

**2004/09/14-04**

**THE WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA**

**RESOLUTION OF THE BOARD OF DIRECTORS**

**Re: Amendments to the Fall Protection Requirements of the  
*Occupational Health and Safety Regulation (B.C. Reg. 296/97,*  
as amended)**

**WHEREAS:**

Pursuant to section 225(1) of the *Workers Compensation Act*, R.S.B.C. 1996, c. 492 and amendments thereto ("*Act*"), the Workers' Compensation Board ("*WCB*") may make regulations the *WCB* considers necessary or advisable in relation to occupational health and safety and occupational environment;

**AND WHEREAS:**

Part 11 of the *Occupational Health and Safety Regulation ("OHSR")* contains requirements pertaining to fall protection;

**AND WHEREAS:**

A review of the regulatory requirements within Part 11 has been conducted with the view of updating current requirements to reflect technological advances, and allowing flexibility for adopting alternative and appropriate measures while providing reasonable standards for the protection of worker health and safety;

**AND WHEREAS:**

The *WCB*, pursuant to its mandate under the *Act*, has proposed amendments to Parts 4, 11, 20, 22 and 26 of the *OHSR*, and has given notice of the proposed amendments and held a public hearing on the proposed amendments in accordance with section 226(1) of the *Act*;

**AND WHEREAS:**

The Board of Directors, after due consideration of all presentations to the WCB, considers it necessary and advisable in accordance with the WCB's mandate under the *Act* in relation to occupational health and safety and occupational environment, to amend Parts 4, 11, 20, 22 and 26 of the *OHSR*;

**AND WHEREAS:**

The Program Design Division will prepare practice guidelines in support of the regulatory amendments;

**AND WHEREAS:**

Pursuant to the Provincial Government's *Regulatory Reform Policy*, the Board of Directors has evaluated the proposed regulatory amendments according to the established regulatory criteria;

**THE BOARD OF DIRECTORS RESOLVES THAT:**

1. The regulatory amendments to the *OHSR*, as set out in Appendix A, are approved.
2. The Regulatory Criteria Checklist in Appendix B is approved.
3. The above regulatory amendments will be deposited with the Registrar of Regulations in such form as may be required by the Registrar.
4. The above regulatory amendments come into force on January 1, 2005.

DATED at Nanaimo, British Columbia, September 14, 2004.

**By the Workers' Compensation Board**

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**DOUGLAS J. ENNS, CHAIR  
BOARD OF DIRECTORS**

**THE BOARD OF DIRECTORS RESOLVES THAT:**

**1 The following is added after section 4.58 of the Occupational Health and Safety Regulation, B.C. Reg. 296/97:**

**Temporary removal of guardrails**

- 4.58.1(1)** If a guardrail must be removed to accommodate work,
- (a) only that portion of the guardrail necessary to allow the work to be done may be removed, and
  - (b) workers exposed to a fall hazard must be protected by another fall protection system when the guardrail is absent.
- (2) The guardrail must be replaced
- (a) when the unguarded area is left unattended, and
  - (b) after the work is completed if the circumstances still require guardrails.

**2 Section 11.1 is amended**

**(a) by repealing the definitions of “carabiner” and “control zone”,**

**(b) by repealing the definition of “fall protection system” and substituting:**

**“fall protection system” means**

- (a) a fall restraint system,
- (b) a fall arrest system, or
- (c) work procedures that are acceptable to the Board and minimize the risk of injury to a worker from a fall; ,

**(c) by repealing the definition of “fall restraint system” and substituting:**

**“fall restraint system” means a system to prevent a worker from falling from a work position, or from travelling to an unguarded edge from which the worker could fall; ,**

**(d) by repealing the definition of “free fall distance”,**

**(e) by repealing the definition of “full body harness” and substituting:**

**“full body harness” means a body support device consisting of connected straps designed to distribute the force resulting from a fall over at least the thigh, shoulders and pelvis, with provision for attaching a lanyard, lifeline or other components; ,**

**(f) by repealing the definition of “personal fall protection system” and substituting:**

**“personal fall protection system” means a worker’s fall restraint system or fall arrest system composed of**

- (a) a safety belt or full body harness, and
- (b) a lanyard, lifeline and any other connecting equipment individual to the worker that is used to secure the worker to an individual point of anchorage or to a horizontal lifeline system; , **and**

**(g) by repealing the definitions of “safety monitor system”, “safety strap”, “shock absorber”, “swing-fall hazard”, “total fall distance”, and “unusual risk of injury”.**

