have raised concerns some employers are effectively applying this section as a blanket requirement at workplaces, resulting in turban-wearing Sikhs workers not being able to fully participate in the workforce. The Explanatory Notes explain the MOL asked the WCB to consider amending Section 8.11 to continue to protect the health and safety of turban-wearing Sikhs, while providing accommodation where there is no risk of head

injury.

It is unclear from the above comment whether the MOL expects the WCB to provide accommodation where there is no risk of head injury. The WCB is mandated to ensure the health and safety of workers but has no jurisdiction or responsibility for the duty to accommodate. There is no requirement in either the *Workers Compensation Act* (WCA) or the Occupational Health and Safety Regulation (OHSR). Currently in BC, the duty to accommodate falls under human rights legislation and is the employer's obligation to accommodate in consultation with workers and their union.

Background

The issue at hand is whether workers who are of the Sikh faith and wear a turban should be required to wear a hard hat at their workplace. The WCB has provided no background information on this issue in the very brief Explanatory Notes. The BCFED believes it is important to provide an overview of some of the important decisions and cases for the benefit of those who will read our submission. Given the very short time frame the WCB has given stakeholders to provide a submission this is not an exhaustive list.

The issue presents some complexity with the intersection of religious freedoms under the federal and provincial human rights legislation and the rights and obligations for employers and workers under occupational health and safety laws.

We can go back to the 1985 Supreme Court of Canada (SCC) in *Canadian National Railway Co (CNR). v. Bhinder*, in which Mr. Bhinder a Sikh turban wearing worker was fired for refusing to wear a hard hat.⁵ In this case the SCC ruled in favour of CNR, saying the hard hat was a bona fide occupational requirement. (BFOR)

In 1999, the SCC in the *Meiorin* case established a test for determining if a workplace policy or rule is a bona fide occupational requirement.⁶ The three-step test, using the hard hat as an

⁵ <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/102/index.do>

⁶ <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1724/index.do> (*British Columbia (Public Service Employee Relations Commission) v. BCGSEU*)

example:

1. Was the rule about hard hats adopted for safety purposes that are rationally connected to the required job?
2. Was the hard hat rule adopted in an honest and good faith belief that the standard is necessary for the fulfillment of that legitimate purpose of safety?
3. Was the hard hat requirement reasonably necessary to accomplish that legitimate purpose? And can the employer accommodate individual workers without imposing undue hardship on the employer?

These requirements meant that employers could no longer have a blanket requirement that all workers must wear a hard hat. On the face of it, this rule may seem neutral, with no intent to discriminate against workers because of religious beliefs; however, there may be an adverse effect for turban-wearing Sikhs.

Before employers make a blanket rule that all workers on a worksite must wear protective headgear, they must show they have done their due diligence in meeting the three-steps of the Meiorin decision.

There have been several legal decisions in Canada regarding turbans and hard hats. Most recently in 2019, the highest court in the province of Quebec ruled workplace safety comes before religious beliefs. The ruling concerns Sikh truckdrivers who challenged a requirement to wear hard hats when leaving their trucks during loading and unloading in the Port of Montreal. The Port has a blanket rule requiring hard hats for all workers on its property. The rule was adopted by the private truck company. The court ruled Quebec's *Charter of Human Rights and Freedoms* did apply but the temporary infringement was justified by the helmet's safety benefits. In British Columbia, a similar case in 2006 failed and the Sikh longshore workers were assigned to areas where the hard hat was not required. In 2008, two BC mill workers who challenged the hard hat requirement were assigned to a less dangerous part of the mill.

Currently the issue for turban-wearing Sikhs is perhaps best described by the World Sikh Organization:

The right of Sikhs to wear religious headgear, the turban, is protected under human rights legislation, subject to the tests for bona fide occupational requirements and the undue hardship standard.

Employers are to accommodate and assess health and safety risks against the undue hardship standard where an employee is requesting an exemption from a hard-hat requirement to wear a Turban.

Employers must avoid attempts to restrict the wearing of religious headgear based on uniform requirements or concerns about image or customer preference.

