

**2006/07/25-03****THE WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA****RESOLUTION OF THE BOARD OF DIRECTORS****RE: Amendments to 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 it considers necessary or advisable in relation to occupational health and safety and occupational environment;

**AND WHEREAS:**

Sections 1.1, 4.3, 5.49, 9.11, 9.18, 9.22, 13.23, 13.33, 14.34, 14.91, 20.4, 23.14, 24.93, 24.104, 24.106, and 26.11 of the *Occupational Health and Safety Regulation* ("*OHSR*") contain requirements to address occupational health and safety issues;

**AND WHEREAS:**

The Board of Directors accepted the review of Part 26 in its entirety, as well as any Part 1 consequential amendments, as part of the 2007 regulatory workplan;

**AND WHEREAS:**

A review of these sections was undertaken as part of the WCB's ongoing regulation review to ensure that regulation requirements are consistent with current workplace practices, technological advances and other changes affecting occupational health and safety and occupational environment;

**AND WHEREAS:**

The WCB, pursuant to its mandate under the *Act*, has proposed amendments to these requirements in the *OHSR* and has given notice of,

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 approve the proposed amendments to the listed sections of the *OHSR*;

**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 amendments to the *OHSR*, as set out in Appendix A are approved.
2. The proposed amendments to sections 1.1 and 26.11 are not approved.
3. The Regulatory Criteria Checklist in Appendix B is approved.
4. The above regulatory amendments will be deposited with the Registrar of Regulations in such form as may be required by the Registrar.
5. The above amendments come into force January 1, 2007.

DATED at Richmond, British Columbia, July 25, 2006.

**By the Workers' Compensation Board**

---

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

**THE BOARD OF DIRECTORS RESOLVES THAT:**

- 1 *Section 4.3 of the Occupational Health and Safety Regulation, B.C. Reg. 296/97, is amended in subsections (1) (b) (i) and (4) (a) by striking out “recommendations and”.*
- 2 *Section 5.49 of the Occupational Health and Safety Regulation, B.C. Reg. 296/97, is amended by striking out “has an 8-hour TWA limit,” and substituting “is provided only with an 8-hour TWA limit,”.*
- 3 *Section 9.11 (2) of the Occupational Health and Safety Regulation, B.C. Reg. 296/97, is amended*
  - (a) *in paragraph (a) by striking out “or registered occupational hygienist (ROH)” and substituting “, registered occupational hygienist (ROH), certified safety professional (CSP), Canadian registered safety professional (CRSP) or professional engineer (P. Eng.), provided that the holders of these qualifications have experience in the recognition, evaluation and control of confined space hazards, or”, and*
  - (b) *by repealing paragraph (b).*
- 4 *Section 9.18 of the Occupational Health and Safety Regulation, B.C. Reg. 296/97, is amended*
  - (a) *in subsection (1) by striking out “subsections (2) and (3),” and substituting “subsection (2),”*
  - (b) *in subsection (2) by striking out “at a pressure exceeding 100 kPa gauge (15 psig),”*
  - (c) *in subsection (2)*
    - (i) *by striking out “or” at the end of paragraph (a),*
    - (ii) *by striking out “the line.” at the end of paragraph (b) and substituting “the line, or”, and*
    - (iii) *by adding the following paragraph:*
      - (c) *by other effective means., and*
  - (d) *by repealing subsection (3).*
- 5 *Section 9.22 (1) is amended by striking out “is not possible,” and substituting “is not practicable,” and by striking out “, if acceptable to the Board, which ensure equivalent protection to all workers exposed to the hazard.” and substituting “acceptable to the Board.”.*
- 6 *Section 13.23 (5) of the Occupational Health and Safety Regulation, B.C. Reg. 296/97, is repealed.*
- 7 *Section 13.33 of the Occupational Health and Safety Regulation, B.C. Reg. 296/97, is amended*
  - (a) *in subsection (1) by striking out “a boom-supported elevating work platform” and substituting “an elevating work platform”,*
  - (b) *by adding the following subsection:*
    - (1.1) *Despite subsection (1), a worker on a scissor lift, or on an elevating work platform with similar characteristics to a scissor lift, that is on a firm level surface with no irregularities to cause platform instability, is exempt from wearing a personal fall arrest system, provided that all manufacturer’s guardrails and chains are in place., and*

