DEFINITIONS

G1.1 Professional engineer
G1.1(1) Resource Roads

G1.1 "Professional engineer"

Issued August 1, 1999; Editorial Revision October 14, 2004; Editorial Revision January 1, 2009; Revised November 21, 2017; Editorial Revision consequential to August 22, 2022 Regulatory Amendment

Regulatory excerpt
Section 1.1 of the *OHS Regulation* ("*Regulation*") states, in part:

> "*professional engineer*" means a person who is registered under the *Professional Governance Act* as a professional engineer or professional engineer licensee;

Purpose of guideline
The purpose of this guideline is to provide additional information about WorkSafeBC's practices for engineering certificates.

Engineering certificate
WorkSafeBC prevention officers will treat as unacceptable any engineering certificate, approval, or design that does not comply with the regulations or an order or direction of WorkSafeBC, or a variance granted by WorkSafeBC.

The situation may arise where there appears to be compliance with the *Regulation*, or with a variance granted by WorkSafeBC, but a prevention officer feels the engineering work is inadequate and could endanger a worker. In such cases, the prevention officer will not reject the engineering certification, approval, or design without authorization from the prevention officer's manager, and upon the recommendation of an engineer from the Engineering section of WorkSafeBC.

The Engineering section should be contacted for assistance in reviewing unclear, vague, and generally unprofessional engineering documents left on job sites for the purpose of compliance with the *Regulation*. The Engineering section may initiate a formal complaint to Engineers & Geoscientists British Columbia (EGBC). Each potential complaint will be assessed on an individual basis. Before a complaint is made, a member of the Engineering section will review the letter and attachments for each complaint. The reviewer will be an engineer who has had no direct dealings with the person named in the complaint on the matter at issue. The reviewer will comment on the content, completeness, and apparent reasonableness of the complaint.

As an engineer is generally working in and contributing to the production of an industry, a prevention officer may write orders on the engineer, and the engineer's firm, if the documents provided are inadequate and/or do not meet the requirements of the *Regulation*. Refer also to OHS Guideline G20.78 regarding qualified registered professional's certificates, which may include an engineer's certificate for excavations.

G1.1(1) Resource Roads

Issued November 29, 2012; Editorial Revision April 6, 2020; Editorial Revision consequential to September 1, 2021 Regulatory Amendment

Regulatory excerpt
Section 1.1(1) of the *OHS Regulation* ("*Regulation*") states, in part:

> "*resource road*" means a road or portion of a road on Crown land, and includes a bridge, culvert, ford or other structure or work associated with the road, but does not include a highway within the meaning of the *Transportation Act*,

Sections 1.1(2) – (4) of the *Regulation* state:

> (2) Subject to subsection (3), in this Regulation, *"workplace"* does not include a resource road.
>
> (3) A portion of a resource road is a workplace during any period within which the portion is being built, maintained, repaired, rehabilitated, stabilized, upgraded, removed or deactivated.
>
> (4) Although a resource road does not constitute a workplace for the purposes of this Regulation, other than in one of the limited circumstances referred to in subsection (3), a reference to a workplace in this Regulation continues to include a thing or place that constitutes a workplace even though that thing, or an activity or the result of an activity initiated or carried out at that place, is in whole or in part on a resource road.

Purpose of guideline
The purpose of this guideline is to set out the circumstances under which a resource road is a workplace for the purposes of the *Regulation*.

Resource roads - What are they?
Resource roads are defined for the purposes of the *Regulation* as follows:

> a road or portion of a road on Crown land, and includes a bridge, culvert, ford or other structure or work associated with the road,

but does not include a highway within the meaning of the *Transportation Act*;

Many industrial activities, in particular the development, management, and transportation of natural resources, are accessed through the use of resource roads. Resource roads are non-highway roads on Crown land constructed and maintained under a variety of legislation. These roads include forest service roads, forest roads, petroleum development roads, mineral exploration roads, and some industrial roads. Private roads are not considered resource roads.