Hard hat requirements may be bona fide occupational requirements however every attempt must be made to ensure that accommodation is provided-whether that means an alternative work placement or an exemption where the risk is de minimus and borne exclusively by the Sikh requesting accommodation.⁷

The BCFED is concerned about the perception that all turban-wearing Sikhs are men and we think it is important to understand that women of the Sikh faith also wear turbans. For example, Palwinder Kaur Shergill, was the first turbaned Sikh judge appointed to the BC Supreme Court.⁸

Section 8.11 General Requirement Safety Headgear

The WCB proposes to amend Section 8.11 as follows:

(1) Before a worker starts a work assignment where there is a risk of head injury to the worker from falling, flying or thrown objects, or other harmful contacts, the employer must take measures to

(a) eliminate the risk, or

(b) if it is not practicable to eliminate the risk, minimize the risk to the lowest level practicable by applying the following control measures in order of priority:

⁷ https://www.worldsikh.org/can_i_wear_my_turban_in_the_workplace

⁴ <https://www.cbc.ca/news/canada/british-columbia/palbinder-kaur-shergill-appointed-to-supreme-court-british-columbia-1.4176952>

- (i) engineering controls;
- (ii) administrative controls;
- (iii) if the control measures set out in subparagraphs (i) and (ii) are not adequate to minimize the risk to the lowest level practicable, the use of safety headgear by the worker.

According to the Explanatory Notes, the purpose of the proposed amendment to sub-section 1 is to clarify the hierarchy of control measures employers must follow when there is a risk of head injury to workers from falling, flying or thrown objects, or other harmful contacts. The amendment also clarifies the employer must take measures to control the risk prior to the worker starting the work assignment.

The BCFED supports the proposed amendment but we believe it requires further amending to include the steps an employer must take prior to considering how to mitigate or control the hazard. Hazard identification, and risk assessment must be done first. This is where the hierarchy of control of occupational hazards and the process of improving safety and health really starts. Awareness of hazards will lead to preventative action. Risk assessment provides the opportunity to evaluate and prioritize the hazards and risks.

And there are other regulations in the OHSR that prescribe these steps. For example, hazard and/or risk identification is specifically required in Sections 4.20.2 Working Alone; and 4.28, Violence in the Workplace and 4.48 Ergonomics.

Recommendation

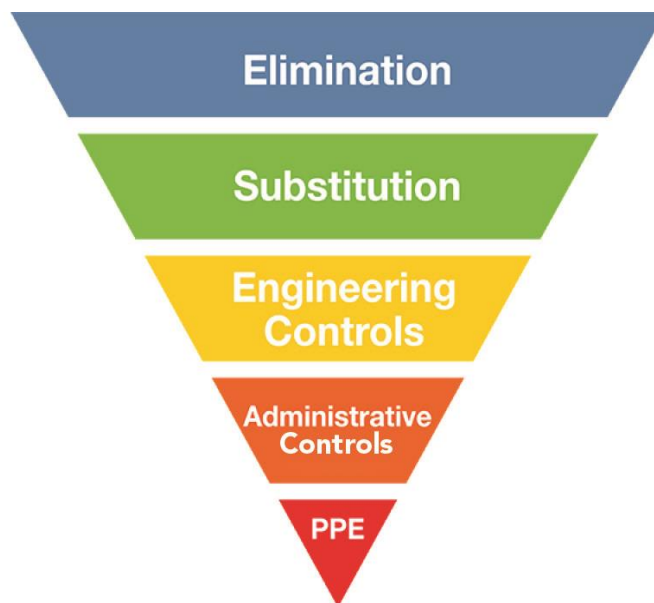
The BCFED proposes sub-section 1 be further amended to include “the employer must identify the hazards and conduct a risk assessment prior to taking measures”

To provide clarity we recommend the WCB develop appropriate language using Section 4.20.2 Working Alone or in Isolation as an example:

4.20.2 Hazard identification, elimination and control

- (1) Before a worker is assigned to work alone or in isolation, the employer must identify any hazards to that worker.
- (2) Before a worker starts a work assignment with a hazard identified under subsection (1), the employer must take measures
 - (a) to eliminate the hazard, and
 - (b) if it is not practicable to eliminate the hazard, to minimize the risk from the hazard.
- (3) For purposes of subsection (2) (b), the employer must minimize the risk from the hazard to the lowest level practicable using engineering controls, administrative controls or a combination of engineering and administrative controls.⁹

The BCFED supports the proposed amendments to sub-subsection (1) (a) and (b) requiring the employer to consider each step in the hierarchy of controls. A simple, workable hierarchy of controls definition is that it is a framework that identifies the relative effectiveness of various corrective actions that can be taken to mitigate safety hazards. The hierarchy of controls is represented by the image of the reverse triangle beginning at the top with the ideal control measure of eliminating the hazard. If we can eliminate a hazard, we no longer need to be concerned with it and workers are provided with the best protection.