*(c) by repealing subsection (4) (b) and substituting the following:*

- (b) an anchor attached to the platform and designated for that purpose by the manufacturer or a professional engineer, provided that the platform has a safety strap that will prevent the platform from falling more than 15 cm (6 in) if the platform becomes dislodged from the hook.

**8** *Section 14.34 of the Occupational Health and Safety Regulation, B.C. Reg. 296/97, is amended*

- (a) in subsection (2) by striking out “A worker” and substituting “A person”, and*
- (b) by repealing subsection (3).*

**9** *The following section is added:*

**Operator certification**

**14.34.1** On and after July 1, 2007, a mobile crane, tower crane or boom truck must be operated only

- (a) by a person with a valid operator’s certificate issued by a person acceptable to the Board, and
- (b) in accordance with any conditions stipulated on the certificate.

**10** *Section 14.91 (1) of the Occupational Health and Safety Regulation, B.C. Reg. 296/97, is repealed and the following substituted:*

**14.91 (1)** A rotation resistant hoisting rope on a tower crane must be shortened by the removal of 3 m (10 ft) of rope at the dead end after every 500 hours of use unless

- (a) otherwise specified by the rope manufacturer,
- (b) the rope has 14 or more outer strands, or
- (c) the rope has a plastic coated inner core.

**11** *Section 20.4 of the Occupational Health and Safety Regulation, B.C. Reg. 296/97, is renumbered as section 20.4 (1) and the following subsection is added:*

- (2) There must be suitable access for the safe delivery of equipment and materials to locations in the workplace where they will be used.

**12** *Section 23.14 of the Occupational Health and Safety Regulation, B.C. Reg. 296/97, is amended*

- (a) in subsection (4) by striking out “A pressure relief device” and substituting “Except for a pumping wellhead, a pressure relief device”, and*
- (b) by adding the following subsection:*

- (5) For a wellhead utilizing a down-hole positive displacement pump, the employer must implement measures to prevent the pump from causing pressures that exceed the pressure rating of the system.

**13** *Section 24.93 of the Occupational Health and Safety Regulation, B.C. Reg. 296/97, is amended by adding the following subsection:*

- (5) The owner must ensure that an audible marine grade carbon monoxide sensor, connected to an alarm system where practicable, is installed in crew quarters.

**14** *Section 24.104 (a) is amended by adding “the net” after “for picking up”.*

*15 Section 24.106 is repealed and the following substituted:*

**Work areas and safeguarding**

- 24.106**(1) Work areas on herring skiffs and punts must be arranged to prevent contact with moving equipment such as beaters and live rollers.
- (2) The owner of a herring gillnet vessel must ensure that drums are fitted with
- (a) an effective ratchet device for picking up the net under heavy strain and an effective brake to maintain control when setting out the net, and
  - (b) a hold-to-run control or other equally effective safeguard to stop the drums if a worker becomes entangled in the net or lines being wound in by the drum.

*16 The above amendment comes into force January 1, 2007.*

*Dated at Richmond,, British Columbia, July 25, 2006.*

*By the Workers' Compensation Board*

---

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

## Regulatory Criteria Checklist

**Title of Legislation/Regulation\*** Occupational Health and Safety Regulation (“OHSR”)

**\*If Regulation, Title of Authorizing Legislation:** Workers Compensation Act  
**Purpose of Proposal (One-Line Summary):** Amendments to sections of the OHSR to address implementation and compliance issues