Resource road not a workplace
Section 1.1(2) states that, except in specific circumstances, a resource road is not a "workplace" for the purposes of the *Regulation*. The intent of this section is to clarify that resource roads are not to be treated as single workplaces giving rise to the obligations of a prime contractor or owner under sections 24 and 25 of the *Workers Compensation Act* ("*Act*"), and sections 26.1.1 (Prime contractor requirements for forestry operations) and 26.1.2 (Multiple-employer workplace) of the *Regulation*. That is, the activities of employers, workers, and others over the entire area of a resource road need not be coordinated by a prime contractor, nor does a prime contractor have to be designated to establish and maintain a system or process that will ensure compliance with the OHS provisions of the *Act* and the *Regulation* for activities occurring over the entire road. Similarly, the requirements in sections 26.1.1 and 26.1.2 of the *Regulation* relating to coordination of multiple-employer workplaces in forestry operations will not apply with respect to resource roads.

In addition, requirements that would otherwise relate to resource roads as a "workplace" will not apply. These requirements include a number of sections in part 26 relating to roads and road maintenance, notably sections 26.79, 26.81, 26.82, 26.83, as well as more general obligations relating to the workplace.

As noted above, while resource roads on Crown lands are not "workplaces," private roads that are used for an industrial purpose continue to be considered "workplaces." An example of private roads would be roads used to access private managed forest land.

While section 1.1(1) exempts resource roads from the definition of workplace for the purposes of the *Regulation*, this exemption is not relevant to determining whether an injury, fatality, or illness incurred on a resource road or in connection to an activity on a resource road gives rise to a claim for compensation.

Portion of resource road as a workplace
Section 1.1(3) states that a portion of a resource road is a workplace during any period within which that portion is being built, maintained, repaired, rehabilitated, stabilized, upgraded, removed or deactivated. Where resource roads contain these smaller construction and maintenance workplaces, all relevant obligations in the *Act* and *Regulation* will apply to that workplace and any workplace party connected with the work. For clarity, these smaller construction or maintenance workplaces may give rise to the prime contractor obligations in section 24 of the *Act* with respect to that specific workplace, provided there are workers of more than one employer present. The prime contractor obligations will apply only to the smaller multiple-employer workplace within the resource road where the activities described in section 1.1(3) are taking place. In addition, section 26.80 of the *Regulation*, which states road construction must be carried out in a manner that does not create hazards from hung up or broken trees or limbs, will also apply.

Workplaces on a resource road
In addition to the exception in section 1.1(3), section 1.1(4) confirms that there may also be other work activities or workplaces that happen to occur on resource roads, but which do not render the whole resource road a workplace.

The primary example of this type of work is the normal work related to the use of the resource road itself. The definition of "workplace" in section 13 of the Act includes in part, any "vessel, vehicle or mobile equipment used by a worker in work." Accordingly, though an entire resource road is not a single workplace, employers and workers who are travelling on the road (accessing workplaces, or engaging in hauling goods or equipment, etc.) or engaging in work activities relating to travel on the road (erforming vehicle maintenance, securing loads, etc.) in the course of their work will be subject to the requirements of the *Act* and the *Regulation* to carry out that work safely.

Other workplaces covered by section 1.1(4) include work that is undertaken on or near the resource road that incidentally occurs on or intersects with the resource road. This could include, for example, forestry yarding operations that use a resource road or a landing, and construction of works unrelated to the resource road, like buildings, hydro lines, or sewers and similar activities. As with the exception in section 1.1(3), these smaller workplaces may be multiple-employer workplaces if there are workers of more than one employer present, however the road itself will not be a single workplace.

Obligations relating to the use of resource roads

1. Employer obligations relating to road use

   While resource roads are not "workplaces," as noted above, vehicles or mobile equipment operated or occupied by workers on resource roads will be workplaces. Employers therefore have an obligation to ensure the health and safety of their workers using resource roads. This obligation entails a number of activities.

   a. Planning the use of the resource road

   Employers have an obligation under section 21 of the *Act* to generally ensure the health and safety of their workers, including ensuring those workers, among other things, are made aware of known or foreseeable hazards and receive appropriate training and supervision. In addition, section 26.2 of the *Regulation* requires that all activities in a forestry operation be planned and conducted in a manner acceptable to WorkSafeBC.