⁹ <https://www.worksafebc.com/en/law-policy/occupational-health-safety/searchable-ohs-regulation/ohs-regulation>

If elimination is not possible then we consider other methods to control a hazard by working down the hierarchy. Sub-section (b) (i-iii) requires the employer to consider engineering controls and administrative controls and if they are unable to minimize the risk to the lowest level practicable only then can they consider using protective headgear. Personal protective equipment is the least effective way of providing workers with protection, it simply places a barrier between the hazard and the worker.

By practicing the fundamental process of hazard identification, risk assessment and mitigation according to the hierarchy of controls, employers are less likely to implement blanket requirements for headgear. Adherence to the proposed amendments to Section 8.11 will help organizations to move from blanket rules to individual context; and this has the potential to benefit many workers in addition to turban-wearing Sikh workers.

Conclusion

These are laudable goals, and the BCFED supports the proposed amendment. That said, we are concerned that the process of consultation is being unduly rushed through the pre-consultation, public consultation and public hearing stages. We are certain the BCFED is not the only stakeholder that has not had sufficient time to consult with our affiliates on such a complex issue that encompasses the important-aspects of safety, diversity and human rights.

Finally, we would like to emphasize the BCFED's support for the WCB taking on this issue, and our hope that it can serve as the starting point for a larger conversation about how the WCB can better serve equity-seeking groups, including women, workers of colour, immigrant workers, workers who identify as LGBTQ2S, Indigenous and workers with disabilities. The Board's current policy against considering differences based on social and biological factors in injury prevention and claims adjudication disadvantages those groups, and we would welcome the opportunity to discuss broader changes with a goal of greater equity.

Part 16: Mobile equipment

The WCB conducted a full review of Part 16 therefore the proposed amendments were complex and extensive. The proposed amendments to Part 16 went to out for public consultation in October 2018 and for public hearing in April-May 2019.

After the first public hearing the Policy, Research and Regulatory Division (PRRD) reviewed issues identified by stakeholders in the public hearing process and this review resulted in further proposed amendments requiring another round of public hearings in November 2019. The exclusion of golf carts from the requirement for ROPS was one of the main reasons for this additional public hearing. We will address our concerns about the process for this exclusion later in the submission.

The BCFED and our affiliates participated in this extensive process, attending pre-consultation meetings, providing written submissions proposing recommendations and presenting at both public hearings.

The BCFED and our affiliates participated in this regulatory review understanding that thousands of our members, in many BC industries, operate mobile equipment, and would be impacted by the proposed amendments. We were concerned this comprehensive review would weaken worker safety by reason of the proposed reduction of number of sections.

The BCFED will respond to the current proposed amendments that are the subject of this public hearing.

Part 1, Section 1.1 Definitions

The definition of “significant risk of rollover” has been revised to use a definition of “rollover hazard area” as follows:

Roll over hazard area means, with respect to mobile equipment, an area that is comprised of
(a) grades or slopes that exceed

- (i) the manufacturer's maximum slope operating stability limits for the mobile equipment, or,*
- (ii) 10%, if the manufacturer has not set a maximum slope operating stability limit for the mobile equipment, or*

(b) open edges, open ramps, loading docks, ditches, dropoffs, holes, soft spots or mounds, or other terrain hazards, that might cause a rollover;¹⁰

The BCFED supports the proposed amendment as it aligns with some requirements from Section 26.16(3) Forestry Operations but confines the slope to 10% if there is no manufacturer's maximum slope operating stability limit. The BCFED believes this is an improvement over the 38, 40 and 50% allowed on a slope in Section 26.16(3), thereby providing greater protection for operators.