## APPENDIX A

**3** *The heading “General requirements” following section 11.1 is struck out.*

**4** *Section 11.2 is amended*

*(a) in subsection (1), by repealing paragraph (b) and substituting:*

(b) where a fall from a height of less than 3 m involves a risk of injury greater than the risk of injury from the impact on a flat surface. , *and*

*(b) by repealing subsections (3), (4) and (5) and substituting:*

- (3) If subsection (2) is not practicable, the employer must ensure that another fall restraint system is used.
- (4) If subsection (3) is not practicable, the employer must ensure that a fall arrest system is used.
- (5) If the use of a fall arrest system is not practicable, or will result in a hazard greater than if the system was not used, the employer must ensure that work procedures are followed that are acceptable to the Board and minimize the risk of injury to a worker from a fall.
- (6) Before a worker is allowed into an area where a risk of falling exists, the employer must ensure that the worker is instructed in the fall protection system for the area and the procedures to be followed.
- (7) A worker must use the fall protection system provided by the employer.

**5** *Section 11.3 is amended*

*(a) in subsection (1),*

- (i) by adding “or” to the end of paragraph (a),*
- (ii) by repealing paragraph (b) and substituting:*
  - (b) section 11.2 (5) applies. , *and*
- (iii) by repealing paragraph (c), and*

*(b) by repealing subsection (3).*

**6** *Sections 11.4 to 11.40 are repealed and the following substituted:*

### **Selection of harness or belt**

- 11.4** (1) A worker must wear a full body harness or other harness acceptable to the Board when using a personal fall protection system for fall arrest.
- (2) A worker must wear a safety belt, a full body harness or other harness acceptable to the Board when using a personal fall protection system for fall restraint.

### **Equipment standards**

- 11.5** Equipment used for a fall protection system must
- (a) consist of compatible and suitable components,
  - (b) be sufficient to support the fall restraint or arrest forces, and
  - (c) meet, and be used in accordance with, an applicable CSA or ANSI standard in effect when the equipment was manufactured, subject to any modification or upgrading considered necessary by the Board.

## APPENDIX A

### Anchors

- 11.6** (1) In a temporary fall restraint system, an anchor for a vertical lifeline, or for a lanyard used without a lifeline, must have an ultimate load capacity in any direction in which a load may be applied of at least
- (a) 3.5 kN (800 lbs), or
  - (b) four times the weight of the worker to be connected to the system.
- (2) Each vertical lifeline used for fall arrest must be secured to an independent point of anchorage.
- (3) In a fall arrest system or permanent fall restraint system, an anchor for a vertical lifeline, or for a lanyard used without a lifeline, must have an ultimate load capacity in any direction required to resist a fall of at least
- (a) 22 kN (5 000 lbs), or
  - (b) two times the maximum arrest force.

### Temporary horizontal lifelines

- 11.7** A temporary horizontal lifeline system may be used if the system is
- (a) manufactured for commercial distribution and installed and used in accordance with the written instructions and drawings from the manufacturer or authorized agent, and the instructions and drawings are readily available in the workplace,
  - (b) installed and used in accordance with written instructions and drawings certified by a professional engineer, and the instructions and drawings are readily available in the workplace, or
  - (c) designed, installed and used in a manner acceptable to the Board.

### Certification by engineer

- 11.8** The following types of equipment and systems, and their installation, must be certified by a professional engineer:
- (a) permanent anchors,
  - (b) anchors with multiple attachment points,
  - (c) permanent horizontal lifeline systems, and
  - (d) support structures for safety nets.

### Inspection and maintenance

- 11.9** Equipment used in a fall protection system must be
- (a) inspected by a qualified person before use on each workshift,
  - (b) kept free from substances and conditions that could contribute to its deterioration, and
  - (c) maintained in good working order.

### Removal from service

- 11.10** After a fall protection system has arrested the fall of a worker, it must
- (a) be removed from service, and
  - (b) not be returned to service until it has been inspected and recertified as safe for use by the manufacturer or its authorized agent, or by a professional engineer.

APPENDIX A

7 *Section 20.4 is repealed and the following substituted:*

**Safe access**

**20.4** (1) Where practicable, suitable ladders, work platforms and scaffolds meeting the requirements of Part 13 (Ladders, Scaffolds and Temporary Work Platforms) must be provided for and used by a worker for activities requiring positioning at elevations above a floor or grade.