Employers intending to have their workers use a resource road should, as far as is practicable, obtain current and detailed information about the road and conditions that will impact the safe use by the employers' workers. The information the employer should obtain includes the following:

- The presence of other users of the road, their planned activities (to the extent known), and work locations
- Adequacy of the road infrastructure for the planned use, including verifying the load rating of bridges
- The condition of the road, and any hazards or other conditions that would impact use, such as steep slopes, sharp curves, areas prone to washout, sections that are too narrow to allow two-way traffic, etc.
- Traffic control systems, including any road use rules agreed to by existing users, radio calling protocols, etc.

The means by which employers may exercise due diligence by obtaining this information could include the following:

- Contacting the Ministry of Forests, Lands, and Natural Resources Operations responsible for permitting use on the resource road, to identify the maintaining permitee, other users of the road and anticipated levels and types of traffic
- Contacting the maintaining permitee to determine the planned level of maintenance and its impact on the anticipated road use
- Contacting the road user group (if one exists) to coordinate with other users, identify any road use protocols, and learn of any existing hazards
- Considering what types of hazards can be anticipated during the use of the road (e.g., other road users such as hunters; seasonal road conditions such as snow and dust)
- Physically driving the road to see what types of hazards are and may be present prior to and during their employees using the road system; this could include things like road and bridge conditions, hazard trees, other users, existing systems that may be in place, etc.

Employers must ensure that workers are trained and provided instruction about safe use of the road and that information necessary to safely use the road is shared with workers using the road.

The obligation to plan road use activities extends to ensuring that vehicles and mobile equipment are adequate for the conditions, and that any required maintenance has been performed. Work activities should be planned and structured so that use of the road does not result in workers operating vehicles at speeds excessive for the conditions or when workers are fatigued.

b. Addressing ongoing road use issues

Employers will continue to have obligations to their workers while the road use activity is underway.

Employers should monitor and supervise worker activity to ensure that workers continue to use the road safely. Employers should ensure that workers do not speed or drive unsafely, and that they do not operate vehicles while impaired by drugs, alcohol, or fatigue. Employers are responsible to ensure workers are meeting the obligations described in section 3 below.

Where an employer learns of a hazardous condition or maintenance issue on the road, such as washouts, excessive dust, dangerous trees, or brush encroaching sight lines of the road, the employer should bring these conditions to the attention of the maintaining permitee of the road so that these conditions are addressed.

Employers will also have to be responsive to changing weather conditions and instruct their workers accordingly.

2. Supervisor obligations

Workers using resource roads must also be adequately supervised. Section 23 of the *Act* requires supervisors to ensure the health and safety of workers under their supervision and make those workers aware of foreseeable hazards.

This obligation would include a number of the activities described above, such as providing adequate information on road conditions and hazards and monitoring worker activity and behaviour in using the roads.

3. Worker obligations

Workers also have obligations to use roads safely. Primarily, workers must take reasonable care under section 22 of the *Act* to ensure their own safety and carry out their work in accordance with safe work procedures. "Safe work procedures" would include the instruction provided by the employer and/or supervisor for safe use of the road, as well as any traffic control procedures established for the particular road.

In addition to the general obligation in the *Act*, there are specific requirements in the *Regulation* relating to operating vehicles, log transporters, and mobile equipment that will apply. Primarily, section 26.71.1 states that the operator of a log transporter must follow safe operating procedures, including the following:

- Not overtaking another moving industrial vehicle, except on a signal from the other vehicle operator
- Using extreme caution when approaching vehicles coming from the opposite direction
- Keeping a safe distance when following crew transportation vehicles; having due regard for road and grade conditions and visibility
- Driving at a speed appropriate to the log transporter's capabilities, the road design and condition, the traffic, the visibility, and the weather conditions
- Not operating the log transporter while impaired by fatigue, or any other cause, substance, or matter that could prevent the operator

from operating the log transporter safely

In addition to section 26.71.1, the *Regulation* contains the following obligations that workers must comply with:

- Section 17.1.1 states that vehicles used to transport workers must be operated in a safe manner.
- Section 26.83.1 states that vehicles must use a traffic control system when the road is too narrow to permit 2 vehicles to pass.
- Section 26.83(2) states that vehicles must operate with headlights and (if they are fitted) flashing beacons turned on.