(3) If the manufacturer's maximum slope operating stability limit for logging equipment is not known, the equipment must be operated within the following limits:

(a) a rubber- tired skidder must not be operated on a slope which exceeds 35%;

(b) a crawler tractor, feller buncher, excavator and other similar equipment must not be operated on a slope which exceeds 40%;

(c) any other forestry equipment specifically designed for use on a steep slope must not be operated on a slope which exceeds 50%.¹¹

And with Part 28 Agriculture, Section 28.41 (1);

(b) the ground conditions where the agricultural tractor will be operated, including the presence of ditches, drop-offs and ground irregularities such as holes, soft spots or mounds;¹²

¹⁰ <https://www.worksafebc.com/en/law-policy/occupational-health-safety/searchable-ohs-regulation/ohs-regulation>

¹¹ <https://www.worksafebc.com/en/law-policy/occupational-health-safety/searchable-ohs-regulation/ohs-regulation>

¹² <https://www.worksafebc.com/en/law-policy/occupational-health-safety/searchable-ohs-regulation/ohs-regulation>

The PRRD proposes to amend this section by returning the definition of “specific location” and expanding the definition to include pipeline or road right-of-way;

Specific locations means, a yard, plant or other clearly defined and limited area in which mobile equipment is operated, but does not include an entire municipality, district, transient forestry operation or construction site, pipeline or road right-of-way.

The BCFED supports these proposed amendments which provide some alignment with other regulations, thereby providing clarity.

The PRRD proposes to amend Part 8, Section 8.12, and Part 16, Section 16.8(3)(a) rider restrictions, to replace “significant hazard of rollover” with the new definition “rollover hazard area” as defined in Section 1.1 Definitions.

The BCFED supports these proposed amendments.

Section 16.33, Safeguards against objects, materials and tip overs

Sub-section 1 defines a “rollover risk assessment means an assessment of the risk that mobile equipment will experience a rollover while it is being operated by an onboard operator.”

The PRRD is proposing to amend subsection 2 by adding “reasonably foreseeable hazards” to the requirement to protect the operators of mobile equipment, and any other riders of mobile equipment from fall, falling or intruding objects or materials or tipovers.

Reasonably foreseeable hazards comes from the *Workers Compensation Act*, Part 2 Section 21, Subsection 2(b)(i) General Duties of the Employer;

(b) ensure that the employer's workers

(i) are made aware of all known or reasonably foreseeable health or safety hazards to which they are likely to be exposed by their work,¹³

¹³ <https://www.worksafebc.com/en/law-policy/occupational-health-safety/searchable-ohs-regulation/workers-compensation-act>

The BCFED supports this amendment.

Section 16.34 Rollover Protective Structure (ROPS)

Sub-section 1 defines a “rollover risk assessment means an assessment of the risk that mobile equipment will experience a rollover while it is being operated by an onboard operator.” The PRRD proposes to amend this section by adding “onboard operator” to align with the definition of ROPS in Section 1.1 Definitions.

The BCFED strongly supports the proposed amendments in subsections 1,2, 3 and 4 clarifying the requirement for a qualified person to conduct a rollover risk assessment, the assessment must be in writing and must be made available at the worksite.

Section 16.38 Rollover and Fire

The BCFED supports the proposed amendment to (1) (c) and (2)(c) to include the term tip over as a risk which will trigger this section’s requirements.

Section 16.34(2) Rollover protective structures (ROPS)

The BCFED wishes to address the serious concerns we have with the amendment to exempt golf carts from Section 16.34 Rollover protective structure (ROPS) and Section 16.21 Seat belts. The decision to exempt golf carts from these requirements was based on a backlash from the golf industry.

“‘A very stupid idea’: Industry slams proposed golf cart seat belt rules.” “The idea is not only being called impractical, but also costly.” These were some of the headlines that greeted the original regulatory change to require ROPS and seat belts on golf carts.

The golf industry estimated that the new regulation requirements would cost \$30 to \$40M. Unfortunately, the golf industry in estimating these costs conflated golf cart use by golfers and golf cart use by workers. The regulation applies to workers and therefore only golf carts used as work vehicles would require ROPS and seat belts.

The BCFED disagrees that costs should determine the health and safety of workers. And we strongly disagree with the industry's position that ROPS and seat belts would not improve the safety for workers.

We believe, first and foremost, that golf carts were never intended to be used as a work vehicle. They have been designed for the recreational activity of golfing.

The 2015 Australian report on "Golf Cart Type Vehicle Safety Report and Improvement Recommendations for Public Road Transit & LSV Trial" agrees that golf carts were designed for recreational purposes.