**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"/> Yes <input type="checkbox"/> No
2. Regulatory Design is Results-Based	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
3. Transparent Development of Regulatory Requirements	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
4. Cost-Benefit Analysis	Formal Cost-Benefit Analysis Completed <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Not Required If Not Required, Impacts have been Analyzed <input type="checkbox"/> Yes <input type="checkbox"/> No
5. Competitive Analysis Completed	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6. Regulatory Requirements Avoid or Eliminate Duplication with Other Jurisdictions	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
7. Timeliness of Regulatory Response	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
8. Plain Language	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
9. Sunset Review and Expiry Provisions	Sunset Review provision <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Sunset Expiry provision <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10. Replacement Principle Applied	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11. Business Process Map Analysis Completed	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Number of Regulatory Requirements to be added:	<b>8</b>
Number of Regulatory Requirements to be eliminated:	<b>3</b>
<b>NET CHANGE:</b>	<b>+5</b>

\_\_\_\_\_  
 Responsible Minister or Head of Regulatory Authority  
**Douglas J. Enns, Chair**  
**Board of Directors**  
**Workers’ Compensation Board**

\_\_\_\_\_  
 July 25, 2006  
 Date

Contact:  
**Anne Burch, Director**  
**Policy and 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 was intended to “support the government’s commitment to reducing the regulatory burden in British Columbia by one-third over three years.” The Policy applied to all proposed legislation and regulations. On February 8, 2006 Cabinet re-confirmed government’s commitment to regulatory reform and the target of a zero net increase in regulatory requirements for three years (through December 31, 2008).

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.

The amendments to sections of the *OHSR* do not meet the criteria for an exemption from the Checklist.

## **B. REGULATORY AMENDMENTS**

Sections 4.3, 5.49, 9.11, 9.18, 9.22, 13.23, 13.33, 14.34, 14.91, 20.4, 23.14, 24.93, 24.104 and 24.106 of the *OHSR* contain requirements to address occupational health and safety issues. The Workers' Compensation Board ("WCB") became aware that some of these sections required clarification, while other sections have implementation and compliance issues. A review of these requirements was conducted to clarify these issues because, left unchecked, they may have negative implications for workers' health and safety.

Sections 1.1 and 26.11 of the *OHSR* were also reviewed, but the proposed amendments to these sections were not approved by the BOD, as the BOD accepted the review of Part 26 in its entirety and any Part 1 consequential amendments, as part of the 2007 regulatory workplan.

## **C. EXPLANATORY NOTES**

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

These amendments are necessary to maintain reasonable standards for the protection of worker health and safety.

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

These amendments are a mix of results-based and prescriptive requirements. One of the objectives of the WCB's 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 for workplaces to determine 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. The required notice was given, and a public hearing was conducted between April 6, 2006 (date of formal notice) and May 31, 2006 (due date for written submissions). Oral hearings were conducted in Kelowna, Prince George, Nanaimo and Vancouver on May 11, 15, 17 and 26, 2006 respectively, as part of the public hearing process. The concerns raised by stakeholders were represented in the options presented to the BOD for decision.

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

These amendments to the *OHSR* did not warrant a formal cost-benefit analysis. Cost to implement these changes (other than the cost of crane operator certification) was not a factor raised in the consultation and public hearing process. Since most of the amendments clarify existing provisions, it is expected that workplaces currently in compliance will not incur any additional cost.

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

The nature of these amendments to the *OHSR* does not warrant a formal competitive analysis.

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

The amendments do not duplicate requirements imposed by another regulatory jurisdiction.

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

Changes to regulations must be deposited with the Registrar of Regulations pursuant to the *Regulations Act* and may come into force no sooner than 90 days after their deposit, pursuant to section 227 of the *Workers Compensation Act*. To ensure successful implementation of the new requirements, the amended regulation will be effective January 1, 2007.

The amended regulation will be available on the WorkSafeBC website on the day the changes come into force. A communications strategy has been developed to ensure workplace parties are aware of the changes. Guidelines have been drafted as deemed necessary to provide additional clarity on the new requirements and to assist with implementation and 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 net addition of five regulatory requirements.