8 *Section 20.7 is repealed.*

9 *Section 20.13 is amended*

*(a) in subsection (3),*

*(i) by adding “and” to the end of paragraph (a),*

*(ii) by striking out “and” at the end of paragraph (b), and*

*(iii) by repealing paragraph (c), and*

*(b) by repealing subsection (5).*

10 *Section 20.73 is repealed.*

11 *Section 22.118 (1) is repealed.*

12 *Section 26.37 (2) is repealed.*

13 *The above amendments come into force January 1, 2005.*

*DATED at Nanaimo, British Columbia, September 14<sup>th</sup>, 2004.*

*By the Workers’ Compensation Board*

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*DOUGLAS J. ENNS, CHAIR  
BOARD OF DIRECTORS*

APPENDIX B

**REGULATORY CRITERIA CHECKLIST**

**Title of Legislation/Regulation\*** *Occupational Health and Safety Regulation*

*\*If Regulation, Title of Authorizing Legislation: Workers Compensation Act*

*Purpose of Proposal (One-Line Summary):* Amendments to fall protection requirements.

**If the answer is “No” for any of the criteria, please attach explanation.**

Regulatory Criteria	Criteria Met	
1. Reverse Onus: Need for Regulation is Justified	<input checked="" type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>
2. Regulatory Design is Results-Based	<input type="checkbox"/> <b>Yes</b>	<input checked="" type="checkbox"/> <b>No</b>
3. Transparent Development of Regulatory Requirements	<input checked="" type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>
4. Cost- Benefit Analysis	Formal Cost-Benefit Analysis Completed <input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b> <input type="checkbox"/> <b>Not Required</b> If <i>Not Required</i> , Impacts have been Analyzed <input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	
5. Competitive Analysis Completed	<input type="checkbox"/> <b>Yes</b>	<input checked="" type="checkbox"/> <b>No</b>
6. Regulatory Requirements Avoid or Eliminate Duplication with Other Jurisdictions	<input checked="" type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>
7. Timeliness of Regulatory Response	<input checked="" type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>
8. Plain Language	<input checked="" type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>
9. Sunset Review and Expiry Provisions	Sunset Review provision	<input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b>
	Sunset Expiry provision	<input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b>
10. Replacement Principle Applied	<input checked="" type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>

Number of Regulatory Requirements to be added:  
 Number of Regulatory Requirements to be eliminated:  
**NET CHANGE: -145**

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**Douglas J. Enns, Chair**  
**Board of Directors**

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**Date**

**Contact:** **Freda Jung, Senior Policy Analyst**  
**Policy & Research Division**  
**Workers' Compensation Board**

## REGULATORY CRITERIA CHECKLIST

### A. BACKGROUND

On March 11, 2002 the provincial government introduced a new Regulatory Reform Policy ("Policy"). The Policy is intended to "support the government's commitment to reducing the regulatory burden in British Columbia by one-third over three years." The Policy applies to all proposed legislation and regulations.

The Policy requires the Chair of the Board of Directors ("BOD") to ensure that proposed regulations are evaluated according to regulatory criteria set out in the Policy, and to sign and make public the "Regulatory Criteria Checklist" ("Checklist") when regulations are enacted. The criteria are designed to ensure that all new regulations are results-based and contribute to a more competitive regulatory environment.

The Policy provides for exemptions from the Checklist if the head of the regulatory agency certifies that, in his or her opinion, the regulation satisfies one or more of the following conditions:

- Is non-regulatory in nature;
- Changes fees in respect of a financial year by an annual rate that has been approved by the Treasury Board;
- Relates only to the procedures or practices of a court or tribunal;
- Is required under a national uniform legislation or regulatory scheme, or by federal legislation that has already been assessed against criteria similar to that provided in the Checklist;
- Is fundamentally declaratory or machinery in nature, such as housekeeping changes that clarify or correct a provision without changing procedural requirements;
- Provides for the commencement of an Act or regulation or the commencement of a provision of an Act or regulation;
- Is consolidated and reviewed under the reversion powers in Part 2 of the *Regulations Act*;
- Is transitional in nature;
- The special circumstances of the case, as identified by the responsible minister or head of the regulatory authority, make it impracticable to comply with the Regulatory Criteria.

## APPENDIX B

The regulatory amendments relating to fall protection requirements do not meet the criteria for an exemption from the Checklist.

### **B. REGULATORY AMENDMENTS**

Part 11 of the *Occupational Health and Safety Regulation* (“OHSR”) contains a mix of performance-based and prescriptive requirements for reducing the risk of injury or death to workers from falls from elevation. These requirements are often very technical and not always responsive to changes in workplace practices and/or new technological advances. In addition, they do not allow sufficient flexibility at workplaces for adopting alternative and appropriate control measures, while providing a reasonable standard for protection of worker health and safety.