Electric Golf Carts have been utilised as a recreational vehicle for the golfing community for almost 60 years and were originally designed to carry two golfers and their golf clubs around a golf course. The design platform for these vehicles were manufactured in accordance with the American National Standard Institute (ANSI) Z130.1. This standard allowed the design characteristic of a Golf Cart to suit the recreation application for golf course use with standard safety features such as speed and brake options limited for such application. The designated "safe speed" established by the ANSI for a Golf Cart vehicle was 22km/h or less which allowed for basic safety design features such as go-cart style braking, accelerator- controlled brake release, zero passenger restraint, plastic or light weight metal roof construction and perspex windscreens.¹⁴

Still today these basic design vehicles are an ideal way for easily commuting around a golf course and are conveniently enjoyed by golfers worldwide, though their engineering standards were only ever tailored with this sole purpose in mind.

In a seminal US study on golf cart safety, it was estimated that there were, on average, approximately 13,000 golf car related injuries requiring emergency room treatment in the US per year. Of these, approximately 10% (1,300 per year on average) involved a cart rollover and these accidents were typically more likely to cause injuries requiring a hospital stay than non-

¹⁴ <http://www.tomberlin.com.au/Vehicle%20Safety%20Report.pdf>

rollover accidents. Approximately 70% occurred at golf courses.¹⁵

These statistics show that rollovers represent a significant number of serious golf cart related accidents.

The US Occupational Safety and Health Administration (OSHA) has recorded 20 serious golf cart incidents involving workers from 2015 to 2019, seven of these incidents resulted in a worker death.¹⁶

Workers are at risk of injury when operating golf carts for work and are at increased risk of serious injury or death without the requirements for ROPS and seat belts.

Golf carts are used increasingly as work vehicles in other industries such as film, hotels, university and college campuses, sporting venues. These industries were not consulted on the proposed amendment to exempt golf carts from Section 16.34 (2).

According to the golf industry and the WCB, manufacturers are not designing golf carts with ROPS and seatbelts.

The BCFED believes that until legislation requires them to provide these safety devices, they will not be motivated to change their practice. Golf carts are allowed on the public streets of Qualicum and Chase, and legislation requires them to be properly equipped with seat belts, a horn, signals and rear view mirrors.

Apparently, the manufacturers are supplying golf carts that comply with these requirements.

The BCFED has concerns about the consultation process. There are two stakeholder groups recognized by the WCB, employers and labour. Both groups are involved in the consultation process for regulatory change.

¹⁵

https://www.researchgate.net/publication/26305761_A_parametric_study_of_golf_car_and_personal_transport_vehicle_braking_stability_and_their_deficiencies

¹⁶ https://www.osha.gov/pls/imis/AccidentSearch.search?acc_keyword=%22Golf%20Cart%22&keyword_list=on

The BCFED was not involved or even informed of the concerns brought forward by the golf industry after the public hearings. To our knowledge there was no consultation involving workers or other industries and we find this extremely troubling. Unfortunately, this takes us back to the successful industry lobbies that resulted in the watering down of the late-night retail working alone and the environmental tobacco smoke regulations.

But workers were left on the side-lines and only one industry was consulted. As previously stated, golf carts were not intended to be used as work vehicles. If the WCB continues to allow this practice, at a minimum, golf carts must be equipped with safety devices that provide workers with the highest level of protection.

If implemented, the amendment puts workers at greater risk of injury.

Recommendation

The BCFED strongly recommends the Board of Directors not implement the amendment to exempt golf carts from the requirement for ROPS and seatbelts.

Part 18: Traffic Control

Thousands of our members are involved in roadside work including traffic control operations, working as Traffic Control Persons (TCPs), workers who are involved in road maintenance and construction, and workers who are responsible for traffic enforcement.

TCPs have an important job on construction, maintenance and utility projects. They regulate the traffic at worksites to keep them safe for workers, motorists and pedestrians. 90% of TCPs in BC are women.

Key statistics from the WCB show that roadside work is one of the most dangerous occupations in BC.

In a ten-year period between 2009 and 2018, 13 roadside workers were killed and 63 suffered serious injuries. 25,429 days were lost to work and \$15M in claims costs were paid. Over half of these workers were TCPs and in 2018, two TCPs died on the job.