A review of the fall protection requirements was conducted to rationalize and streamline current requirements. In addition, the review also identified the need for regulatory amendments to respond to changes in workplace practices and technological advances.

### **C. EXPLANATORY NOTES**

#### **1. Reverse Onus: Need for Regulation is Justified**

The regulatory requirements are necessary to maintain reasonable standards for the protection of worker health and safety.

#### **2. Regulatory Design is Results-Based**

The amendments are a mix of results-based and prescriptive requirements, similar to other parts of the *OHSR*. One of the objectives of the Workers’ Compensation Board’s (“WCB”) ongoing regulation review is to strike a reasonable balance between establishing standards or practices for controlling risk and providing flexibility to enable workplaces to determine appropriate measures for achieving compliance. Where appropriate, the amendments allow flexibility at workplaces for determining appropriate control measures, while maintaining a reasonable standard of protection of worker health and safety.

#### **3. Transparent Development of Regulatory Requirements**

Section 226 of the *Workers Compensation Act* (“Act”) requires that before making a regulation under Part 3, the WCB must give notice of the proposed regulation in the *BC Gazette* and at least three newspapers and must hold at least one public hearing on the proposed regulation.

## APPENDIX B

The public hearing was conducted between January 16, 2004 (date of formal notice) and April 16, 2004 (due date for written submissions).<sup>1</sup> Oral hearings were conducted in the following locations:

- Prince George – March 9, 2004
- Nanaimo – March 11, 2004
- Kelowna – March 23, 2004
- Richmond – March 25, 2004
- Nelson – March 30, 2004

The response to the amendments during the public hearing was low to moderate and somewhat controversial. However, a significant majority (94%) of the submissions that commented on the regulatory amendments relating to fall protection requirements expressed some level of opposition to the proposed amendment package. Generally, these submissions (from the worker community) expressed concern about the movement of relevant information, such as specific control measures, from regulation into guidelines, and access to external third party standards by workplace parties. A number of submissions expressed concern about the proposed requirement to require a worker to use the fall protection provided by the employer.

Most submissions from employers expressed support generally for the proposal, in addition to identifying concerns with specific requirements. A submission from the employer community expressed unequivocal support for the proposed changes to fall protection requirements.

The concerns raised during the public hearing process were represented in the options presented to the BOD for decision.

#### **4. Cost-Benefit Analysis Completed**

A formal cost-benefit analysis was not completed. Generally, cost implications were not raised during the public hearing process.

#### **5. Competitive Analysis Completed**

A formal competitive analysis was not completed. However, the regulatory amendments are generally consistent with the occupational health and safety requirements found in other Canadian jurisdictions. There are three approaches taken with respect to fall protection requirements in other Canadian jurisdictions. In seven jurisdictions (Alberta, New Brunswick, Newfoundland, Nova Scotia, Quebec, Saskatchewan and Yukon), the requirements are very detailed, including specific technical information. In four jurisdictions (Manitoba, Northwest Territories, Nunavut and Ontario), the approach taken to fall protection requirements is mixed. Some requirements outline the general safety objective, while others describe detailed

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<sup>1</sup> The proposed regulatory amendments were released to stakeholders on December 5, 2003. Technical Information Sessions for interested parties were conducted between January 13, 2004 and February 26, 2004 and were facilitated in 8 locations across the province.

technical specifications. BC's proposed fall protection requirements follow this approach. In Prince Edward Island, fall protection requirements describe basic obligations with respect to when a fall protection system is required and the specific standards that the system must meet. Details are provided in a comprehensive practice guideline.

## **6. Avoid or Eliminate Duplication with Other Jurisdictions**

The amendments do not duplicate requirements imposed by other regulatory jurisdictions.

## **7. Timeliness of Regulatory Response**

Changes to regulations must be deposited with the Registrar of Regulations and, pursuant to section 227 of the *Act*, may only come into force at least 90 days after their deposit under the *Regulations Act*.

To ensure successful implementation of the new requirements, the amended regulation will be effective January 1, 2005.

The amended regulation will be available on the WCB's website and a communications strategy has been developed to ensure workplace parties are made aware of the changes. Guidelines have been drafted to provide additional clarity on the new requirements and assist with compliance.

## **8. Plain Language**

The amendments are drafted in plain language.

## **9. Sunset Review and Expiry Provisions**

Sunset review and expiry provisions are not required. Section 228 of the *Act* requires the WCB to undertake a process of ongoing review of and consultation on its regulations to ensure that they are consistent with current workplace practices, technological advances and other changes affecting occupational health and safety and occupational environment.

## **10. Replacement Principle Applied**

The amendments result in a reduction of 145 regulatory requirements.