The purpose of the proposed amendments to Part 18 Traffic Control is to update and harmonize the regulation with the 2020 edition of the Traffic Control Manual for Work on Roadways issued by the Ministry of Transportation and Infrastructure. The last update to Part 18 was completed in 1999. The BCFED is pleased the WCB is conducting this long overdue review of Part 18. We are generally in support of the proposed amendments. Our submission will address only those sections where we have concerns or have further amendments to propose and those sections that have been amended since the public consultations

Section 18.1 Definitions

The PRRD is proposing further amendments to Section 18.1 as follows;

1. the definition of “brief duration work” is revised to cover work requiring 15 minutes or less to complete,
2. the term “emergency” is revised to refer to an incident that requires immediate action to protect lives or prevent serious injury,

3. the term “unanticipated occurrence” replaces “unanticipated situation” in the definition of emergent work,
4. the term “traffic assistant” is revised to refer to workers who assist or direct motorists within parking or holding areas in a specified workplace such as a parking lot or roadway terminus used for vehicle holding prior to boarding a vessel, and
5. the definition of “work zone” is revised to exclude workers in a parking lot, and a roadway terminus used for vehicle holding prior to boarding vessel.

The BCFED generally supports these proposed amendments but have concerns regarding the definition of “traffic assistant” referring to workers who work in parking lots or roadway terminus used for holding vehicles and the exclusion of traffic assistants from the definition of work zone. These proposed amendments along with those in Section 18.6.3 Traffic Assistant Training, according to the explanatory notes are a result of employers in these workplaces applying for variances to exempt these workers from the same training as TCPs. Rationale for the variances includes a belief that the risk is lower than for TCPs because traffic is usually moving at much slower speeds. As noted in the following article there are other hazards in parking lots that could put traffic assistants at risk.

Parking areas are fraught with factors that make them danger zones: the presence of pedestrians; the relaxed attitudes of drivers who no longer are in traffic; blind spots and reduced sightlines because of parked vehicles; delivery trucks; more frequent turning; and, of course, distracted drivers and pedestrians.

In 2016, the National Safety Council polled nearly 2,500 drivers about their attitudes toward distracted driving. Of those, 67 percent of adult drivers said they felt at risk from other drivers who are distracted by technology, and 25 percent said they put themselves or others at risk because of their own use of technology while driving. But for every variety of distraction – phone calls, texting, grooming, use of social media, etc. – both groups showed a much higher likelihood of technology use in parking lots than on the highway or surface streets.

Simply put, people feel as though they can let their guards down in parking lots.

“Parking lots are an afterthought to a lot of people,” said James A. Solomon, director of Defensive Driving Program Development and Training at NSC.¹⁷

Recommendation

The BCFED remains very concerned the hazards for Traffic Control Assistants put them in danger. We believe the proposed exemptions diminish the hazards and we do not support the employer’s assertion that the training should be less for Traffic Control Assistants than for TCPs.

Therefore, our recommendation in Section 18.6.3(1) to strengthen the training for Traffic Control Assistants is paramount.

Section 18.3.1 Risk assessment

The PRRD is proposing to amend Subsection (3)(g)(vi) to require the risk assessment to include consideration of “what orientation and training are required for traffic control persons in work zones. An additional amendment to (3)(h) requires the risk assessment to include consideration of “the level of supervision required”.

The BCFED strongly supports these amendments.

Section 18.3.2 (1) Traffic control plan

Proposed amendment will ensure a written traffic control plan is developed based on the risk assessment for short and long duration work.

The BFED supports the proposed amendment and opines that a written plan will be the most effective way to ensure compliance with Subsection (4) in which the employer must ensure the traffic control plan is accessible at all time to workers at the work zone.

¹⁷ <https://www.safetyandhealthmagazine.com/articles/16449-parking-lot-safety>

Section 18.6 (c) Prohibitions

Proposed amendment will ensure that traffic controls persons are not positioned in an intersection open to traffic flow or the travelled portion of a roadway.

BCFED supports the proposed amendment which will provide greater protection for TCPs.

Section 18.6.1 Emergency management

Subsection (1)

The BCFED is pleased the PPRD has included our proposed amendment to broaden the definition of emergency responders to include “a firefighter, paramedic, highway rescue worker, search and rescue worker, tow truck worker, utility owner’s worker, road authority and road maintenance worker.”

Section 18.8 Location of traffic control persons

The BCFED supports the proposed amendment to subsection (1) to ensure that a TCP is in a position that has been identified in the risk assessment as a safe position and we recommend a further amendment that the safe position must be identified in the traffic control plan as well as the risk assessment.

We also support the proposed amendments to subsections (2)(a-d) to clarify the conditions that constitute a safe location and to subsection (3) if the requirements of subsection (2) are not possible the employer must ensure that an alternate position is based in a written risk assessment of site-specific conditions and that alternate position provides for the safety of the TCP.

Recommendations proposed in original consultation submission

Section 18.3.1 (1)

The employer is required to have a qualified person conduct the risk assessment. The only requirement that must be met by the qualified person is that “the person must demonstrate an understanding of the risks to worker health and safety whenever traffic control is required.”

The BCFED has previously expressed our concerns with the term “qualified person.” The proposed definition in Part 1 Section 1.1(1) of the OHSR states that “qualified” means “being knowledgeable of the work, the hazards involved and the means to control the hazards, by reason of education, training, experience or a combination thereof.”

We are concerned that this definition is too general and can lead to confusion about who is the qualified person.

The BCFED prefers the definition of “qualified person” in Part 6 Asbestos Section 6.1:

Means a person who

- a) has knowledge of the management and control of asbestos hazards through education and training, and*
- b) has experience in the management and control of asbestos hazards.*

Recommendation

Section 18.1, Definition, be further amended to add “qualified person,”

- a) has the knowledge of the management and control of traffic where traffic is hazardous to workers through education and training, and
- b) has experience in the management of and control of traffic where traffic is hazardous to workers.

The BCFED is also concerned the proposed amendments for risk assessments in Section 18.3.1, Sub-sections 1 to 5 do not include a requirement for the “qualified person” to consult with workers. Including workers in the process of identifying hazards, conducting risk assessments and recommending corrective measures, is a right that is established in the *Workers Compensation Act (WCA)*.

WCA Part 3, Division 4, Section 130, Duties and functions of a joint committee, clearly prescribes the requirements for involvement of Joint Occupational Health and Safety Committees:

A joint committee has the following duties and functions in relation to its workplace:

- a) to identify situations that may be unhealthy or unsafe for workers and advise on effective systems for responding to those situations;*
- b) to consider and expeditiously deal with complaints relating to the health and safety of workers;*
- c) to consult with workers and the employer on issues related to occupational health and safety and occupational environment;*
- d) to make recommendations to the employer and the workers for the improvement of the occupational health and safety and occupational environment of workers;*
- e) to make recommendations to the employer on educational programs promoting the health and safety of workers and compliance with this Part and the regulations and to monitor their effectiveness;*
- f) to advise the employer on programs and policies required under the regulations for the workplace and to monitor their effectiveness;*
- g) to advise the employer on proposed changes to the workplace, including significant proposed changes to equipment and machinery, or the work processes that may affect the health or safety of workers;*
- h) to ensure that accident investigations and regular inspections are carried out as required by this Part and the regulations;*
- i) to participate in inspections, investigations and inquiries as provided in this Part and the regulations;*

j) to carry out any other duties and functions prescribed by regulation.¹⁸

This requirement established in the WCA is reinforced in the OHSR Part 4 Ergonomics (MSI) Requirements Section 4.53 (1):

(1) The employer must consult with the joint committee or the worker health and safety representative, as applicable with respect to the following when they are required by the Ergonomics (MSI) Requirements

- a) risk identification, assessment and control*
- b) The content and provision of worker education and training*
- c) The evaluation of compliance measures taken*

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

- a) workers with signs and symptoms of MSI, and*
- b) a representative sample of workers who are required to carry out the work being assessed.¹⁹*

In order to ensure that workers are involved in the process of risk assessment, the development of the traffic control plan and control measures. the BCFED recommends further amending Part 18 by adding a new section 18.3.1.(6) Consultation.

Recommendation

The BCFED recommends further amending Part 18 by adding a new section 18.3.1.(6) Consultation.

¹⁸ <https://www.worksafefbc.com/en/law-policy/occupational-health-safety/searchable-ohs-regulation/workerscompensation-act>

¹⁹ <https://www.worksafefbc.com/en/law-policy/occupational-health-safety/searchable-ohs-regulation/workerscompensation-act>

The employer must consult with the joint committee or the worker health and safety representative, as applicable with respect to the following when they are required by the Traffic Control Requirements

- (a) Risk assessment and any reviews
- (b) Traffic control plan,
- (c) Control measures, and
- (d) The content and provision of worker education and training, and
- (e) The valuation of compliance measures taken.

The BCFED supports the proposed amendment to include a list of specific hazards to be considered in the risk assessment in Section 18.3.1(3) for short and long duration work. We agree with the BCGEU, having heard from their members' concerns, that the risk of workplace violence is high. Incidents ranging from verbal threats to physical assaults are common.

Workers are concerned these incidents are not taken seriously by the employers; no investigations and no corrective actions. We believe workplace violence needs to be added to the list of hazards.

90% of TCPs in BC are women and the BCFED is concerned these workers are at a higher risk of violence. This concern is supported by the 2018 Stats Canada study into harassment in workplaces that found that women workers experience more harassment than their male counterparts.

- *Results found that overall, 19% of women and 13% of men reported that they had experienced harassment in their workplace in the past year. Workplace harassment includes verbal abuse, humiliating behaviour, threats to persons, physical violence, and*

*unwanted sexual attention or sexual harassment.*²⁰

Based on these gender differences this is an opportunity to apply a Gender-Based Analysis (GBA+) in recognition that women, men and gender diverse people can have very different experiences with the same policy or program depending on their personal characteristics.²¹

Recommendation

To clarify employer responsibility to prevent workplace violence, applying the GBA+ analysis this section must be further amended to add workplace violence to the list of hazards that are considered in the risk assessment.

Section 18.6.2 Traffic control person training

This section sets out the requirements for TCP training, that it must be WCB approved and includes theory and practical competency assessments. The training must be based on criteria for training and certification based on a list of accepted standards. The course must include assessment of the knowledge of the subject matter and practical competency.

The proposed amendments to Section 18.6.2 set out very general and nonprescriptive requirements for course content. There is no list of course content as there is in the proposed amendment for emergency responders training. The standards that are listed as acceptable criteria set general requirements for the development of certification programs for bodies that provide certification.

Currently, the BC Construction Safety Association (BCCSA) is the recognized provider of the two-day TCP training program. The program is accepted by the WCB. The BCFED is very concerned that the current course does not adequately prepare TCPs for the important and dangerous work of traffic control. The BCFED strongly believes the TCP course curriculum must be included in the regulation in order to ensure quality and consistency in the TCP training. A list of course requirements will also assist the WCB in determining which course they will

²⁰ <https://www150.statcan.gc.ca/n1/pub/75-006-x/2018001/article/54982-eng.htm>

²¹ <https://cfc-swc.gc.ca/gba-ac/index-en.html>

approve. The current BCCSA does not include any content about the prevention of workplace violence, as previously mentioned our members experience significant levels of violence.²²

Recommendation

The BCFED recommends Section 18.6.2 (2) be amended to include a list of required course content which must include the prevention of workplace violence.

We also believe that the TCP training program should be 2-4 weeks in length with a robust requirement for on-the-job practicum. We agree with the BCGEU that the course include a one-month apprenticeship with an experienced TCP.

The BCFED recommends the WCB consult with the stakeholders and set up a working group to redesign the TCP training.

Section 18.6.3 Traffic assistant training

The regulation is being amended to introduce the new position of Traffic Assistant. Traffic assistants direct traffic to or from parking spaces in workplaces such as parking lots, terminals, large events. Employers expressed concern at the pre-consultation that these workers do not need the same training as TCPs. The risks are different and perhaps not as high due to reduced speed of the vehicles being directed. But these workplaces are not free of hazards for TCPs.

As identified by the National Safety Council parking lots are very dangerous workplaces; distracted driving, mixing vehicles and pedestrians, competitions for parking spaces are some of the hazards TCPs must contend with.²³

Section 18.6.3(1) sets out the requirements for training for the traffic assistant. The training must address the hazards, must be specific to the work site and must include course work and a practical component. The BCFED believes the course must be approved by the WCB and recommend the following amendment:

²² <https://www.bccsa.ca/traffic-control.html>

²³ <https://www.nsc.org/support-nsc>

Recommendation

Section 18.6.3(1) be amended to read: An employer must ensure that a traffic assistant receives Board-approved workplace training that addresses the hazards specific to the work site and includes course work and a practical component.

Section 18.16 Long periods of delay

The WCB proposes to remove the requirement in this section for signs or other effective means to be used to inform traffic of long periods of delay. The BCFED believes that informing drivers there will be a long delay is essential to preventing violence against roadside workers.

Recommendation

Section 18.16, Long periods of delay is retained in the new regulation.

Part 21 Blasting

The BCFED has reviewed and support all the proposed recommendations added after the last public hearing. It is our view the new proposed amendments will improve health and safety for workers.